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No. 1033

NATIONAL ASSEMBLY

CONSTITUTION OF OCTOBER 4, 1958

SIXTEENTH LEGISLATURE

Registered at the Presidency of the National Assembly on April 4, 2023.

LAW PROJECT

***relating to* military programming *for the* years 2024 *to* 2030 *and containing various* provisions relating to *defence* ,**

(Accelerated procedure)

(Referred to the Committee on National Defense and the Armed Forces, failing the constitution of a special committee within the time limits provided for in Articles 30 and 31 of the Rules of Procedure.)

PRESENT

IN THE NAME OF Mrs Élisabeth BORNE,
Prime Minister,

BY Mr. Sébastien LECORNU,
Minister for the Armed Forces

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STATEMENT OF REASONS

The National Strategic Review (RNS) published on November 9, 2022 draws lessons from the evolution, since the previous one carried out in 2017, of an unstable and unpredictable geopolitical context, marked by the return of a high-intensity war on the European soil, the health and climate crises, a deep interdependence between the national and international scenes, in the political, energy and economic fields in particular.

The RNS sets the strategic framework for the development of this military programming law (LPM) 2024-2030, which specifies, in particular in the report appended to it, the orientations of French defense policy for the next seven years. It covers the geostrategic, capability, industrial and financial fields, and those related to the living and working conditions of women and men in defence.

This law also aims to guarantee our strategic autonomy, to ensure our commitments under our status as a NATO ally and as a member of the European Union and to make France a balancing power. The resulting political and military priorities are as follows:

– guarantee the long-term credibility of nuclear deterrence, the key to vault of our defense tool;

– transform our armies so that France retains operational superiority and is able to deal with all threats, including in new areas of conflict.

– strengthen the consistency, preparation and responsiveness of the French army, so that it is able to lead coalitions if necessary in major engagements with our allies and partners;

– continue the effort undertaken to improve living conditions and work of military and civilian defense personnel and their families.

This fourteenth military programming law includes two titles.

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Title I of the bill lays down the provisions relating to the objectives defense policy and financial programming (Article 1).

Article 2 approves an appended report setting, for the years 2024 to 2030, the objectives of defense policy and the means to achieve them, maintaining the objective of bringing the national defense effort to 2% of the GDP from 2025, as well as the orientations in terms of armies equipment by 2035.

Article 3 presents the financial resources underlying the military programming year by year over the period 2024-2030. These resources represent 400 billion current euros in budgetary appropriations, financing a programmed physical and financial need of 413.3 billion euros.

The article also specifies the scope of the military programming, which does not include the means dedicated to military support for Ukraine, which will be financed elsewhere without crowding out effect.

In the continuity of the LPM 2019-2025, article 3 finally provides for the maintenance of the full return to the Ministry of Defense of state royalties, rents and proceeds from the sale of its real estate.

Article 4 specifies the level of the annual provision planned to partially cover the expenses linked to potential external operations (OPEX) or internal missions (MISSINT). This allocation, which was established in the previous LPM at 1.2 billion euros in 2023, is reduced to 800 million euros in 2024 then 750 million euros each year over the rest of the period, mainly to take into account the reduction of the ministry's operational footprint (particularly in respect of the end of Operation Barkhane and the development of the Sentinel system after the Paris 2024 Olympic and Paralympic Games).

As in the previous LPM 2019-2025, this global provision is accompanied by a system to cover any additional costs (net additional costs), in management, by recourse to interministerial solidarity. At the same time, in the event that the net additional costs are lower than the provisions entered in the initial finance law, the difference observed would be retained by the armed forces budget.

Lastly, article 4 recalls that the OPEX and the MISSINT, in progress are the subject of information to the Parliament.

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Article 5 presents a clause similar to that of the previous LPM which ensures that the ministry can benefit from financial management measures in the event of an increase in the observed prices of operational fuels, and from additional budgetary appropriations in the initial finance law if this increase observed prices proves to be sustainable.

Article 6 presents the planned evolution of the workforce of the Ministry of Defense for the period from 2024 to 2030. The transformation effort will be continued and the implementation of new priorities lead to maintaining the target in staff of the ministry at 275,000 by 2030, with an increase of 271,800 in 2027. This effort is broken down into net increases in staff per annual LPM payment. The ministry will adapt the achievement of the staffing targets set by this article and its salary policy according to the labor market situation.

To strengthen our model, our armed forces will rely on a larger and better equipped reserve, fully integrated into active duty, with a target number of personnel raised to 105,000 by 2035 at the latest, to achieve the objective of a reserve serviceman for two active servicemen.

Article 7 specifies that the programming law will be updated before the end of 2027. This update will make it possible to verify the proper match between the objectives set in this law, the achievements and the means devoted , given the evolution of the geopolitical and economic context.

For the sake of transparency vis-à-vis Parliament and in order to associate it with the execution of the LPM, Article 8 establishes the obligation for the Government to communicate once a year, before April 30, to the Parliament, a report on the results of the execution of military programming over the past year.

Article 9 establishes the obligation for the Government to present, before June 30 of each year, to Parliament, the issues and the main developments in the budgetary programming of the "Defence" mission.

Finally, article 10 repeals as of January **1 , 2024 Title I of the law of July 13 relating to military programming for the years 2019 to 2025.**

Title II includes various normative provisions relating to national defence.

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Chapter I relates to the strengthening of the link between the Nation and its armies and military condition.

The purpose of article 11 is to perpetuate the existence of the Order of Liberation.

The entry into Mont Valérien of the remains of Mr. Hubert Germain, the last individual holder of the Cross of the Liberation and honorary chancellor of the Order of the Liberation, reinforced the need to ensure the continuity of the traditions of this singular Order, created in 1940 and constituted by law n° 99-418 of May 26, 1999 creating the Order of the Liberation (National Council of the communes "Compagnon de la Liberation") in the form of a public establishment. The Order of the Liberation is an essential player in the development of the spirit of defense of young people and the guardian of the memory of the combatants and resistance fighters of the Second World War.

The provisions of the law of May 26, 1999 mentioned above are thus modified to consolidate the existence and the missions of the Order of the Liberation by the evolution of the organization and the governance of the establishment.

Indeed, and even if the 1,038 Companions of the Liberation are no longer, the continuity of the traditions of the Order of the Liberation and the transmission of the values it carries are still relevant. This is the subject of this article, which also makes some editorial adjustments.

The Order of the Liberation will henceforth be placed under the protection of the President of the Republic; symbolic in nature, this protection materializes the special attention paid by the Head of State to the establishment, in a similar way to the protection granted by legislative means to the five academies that make up the Institut de France.

The Grand Chancellor of the Legion of Honour, representing the President of the Republic, will be responsible for ensuring compliance with the founding principles of the Order.

The attributions of the establishment are extended in order to ensure the influence of the Order and the development of the spirit of defense and are now based on the commitment of the medalists of the Resistance.

Finally, the composition of the board of directors is modified. The following will now be members of the Board of Directors: the Grand Chancellor of the Legion of Honor, instead of the Chancellor of Honor, function

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devolved to a holder of the Cross of the Liberation, as well as the Director General of the National Office for Combatants and War Victims.

Article 12 strengthens the system of compensation for soldiers injured in service.

The President of the Republic, in his speech to the armed forces on July 13, 2022, stressed the need to provide better care for war-wounded and the families of soldiers who died in action.

In close collaboration with the armed forces, a 2022-2025 action plan for injured soldiers and their families has been drawn up. Article 12 implements the axes of the plan requiring the intervention of the legislator by strengthening the compensation for damages for soldiers injured in the context of operational activities.

Currently, a soldier injured in service or who has contracted an illness attributable to service can benefit from a military invalidity pension (PMI) intended to compensate, on a lump sum basis, the loss of professional earnings, the professional impact, the functional deficit and, in the form of an increase in the PMI, the costs of assistance by a third party.

In addition, since the decision of the Council of State of July **1 , 2005, Mrs. Brugnot, n° 258208, even in the absence of fault on the part of the State, additional compensation may also be granted to the soldier in respect of the repair of damage not covered by the PMI (physical or moral suffering, aesthetic or amenity damage, accommodation and vehicle adaptation costs in particular).**

Furthermore, the serviceman is entitled to full compensation for all of his damages when a fault of the State is the cause of the damage suffered. In this case, when the amount of the pension resulting from the scales provided for by the code of military disability pensions and war victims (CPMIVG) is not sufficient to compensate for all the damage that the pension is intended to repair, the soldier may claim additional compensation. This is the case, for example, when the cost of assistance by a third party weighing on the injured soldier exceeds the amount of the pension increase which, under the CPMIVG, is allocated to him in this respect. This device has the consequence of encouraging the injured soldier who would like to obtain full compensation for his damages to seek the existence of a fault on the par

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hierarchy, at the origin of his damage, and thus opens the way to a "legalization" of relations between the soldier and his army. This is detrimental to the cohesion of the armed forces, a necessary condition for their operational effectiveness.

In order to improve the conditions for compensating injured soldiers, I of this article provides, like the scheme provided for in article L. 4251-7 of the Defense Code for reservists, that the soldiers of active are entitled to full compensation for the damage suffered, even through no fault of the State, when the damage originates from a war operation, an external operation or an operational activity of particular intensity and dangerousness, including combat readiness drills or maneuvers. It will allow injured soldiers to benefit from full compensation for their damage, when the pension they receive under the CPMIVG is not sufficient to cover all of their damage.

This system will concern, for example, the wounded in external operations or during an operational mission, of a particular intensity and dangerousness comparable to those of an external operation, placed under the command of the Chief of Staff of the armies, but also in the event of an air crash occurring during training on board a military aircraft or in the event of damage suffered during a training course.

Furthermore, by providing that the damage must be the direct and determining cause of recourse to assistance by a third party, and no longer its exclusive cause, II of this article relaxes the conditions for compensation of the related costs provided for by Article L. 133-1 of the code for military disability pensions and war victims, thus simplifying and accelerating the payment of the increase for third parties.

This article will apply to any claim for compensation for which a decision has not taken the force of res judicata on the date of promulgation of the law.

Article 13 contributes to better protection of the heirs of soldiers who died in service.

In the event of the death of a soldier in service, the remuneration he receives is only legally due until the day of death. Given the rules applicable to the management of public funds, when this occurs in

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During the month, the administration automatically issues a payment order aimed at recovering the overpayment of pay, sometimes for a modest amount, which the military's heirs are, in principle, required to repay. In doing so, the tragedy experienced by the family is coupled with a financial and administrative burden that is difficult to justify.

In addition, this situation complicates the work of support for bereaved families carried out by the competent services, a fortiori when the death occurred in an operational context, and reflects the image of a dehumanized administration, especially since the recent code general of the public service now protects civil servants and civil public agents against this situation.

To put an end to this situation, this measure provides, according to considerations of good administration, that the remuneration of a soldier who dies in service will be due for the entire month of his death, thus allowing his heirs to benefit from the corresponding remainder.

Article 14 aims to promote engagement and career within the operational reserve, to strengthen its resources and effectiveness.

The purpose of this article is to set operating procedures to strengthen employability and guarantee the effectiveness of a renovated operational reserve, with strong human and material resources. increased.

More specifically, it pursues the following main objectives:

1° Expand the pool of operational reservists without compromising the imperative of youth by:

a) **Raising the maximum age for all operational reservists to 70, except for military practitioners and specialist reservists, which remains at 72;**

b) **Adapting the physical capacity criteria required to join the reserve;**

c) **Allowing soldiers temporarily removed from service due to their placement in a situation of non-activity (unrelated to a health reason: availability, parental leave, leave for personal reasons) to join the operational reserve. This system enables the soldiers concerned to maintain their skills and, for the military institution, to continue to benefit from their expertise, while**

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by facilitating their subsequent return to a position of activity. This measure extends that introduced in 2018 and amended at the beginning of 2023, in favor of soldiers on leave for personal reasons for the education of a child under 12 years of age. This measure will also make it possible to reinforce the objective of gender parity in career development;

d) **Valuing and retaining specialist reservists through a relaxation of their conditions of employment and the introduction of the possibility of advancement;**

2° Guarantee and increase the availability and responsiveness of the operational reserve by:

a) **Facilitating the summoning of reservists by the military authority in particular vis-à-vis the employer;**

b) **Optimizing the employment of operational reservists by widening the possibilities of assigning reservists outside the armed forces in the interest of defence, within any company or body governed by private law, subject, on the one hand, to that the interests of defense or national security justify it and, on the other hand, of the signing of an agreement with the entity in question, of any administration, public institution or public body or independent public authority or of any international organization;**

c) **Reforming the second level operational reserve made up of ex-military personnel.**

The article guarantees and increases the availability and responsiveness of the two components of the operational reserve (volunteers from the operational reserve and former soldiers subject to the obligation o

It increases from five to ten the minimum number of days of convocation that can be carried out during the working time of a volunteer from the operational reserve without the prior agreement of his civilian employer. This measure seeks a balance combining an increase in the efficiency and responsiveness of the operational reserve with the preservation of the economic interests of the companies employing the reservists in the face of the constraints of national defence. Incidentally, the regime applicable to employers of operational military reservists is aligned with that applicable to employers of operational reservists of the national police (see Article L. 411-13 of the Internal Securit

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It modifies the conditions for summoning former soldiers subject to the obligation of availability within five years of their return to civilian life (cf. 2° of article L. 4231-1 of the defense code). While this component of the operational reserve is currently unused, the project puts in place the conditions for an effective and efficient use of this human resource. Outside of times of crisis, former soldiers subject to the obligation of availability can now only be summoned within the limit of five days over the five years of their availability, for the sole purpose of checking their aptitude. The draft amends Article L. 4231-2 of the Defense Code to increase the maximum duration of the summons to ten days and to broaden the nature of the activities likely to be carried out on this occasion to the evaluation and maintenance of their SKILLS. In order to guarantee the effectiveness of this system, it introduces at the legislative level an obligation for the former soldier to declare to the military authority any modification of his personal situation likely to influence

It provides for a call or graduated maintenance of operational reservists according to the level of urgency or threat, upstream of the threshold for recourse to mobilization or warning triggered on the basis of Article L. 1111 -2 of the defense code. In the current state of the law, in addition to these hypotheses and those of the implementation of the contracts of engagement to serve in the reserves or the verification of medical aptitude mentioned above, the cases of appeal or maintenance in activity of the reservists military are not articulated with each other, overlapping partially and relying on competing competences between different authorities. Indeed, this recall is only possible, for voluntary reservists, only in the event of a " *major crisis threatening national security* " (cf. article L. 4211-1-1 of the defense code), by way of ministerial decree, and, for all reservists subject to the obligation of availability, in the event of activation of the national security reserve, by decree, also implying the occurrence of a "major crisis " . The bill aligns the circumstances in which this recall may occur with those authorizing the implementation of the requisition regimes created by the bill in articles L. 2212-1 (threat, current or foreseeable, to the life of the Nation) and L. 2212-2 (in the event of an emergency, when safeguarding the interests of national defense justifies it) of the Defense Co

For the sake of proportionality, it will now be possible:

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– in the event of an emergency, when safeguarding the interests of national defense justifies it, to recall, by order of the Minister of Defense or, for soldiers of the National Gendarmerie, of the Minister of the Interior, the only volunteers in the reserve, for a period limited to fifteen days;

– in the event of a threat, current or foreseeable, to the life of the Nation, to recall, *via* the decree of the President of the Republic activating the national security reserve, all the soldiers subject to the obligation of availability. This decree may nevertheless authorize the Minister of Defense or, for soldiers of the National Gendarmerie, the Minister of the Interior to carry out this recall himself, by means of an order, when recourse to the military operational reserve alone appears sufficient to respond to the threat. In principle limited to thirty consecutive days, the duration of said reminder may, given the high degree of uncertainty inherent in the circumstances justifying the implementation of the system, be increased under conditions and according to procedures to be defined by decree in Council of State ;

– in the event of mobilization or warning, to recall, by decree of the President of the Republic, all soldiers subject to the obligation of availability, under the conditions currently provided for in Article L. 4132-4 of the defense code.

Article 15 reinforces the capacity of the armies to have a human resource in accordance with its needs in manpower and in quality and improves the conditions of re-engagement of the soldiers.

Satisfying military HR needs, in quantity and quality, is a strategic objective which determines the availability and operational efficiency of the armies and, therefore, the credibility of the defense tool and compliance with France's international commitments.

The Ministry's HR ambition during the 2024-2030 programming period is thus to make the rules of military HR management more flexible and to facilitate exchanges with civil society. It responds to the general goal of increasing the ability to simply integrate skills, to promote the maintenance of talent within the institution and to facilitate the retraining or departure of soldiers when these prove necessary. It is therefore a question of deconcentrating more levers at the level of the directorates and services managing the military personnel.

***a)* With regard to former career soldiers:**

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The provisions of the Defense Code do not allow the recruitment of former career soldiers.

In the context of the state of health emergency, law n° 2020-734 of June 17, 2020 authorized for a limited period the temporary re-engagement of former soldiers to allow the armies to continue to carry out their missions in a tense context. related to the challenges of the health crisis. The armies draw up a very positive assessment of this option which has been offered to them, leading the Ministry of the Armed Forces to wis

This draft amendment would allow former career soldiers who have ceased their duties for less than five years, and who would like to resume a military career, to be reinstated under attractive conditions of resumption: under career status, at the rank and seniority in grade held when they were struck off the staff. A decree in Council of State will specify that these re-engaged soldiers are reinstated in the level and with the seniority that they held when they were struck off the executives.

This provision allows the armed forces and related formations to broaden their recruitment and benefit from an already trained human resource, wishing to return to serve within the armies after an experience in civilian life.

The system does not create a right to re-enlistment but offers the armed forces and attached formations the option of accepting requests for re-enlistment likely to meet their needs. It perpetuates the temporary system instituted in 2020 under adjusted conditions (reengagement period increasing from three to five years) to respond in the same way to qualitative and non-quantitative needs. In particular, it remains incompatible with the fact of having benefited from a measure of aid at the end of his first military engagement.

The conditions of re-engagement offered do not modify the parameters of retirement or access to unemployment compensation, which remain those of career soldiers. They do not affect the requirement of youth either, since the age limit of re-enlisted soldiers is not modified due to the interruption of their services.

The codification of this measure, whose relevance and usefulness have been demonstrated, perpetuates an instrument of resilience that it would no longer be necessary to include in emergency legislation in the event of exceptional circumstances.

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(b) **For ex-servicemen serving under contract:**

Unlike career soldiers, Article L. 4132-6 of the Defense Code allows former soldiers who served under a contract to be rehired. Nevertheless, the persons concerned may be admitted to serve either in a lower grade than that acquired before being removed from the checks, or in the grade held at the time of this removal. In both cases, they are reinstated without resumption of echelon or seniority of echelon; or at the first step of the grade of the new recruitment.

The index regression accompanying rehiring, particularly noticeable in the event of recruitment in a lower grade, is a brake on the attractiveness of this recruitment path. It is proposed to legislate to remedy this discouraging situation, by referring to article L. 4132-6 to a decree in Council of State the fixing of the procedures for the recruitments carried out, in particular with regard to the conditions for resumption of step. and seniority in step intended to restore the attractiveness necessary for this path of new access to the military status, and to harmonize the conditions of re-enlistment with those now provided for former career soldiers.

In addition, Article L. 4139-16 sets the age limits and limits on the length of service for career or contract soldiers. As soon as these limits are reached, the soldier is automatically removed from the executives or removed from the controls, so that he is no longer able to continue to serve within the institution.

However, the armies face recruitment or retention difficulties in different specialties, professions or professional families in strong competition with civilian employers, particularly in the private sector. As a result, they experience difficulties in replacing the unexpected departures of soldiers who do not renew their contract or exercise their right to retire before reaching their age limit.

In order not to create discontinuity in the conduct of armed forces missions, and to increase their resilience in ordinary times as well as in times of crisis, it is proposed to create an article L. 4139-17 in the defense code in order to Authorize the armies to keep in service certain soldiers who have requested it, for a maximum period of three years after having reached their statutory age limit or their service limit. This measure is intended to be implemented only in a targeted manner. The volunteer soldiers concerned are those with rare skills,

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essential to meet the needs of the armed forces and attached formations, whose relief cannot be ensured in quantity or quality immediately.

The proposed measure consists in perpetuating the system implemented with real efficiency during the state of health emergency between July 2020 and October 2022, by codifying it in the general status of the military. Several hundred soldiers (454) were thus admitted during this period to extend their service, for a maximum period of twelve months, allowing the armed forces and attached formations to preserve the skills essential to the conduct of the activity, in a period crisis management following an interruption in recruitment for several months in 2020. Feedback from the HR measures implemented during the state of health emergency encourages extending the maximum duration of temporary retention in the service to three years, twelve months being considered too short for the most critical specialties, which involve a longer generation of skills.

In order to be fully useful and to guarantee extreme responsiveness, the implementation of the device thus made permanent is no longer subject to a particular situation: the armed forces and attached formations can have recourse to it as soon as a need is identified.

Article 16 raises the irreversibility threshold for retraining leave.

Responding to the flow logic of a hardened and modernized professional army, the HR ambition of the Ministry of the Armed Forces during the 2024-2030 programming period is to relax the rules of military HR management for the purposes of both to establish a real skills strategy within the ministry but also to establish bridges between the armies and civil society.

Developing the ability to simply integrate skills and facilitate the retention of talent require the parallel support of soldiers in retraining according to appropriate methods that, moreover, it appears necessary to be able to modify without resorting to the law.

The measure relating to retraining leave aims to adjust the threshold beyond which retraining is considered irrevocable. Above all, it makes it possible to shift this threshold in favor of a provision

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regulations to the benefit of greater flexibility of implementation by the directorates and departments managing military personnel.

In line with their flow-based human resources model, the armed forces and attached formations have set up a retraining system for soldiers who, at the end of their employment contract, by reaching the limit on the duration of their services or the age limit of their rank or because of medical incapacity, are led to leave the service.

The retraining scheme allows the eligible soldier to benefit, upon approved request, from benefiting, on the one hand, from assessment and vocational guidance schemes as well as, on the other hand, from vocational training or accompaniment towards employment, intended to prepare him for the exercise of a civilian profession.

The phase of his professional training and support is organized over 120 split working days. It can be supplemented by a second period of 6 consecutive months. However, upon reaching the 40th day of the first period, the soldier is irrevocably required to leave the service at the end of his training(s). This period of forty days to fix the irrevocability of the radiation of the executives or the controls is considered by the armed forces and formations attached like being too short.

The objective of the measure consists in giving more flexibility to the system, by returning to the regulatory power the task of defining the applicable deadline. This may be extended, by decree, to grant the soldier undergoing retraining a period of not less than 40 days, but adjusted beyond that by decree in the Council of State, to assess the chances of success of his approach and decide, if necessary, to continue his services within the armed forces.

The proposed measure aims first of all to better take into account the difficulties that some military personnel may encounter in retraining, subject during this period to operational constraints that are not conducive to its successful outcome. It also allows the armed forces and attached formations to benefit from a later waiver of their retraining, by qualified soldiers whose departure was not desired.

The irreversibility threshold should be set at the 60th day of the retraining leave.

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Article 17 aims to enhance the attractiveness of military careers by creating a military learning regime.

Developing technical training in cutting-edge sectors and retaining the skills acquired are central aspects of the political ambition to modernize the armies. To respond to this, the ministry's HR ambition during the 2024-2030 programming period is part of the government's policy of developing learning for the benefit of young people, while adapting it to military status. Strengthening the attachment to the institution by training earlier responds directly to the ambition to toughen up the armies.

The proposed measure thus aims to create a status allowing better integration of young people in training by providing for an adjustment of the conditions of employment of underage military apprentices (night work, employment in operational units such as regional operational rescue and rescue). A workforce of 1,200 military apprentices is envisaged from 2023.

The military preparatory and technical education establishments of the three armies provide their students with alternate education in the form of general instruction and theoretical and practical military training, leading to a diploma or a professional title. .
They are prepared, as part of this education, to occupy a job as a non-commissioned member or non-commissioned officer.

These students are required to carry out practical implementation activities within units and organizations, which must be supervised in strict compliance with the Convention on the Rights of the Child.

The purposes and organizational principles of these training courses are similar to a form of apprenticeship, without however having the legal status today. The navy foam school, the air and space force technical education school and the army technical preparatory military school are placed in situations in this regard. perfectly identical, which means applying a common system to them.

The proposed measure aims in particular to regulate the commitment of students in military preparatory and technical education establishments, particularly with regard to the fact that some of the students will be minors (cf. art. L. 4132-1 of the defense code). In particular, this involves modifying the provisions governing night work for

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pupils, which in fact do not concern only the pupils of the school of foams.

Introducing the concept of technical and preparatory military education (ETPM) at the level of the law and establishing it as an apprenticeship in its own right appears necessary for several reasons:

- on the one hand, to fill a gap in the Defense Code which uses the term "naval preparatory schools" without defining what it covers and omitting the schools of other armies;

– on the other hand, legally qualifying ETPM as apprenticeship materializes the contribution of the Ministry of the Armed Forces to the development of apprenticeship, which is a priority of the Government;

– finally, it is necessary to resort to the law to justify that the status of military apprentice differs on several points from the status of civilian apprentices, defined in the legislative part of the labor code. By way of illustration, military apprenticeship is a means of recruitment whereas the labor code prohibits the hiring of the apprentice by the organization with which he was trained on a work-study basis.

In addition, the adjustments to the general status of soldiers introduced for minors under the status of military apprentice (time limits), are extended to military minors aged 17 to 18, thus guaranteeing compliance with France's international commitments.

Article 18 extends and modernizes the allocation of the flexible departure incentive pay and functional promotion.

The measure relating to early departure levers is based on the recent experience of their use with a view to their sustainability in principle and their modernization. This approach involves the codification of these measures in the statutory part of the defense code.

Provided for by Articles 37 and 38 of Law No. 2013-1168 of 18 December 2013 relating to military programming for the years 2014 to 2019, functional promotion (PF) and the flexible departure incentive pay (PMID) are management tools that strongly contribute to the sustainability of a flow-based human resources model, and support for the transformation and adaptation of armies.

The PF allows officers, non-commissioned officers and career petty officers in a position of activity, within the limit of an annual quota, to be

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promoted to a higher rank in order to perform a post of this rank for a fixed period, after which the soldier is struck off the ranks or admitted to the second section of the rank of general officers before reaching his age limit , under conditions set by decree in Council of State.

The PMID, the use of which is also subject to quotas, allows in return for the early departure of the career soldier or the enlisted soldier, the payment of an amount of between 27 and 48 months of gross pay for officers, between 22 and 36 months gross pay for non-commissioned officers and petty officers and corresponding to 17 months of gross pay for non-commissioned members. This allowance is paid in one installment at the time of the radiation of the executives or the controls or the admission in second section.

a) **Renew the early departure arrangements:**

The usefulness of FP and PMID has been widely demonstrated, as meeting a permanent need to support the transformation of armies. Making it possible to support departure flows in a context of deflation, or to create them at other times, they still make it possible to target them at all grades of the pyramid, thereby supplementing the already permanent departure incentive levers, but insufficient (benefits and availability of career officers).

Succeeding similar systems constantly renewed since 1975, the FP and the PMID, introduced under the 2013-2018 military program, have been extended until 2025. For ten years, they have become essential management tools for regulating and adjust flows in changing professions. The successive extensions of FP and PMID, the permanence of the need for transformation and of the HR model that makes it possible, justify the sustainability of these systems.

The purpose of this measure is therefore to establish over time these piloting tools essential to the management of military human resources, namely the PMID and the FP, without excluding their quota (fixed at 350 per year, including 50 FP).

This approach is fully consistent with the symmetrical perpetuation of various human resource optimization measures to attract, retain or bring back into service soldiers adapted to new needs or possessing rare skills, and to

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make better use of the reserve resource. It does not exclude the adaptation of the device.

With regard to the PMID, the mechanism has been extended until December 31, 2030.

With regard to FP, the renewal of the system takes the form of perpetuation. Legally, this results in the codification of this measure in the statutory part of the defense code (creation of an article L. 4139-9-1), on the occasion of which the use of this starting lever is open to the National Gendarmerie.

***b)* Modernize early departure arrangements:**

The revision of the system is an opportunity to develop FP to adapt it to the specific management constraints of senior military management. This is to allow general officers placed in the 1st section under the PF to be reappointed to a second job under the same conditions. The armies will thus be able to revitalize and secure the management of certain senior military management jobs.

The adaptation of functional promotion for general officers aims to promote sufficiently young people to high-responsibility jobs as qualified officers. The PF thus avoids the departure of officers whom the prospect of late access to the generalate encourages to move towards the civilian sector. It guarantees the services of these general officers during the contracted duration of employment. It thus responds to an objective of securing a highly qualified resource, whose early retraining in the civilian world would be detrimental to the ministry.

The current FP formula, however, imposes a departure after 2 to 4 years of employment. This term of service appears too early, if the general officer has valuable potential for the exercise of another high-level job. The use of a second functional promotion guarantees the availability of this resource for the duration of this second job, but in compliance with the flow logic which imposes departure before the age limit.

Unlike the rules for the functionalization of jobs in the senior civil service, the functionalization of certain senior military management jobs is accompanied by promotion to the next higher grade, on taking up the post, but by early departure at the end of of employment,

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while the potential of the person concerned is precious in the exercise of another high-level job.

The double FP formula in certain high-level military management jobs can respond to a logic of resource loyalty for the occupation of two successive jobs with contractual duration.

It is for this purpose that it is introduced into the defense code, in compliance with the principle of quotas, and in a dual logic of boosting flows and optimizing skills.

The functional double promotion formula is adapted to a more attractive but time-limited contractual career in high-level jobs requiring rare skills.

The codification of the FP device requires carrying out measures of article 36 of the law of December 18, 2013, which refers to article 37 of law n° 2013-1168 of December 18, 2013. This measure of coordination does not change the substance of the provisions concerned.

Chapter II contains several provisions relating to intelligence and counter-intelligence.

Article 19 amends Article L. 114-1 of the Internal Security Code in order to allow the investigating services to be made recipients of bulletin no. 2 of the criminal record for administrative security investigations carried out prior to access to certain jobs or certain sites.

Pursuant to Article L. 114-1, the competent State services are authorized to consult security files (intelligence, police or justice files). With regard to "criminal history" files, these services have access to files containing information on the persons implicated in criminal proceedings (TAJ file) but do not have access to bulletin number 2 of the national criminal record listing the most serious criminal convictions actually handed down.

This results in the risk of authorizing the recruitment or access of a person to a site when the service in charge of the investigation would not have had knowledge of a criminal conviction pronounced against him.

The purpose of this article is to remedy this difficulty.

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Article 20 guarantees that the fundamental interests of the Nation in the event of private activity in connection with a foreign power.

In the context of the resurgence of international tensions and competition, certain foreign States do not hesitate to actively seek, directly or through companies acting on their behalf, the collaboration of former soldiers whose technical expertise or knowledge -do operational are of strategic interest for the development of their own military capabilities.

Criminal law certainly makes it possible to punish those who transmit confidential information to foreign competitors. Articles 411-6 to 411-8 of the Penal Code thus punish the delivery of information to a foreign power, when it is likely to harm the fundamental interests of the Nation. It is still necessary that this delivery of information be identified and consumed to initiate criminal proceedings.

On the other hand, as the law stands, no organized mechanism makes it possible to prevent the departure of soldiers to foreign structures canvassing them with the very objective of obtaining from them information or operational know-how of a strategic nature.

This measure aims to establish a preventive and dissuasive control concerning soldiers or former soldiers who have held positions of particular sensitivity and wish to carry out a lucrative activity on behalf of a foreign State or a foreign company or under foreign control. involved in the field of defense and security.

It submits the exercise of such an activity to a system of prior declaration to the Minister of Defence, intended to verify that it does not entail the risk of disclosure by the person concerned of operational knowledge and know-how which would be likely to harm the fundamental interests of the Nation.

Only soldiers or former soldiers who have exercised functions presenting a particular sensitivity or requiring specialized technical skills will be subject to the system. A Conseil d'Etat decree will determine the fields of employment concerned (such as the fields of aircraft piloting, nuclear power or cyberdefence). The precise list of these functions will be fixed by an unpublished decree of the Minister of

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defense. The soldiers or former soldiers subject to this obligation will be informed.

The obligation to make this prior declaration to the Minister of Defense will weigh on the soldiers concerned within ten years of the termination of sensitive duties.

The Minister will have the possibility of opposing the exercise of the activity envisaged by the soldier or the former soldier. In the event of disregard of an objection by the Minister, the employment contract concluded between the person concerned and the new employer will be null and void and the administrative authority may, as a sanction, order deductions from the pension of the concerned or the withdrawal of the decorations obta

In addition, disregard of the obligation of prior declaration or of the opposition pronounced by the minister will be punished by 5 years' imprisonment and a fine of 75,000 euros.

Article 21 modifies the code of criminal procedure to allow the communication by the judicial authority to the specialized intelligence services of the elements of a procedure collected within the framework of an investigation opened for crime and misdemeanor of war or crime against humanity These elements may only be communicated to the intelligence services for the sole exercise of their missions, the purposes of which, consisting in defending and promoting the fundamental interests of the Nation, are listed in 1°, 2°, 4°, 6° and 7° of article L. 811-3 of the internal security code. Furthermore, they cannot be exchanged with foreign intelligence services.

This extension, which is particularly necessary in view of the evolution of the international situation, in particular in the Sahel, the Levant and Ukraine, would make it possible to unify the regime applicable to the communication of information by the national anti-terrorist prosecutor's office, taking into account the possibilities already open in terms of terroris

Article 22 protects the anonymity of former intelligence service agents or former members of special forces or specialized counter-terrorism units in court proceedings.

Criminal protection of the real or assumed identities of agents of the intelligence services and members of special forces units or specialized intervention units in the fight against terrorism

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is ensured by Articles 413-13 and 413-14 of the Penal Code. Aggravated penalties are provided for in the event of a harmful result occurring as a result of the disclosure on the agents or their relatives (physical or psychological harm, death), the repression of the disclosure committed by negligence or recklessness and an extension of the protection of sources. or service staff.

The protection of anonymity also conditions the choice of the hearing framework, ie the application of article 656-1 of the code of criminal procedure (specific framework). This provides that " *When the testimony of an agent of a service mentioned in article L. 811-2 of the internal security code or of a service designated by the decree in Council of State provided for in l article L. 811-4 of the same code or of a person mentioned in article 413-14 of the penal code is required during legal proceedings on facts of which he would have become aware during a mission interesting the defense and national security, his real identity must never appear during the legal proceedings* ". Article 22 completes these provisions in order to clarify that they also apply to former agents of the intelligence services and former members of special forces units or specialized intervention units in the fight against terrorism.

Chapter III includes several provisions relating to the defense economy.

Article 23 modernizes and adapts the system of requisitions of the defense code.

The requisition is a mechanism of public power available to the State to obtain, in the absence of any other means at its disposal, the supply of goods or the performance of a service, by a natural or legal person, when these cannot be obtained through amicable negotiation or by contract.

The Defense Code provides for two separate regimes, each that can be triggered only by decree in the Council of Ministers:

– that of military requisitions, the main purpose of which is supplying the armed forces and related formations;

– and that of requisitions for the general needs of the Nation.

However, these provisions appear to be largely obsolete, complex to implement and based on criteria whose scope is sometimes

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uncertain. These shortcomings undermine the general effectiveness of these systems and hamper the ability of the competent authorities to implement them in emergency situations, for several reasons.

Firstly, the cases of opening of the right to requisition seem both insufficiently precise and ill-suited to the current needs of national defense as well as to the new missions of the armed forces and related formations.

Indeed, apart from a few limited hypotheses, military requisitions can only be used in the event of partial or general mobilization, which appears particularly restrictive.

Thus, the implementation of requisitions for the general needs of the Nation is intended, by the texts, to provide for "defence needs" in the event of a threat (neither the nature nor the intensity of which are precisely defined) or , according to a jurisprudential interpretation, to "meeting the needs of the population".

Also, concretely, it is not possible to resort to a requisition in order to respond to an emergency situation likely to affect the armed forces without a threat to the life of the Nation being really characterized.

Secondly, the procedures for exercising the requisitions provided for by the Defense Code appear particularly complex, it being specified that they are governed by nearly a hundred legislative articles and more than one hundred and eighty regulatory articles.

By way of comparison, the legal framework applicable to prefectural requisitions, with regard to breaches of public order, is based on a single legislative article, provided for by the general code of local authorities.

This observation bears witness to the need to simplify the rules in force in order to make them fully applicable in order to more effectively guarantee the interests of national defence, particularly in the context of renewed tensions on the European continent.

Thirdly and lastly, it appears that the system of compensation for requisitions and the resulting damages, as defined by the Defense Code, is particularly unsuitable, given the complexity of the mechanisms for determining the amount of compensation, the inadequacy of the procedural rules in force with the structuring

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of the administration as well as the obsolete nature of the dispute resolution methods it establishes between the State and the citizens.

In the light of these observations, article 23 proceeds to the complete renovation of the requisitions coming under the defense code.

He distinguishes:

– requisitions aimed at dealing with threats to the life of the Nation. These are threats whose territorial scope exceeds those which the prefectural authorities can ward off on the basis of the general code of local authorities. This concerns essential economic activities (necessary for the supply of water, energy or food, for example), the protection of the population, the integrity of the territory or the permanence of the institutions of the Republic as well as the threats justifying the implementation of France's international defense commitments. Considering the constitutional prerogatives of the President of the Republic, guarantor of national independence, of the continuity of the State and of the regular functioning of the public powers, it is up to him to order such requisitions, by decree deliberated in the Council of Ministers. . It will be able to do so even when the threat is not immediate, but only foreseeable, in order to guarantee earlier preparation of the Nation in the face of the mounting perils that may affect it. When such a threat arises, it will also be possible to order the blocking of movable assets likely to be the subject of a requisition, for a period not exceeding fifteen days, renewable only once;

– requisitions decided by decree of the Prime Minister, aimed specifically at dealing with emergency situations involving the safeguarding of the interests of national defence. This entails entrusting the Head of Government, responsible for national defence, with taking the necessary urgent measures, in the absence of any other means available in good time, to enable the State to conduct operations necessary for its defence, even independently of any threat weighing on the life of the Nation. It may be, for example, the need to urgently carry out a defense operation by using means which the State cannot provide within time limits compatible with the conduct of the operation (such as the recovery of a military aircraft damaged at sea).

Moreover, the usefulness of requisitions is only ensured if the persons, goods and services likely to be requisitioned are identified upstream

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periods of crisis or emergency situations. Consequently, provisions for the inventory of goods and persons likely to be requisitioned, but also for the organization of drills are planned.

The guarantees provided to persons subject to a requisition are consolidated: requisitions must be strictly necessary, i.e. it is impossible for the State to achieve its objectives without resorting to them, strictly proportionate and limited in time. They are also preceded by the search for an amicable agreement.

The remuneration of the expenses incurred by the requested person in respect of the requisition is also considerably simplified; in the event of a service requisition, it is determined according to the normal commercial price of the service. In addition, the damages suffered by the person requested as a direct and certain result of the requisition measures are fully borne by the State, unless they are attributable to the person requested. If they are attributable to a third party, the State is subrogated in the rights of the victim to obtain reimbursement of the compensation it has paid to him.

Finally, the criminal penalties are aligned with those provided for under the regime for requisitioning space goods and services introduced by Ordinance No. 2022-232 of February 23, 2022.

The other requisition regimes are not modified. In particular, the prerogatives conferred on the prefects remain unchanged, within the limits of their territorial competence, by article L. 2215-1 of the general code of local authorities.

Article 24 organizes the possibility of constituting strategic stocks of materials or components of strategic interest for the armies as well as the prioritization of the delivery of goods and services for the benefit of the armies.

The recent evolution of the international situation, marked by the resurgence of a high-intensity war on the European continent as well as by the risks of shortage of raw materials, makes it more necessary than ever to secure and streamline the supply of equipment and ammunition of the French armed forces.

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To this end, Article 24 provides for two mechanisms aimed at guaranteeing the continuity of the execution of the missions of the armed forces and to secure their supply.

On the one hand, it introduces Article L. 1339-1 into the Defense Code, making it possible for the administrative authority to impose on companies holding an authorization to manufacture and trade in arms and war materials the creation of strategic stocks of materials (such as titanium) or components of strategic interest.

This obligation may be imposed on them independently of any current contract, with the aim of increasing the responsiveness of armaments companies, preparing future orders and compressing as much as possible the time between the ordering of equipment by the armies and its actual delivery.

The companies concerned will not be able to use the stock thus prescribed without authorization, nor claim compensation for the costs of constitution and immobilization of the stock, which contributes to the realization of their professional activity. An administrative penalty system is provided for in the event of breach of the storage obligation (the fine incurred cannot exceed twice the value of the stocks not constituted, within the limit of 5% of the average annual turnover recorded in during the two previous financial years), which could result, in the event of a repeat offence, in the withdrawal of the manufacturing and trade authorisation.

Significant safeguards are provided: the maximum amount of prescribed stock will be capped by regulation; the determination of the prescribed stock must be proportionate and take into account, on a case-by-case basis, the particular situation of the company (taking into account its volume of activity), the degree of tension noted for the supply of the materials and components concerned , the foreseeable requirements of the armed forces; the stock obligation may be pooled by agreement between the various companies concerned, subject to the approval of the administrative authority.

On the other hand, article 24 introduces into the defense code a new article L. 1339-2 opening up the possibility for the State to order the priority execution of the orders that it has placed with a company in the framework of a defense and security market.

This system aims to guarantee both the continuity of the missions of the armed forces and to honor the international commitments of

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France. It may also be implemented to give priority to the execution of arms contracts entered into by a French company with an international organization or a third State.

The prioritization will also apply to sub-contractors whose participation is essential for the performance of the contract in question.

In the event of failure to comply with the obligation of priority performance, the manufacturer will be liable to administrative sanctions, the amount of which may not exceed twice the value of the services within the limit of 5% of the average annual turnover recorded in during the two previous fiscal years.

The State will be required to fully compensate the material damage resulting directly and certain from the prioritization measures. Thus, in particular, the potential effect of delay induced on the delivery of the same equipment to the other customers of the company concerned will be neutralized, for the company, by the guarantee that all the penalties for delay imposed on it by its other partners contractors will be fully paid for by the State. Finally, companies must provide the administrative authority, if the latter so requests, with all documents or information likely to justify the amount of compensation due. In the event of failure to comply with the obligation of priority execution and after a formal notice remains without effect, they will be liable to a pecuniary sanction.

Article 25 changes the cost investigation regime in public procurement.

The public procurement code provides, in its articles L. 2196-4 to L. 2196-6, the possibility for the State and its public establishments to control the production costs of contracts for which competitive bidding has not been carried out. not been possible or effective and for those whose benefits are complex and of a duration of more than 5 years. This control is exercised both on the holders, the companies linked to them and their subcontractors.

This mechanism, also applicable to defense or security contracts, by virtue of Articles L. 2396-3 and L. 2396-4, makes it possible to guarantee the possibility of controlling the accuracy of costs, in particular when competition has not naturally regulated prices. Nevertheless, the elements of verification are not objectified and lack transparency.

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In order to clarify the method of calculating cost and valuation elements in the markets, both with manufacturers and European Union authorities, it is proposed to create a new article L. 2196-7 of the public procurement code , making it possible to establish by decree, on the one hand, the form according to which the technical and accounting elements of the cost estimate must be presented to the administration if the latter so requests and, on the other hand part, the nature of the expenses included in the determination of the cost price and the procedures for their recognition.

In addition, a new article L. 2521-6 has been created, the purpose of which is to apply to defense or security contracts in Book V of the second part of the public procurement code, which are excluded from the rules on advertising and competition, the provisions relating to cost control already in force for common law public contracts and the other defense or security contracts in Book III. Indeed, these contracts, like those covered by Books I and III, need to be the subject of cost surveys in order to check that the prices charged remain consistent with the expenses incurred.

The application of these provisions to Book V defense or security contracts is fully justified because the absence of competition in these strategic and sensitive markets particularly exposes them to the risk of price drift and deprives the buyer of the ability to negotiation, which it seems appropriate to compensate for by an obligation of transparency on the cost price of the services which are the subject of the contract. Price checks will take place both at the procurement stage, when tenderers submit their bids, and at the performance stage, after the contract has been awarded.

Chapter IV reinforces the provisions necessary for the strategic credibility of the armed forces.

Article 26 reinforces the autonomy of the armies in health matters.

It modifies the Public Health Code to:

1° To allow soldiers injured in operations to benefit from an emergency blood transfusion, when their state of health requires it, on national territory, on board ships of the French Navy and during medical evacuations from theaters of operations.

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This measure increases the chances of survival of soldiers injured in operations.

To do this, it is a question of modifying article L. 1221-10 of the public health code in order to authorize the medical centers of the army health service, on board ships of the national navy far from health structures. , and their mobile care teams exercising their mission in military aircraft in charge of medical repatriations, as well as the Paris fire brigade and the battalion of Marseille firefighters whose medical vehicles carry out medical transport between bases airlines and army hospitals, to store labile blood products necessary for carrying out transfusions.
This storage capacity will be reserved for specific defense needs and will offer the same guarantees as for healthcare establishments.

2° Allow the army blood transfusion center (CTSA) to manufacture new drugs specific to the fight against neurotoxic chemical attacks.

The army blood transfusion center will thus be able to make these drugs available in response to exposure to organophosphates during targeted attacks targeting soldiers in operation or on national territory. These drugs are essential solutions in the context of medical countermeasures. The use of these drugs can participate in particular in prophylaxis (primary and secondary), pre-treatment and treatment as medical support during armed forces engagements outside and on national territory and constitute a State response to the risks and CBRN events.

It is necessary, in a logic of strategic autonomy as well as national sovereignty, to entrust this competence to a State service having the competence to manufacture medicines derived from blood, such as the blood transfusion center of the armies. It is therefore necessary to modify article L. 1222-11 of the public health code in order to allow the blood transfusion center of the armed forces, to meet specific defense or national security needs, to manufacture medicines derived from blood. .

Article 27 reinforces the legal anti-drone control regime.

Aircraft circulating without anyone on board, commonly called "drones", are more and more numerous (about 150,000 to 200,000) in

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move above the territory. Their low cost, the development of their technologies (autonomy, video quality) and the interest they arouse in the population contribute to this significant increase, which leads to the use of airspace likely to present risks for the safety of people, property or certain sites. Thus, between 2017 and 2019, approximately 350 incidents (including 25% overflights of nuclear power plants and around twenty over prison establishments) were reported. In addition, it is necessary to take into account the new forms of threat posed by drones, and in particular the terrorist threat (transport of explosives, hacking devices, etc.).

Article 24 of Law No. 2021-998 on the prevention of acts of terrorism and intelligence amended the postal and electronic communications code to provide a legal basis for the technique of jamming "malicious" drones. Nevertheless, new technologies for combating these drones (such as weapons with directed electromagnetic effects, drone interceptor drones, anti-drone net projection devices) can now be deployed. These new technologies have the advantage of increased efficiency and of not infringing the freedom of communication of third parties.

The purpose of this article is to allow the services of the State, in the event of an imminent threat, for the needs of public order, national defense and security or the public service of justice or in order to prevent the overflight of a prohibited area, to have the possibility of using all the technical means of combating "malicious" drones.

Article 28 ratifies Ordinance No. 2022-232 of February 23, 2022 relating to the protection of national defense interests in the conduct of space operations and the use of data of space origin.

This ordinance amended law no. 2008-518 of June 3, 2008 relating to space operations as well as the defense code in order to:

– adapt the legal framework to the specificities of operations conducted by the State in the interest of national defence, as provided for in the defense space strategy presented by the Minister for the Armed Forces on 25 July 2019;

– to guarantee the preservation of the interests of national defense when other private space operations and activities subject to authorization are implemented;

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– to extend to space observation data from space the system for declaring primary exploitation activities of data of space origin, hitherto applicable only to Earth observation data;

– to create a new regime for the "requisition of space goods and services in order to safeguard the interests of national defence", intended to compensate for the absence or non-execution of an amicable agreement with private operators, in order to align with the current provisions in common law.

Furthermore, this article modernizes the law on space operations to take into account the new realities of the space environment and the activities that develop there, with the aim of guaranteeing the security and the sustainable and responsible use of space :

– by extending the launch and control authorization system from space objects to constellations of satellites;

– by supervising the control of the recovery of reusable launcher stages;

– by extending the powers of control of the President of CNES to all space operations carried out from the Guiana space center, beyond launch operations alone.

Finally, this provision contains modifications of pure coordination.

Article 29 consolidates the provisions relating to nuclear defence.

It is necessary to limit, as is the case for civil nuclear installations, the use of service providers or subcontractors in the regimes of the Defense Code, applicable to nuclear materials, installations or activities (protection and control nuclear material, nuclear facilities and activities relating to defence, nuclear deterrence and governmental control). This limitation is likely to infringe the freedom of enterprise and requires the intervention of the legislator.

The regime applicable to civil nuclear installations is that of basic nuclear installations, set by the Environment Code.
This provides, in its article L. 593-6-1, for the supervision or limitation of the

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use of service providers or subcontractors, due to the particular importance of certain activities for the protection of public safety, health and sanitation or the protection of nature and the environment. It also prohibits the operator from delegating the monitoring of important activities carried out by an external service provider.

The regimes coming under the Defense Code and applicable to nuclear materials, facilities or activities, whether they have nuclear security or safety as their objective, do not include an equivalent provision at the legislative level. When they exist, these limitations are only provided for by texts of insufficient level (decree or order), even though these regimes aim to take into account both the issues of protection of people, property and the environment as well as national defense issues.

The use of service providers or subcontractors is likely to lead to risks of loss of technical control and skills among operators, difficulties in the transmission of information and dilution of responsibilities.

It is therefore proposed to insert in the Defense Code, for each of these regimes, provisions constituting the counterpart of Article L. 593-6-1 of the Environmental Code, and referring to a decree in Council State the possibility of prohibiting, supervising or limiting the use of service providers or subcontracting. With regard to nuclear installations and activities relevant to defence, it is also proposed to impose on the licensee the supervision of suppliers of equipment important for nuclear safety and of activities important for nuclear safety when they are carried out by external stakeholders.

Article 30 provides for the communication by the judicial authority of the follow-up given to military criminal cases.

Article 698-1 of the Code of Criminal Procedure requires the public prosecutor, in the absence of denunciation, to seek the opinion of the minister responsible for defense or the authorized military authority prior to any act of prosecution, for offenses falling within the jurisdiction of ordinary courts specializing in military matters.

The economy of this procedure, introduced by the legislator in 1982, is not only to enlighten the judicial authority on the military specificities likely to have an impact on the criminal assessment of the file, but

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also to allow the hierarchical authority to take the measures ordered by the involvement of a soldier in a criminal procedure.

However, this procedure does not allow the military authority to know the legal follow-up given to the procedures for which it has issued an opinion or denounced facts.

This knowledge is, however, made essential by the effect that prosecution or the absence of prosecution may have on the employability of the personnel concerned (aptitude/authorization to carry weapons, projection in overseas or overseas operations, security clearance or renewal national defense secret clearance, etc.).

The purpose of this article is to create an additional paragraph to article 698-1 of the Code of Criminal Procedure in order to provide for the information of the military authority of the judicial follow-up given to military criminal cases in view of the administrative, disciplinary and operational consequences. which may arise from it.

This mechanism is inspired by that established by article 40-2 of the code of criminal procedure which provides for information on the action taken by the author of the report made pursuant to article 40 of the same cod

Article 31 proceeds to the creation of an authorization system relating to study activities prior to the laying or removal of a submarine cable or pipeline in the territorial sea.

Before laying a submarine cable or pipeline, an operator must carry out preliminary studies to confirm the planned route. These studies are of different types: bathymetric surveys, sediment sampling (coring) or studies aimed at detecting the possible presence of submerged explosive devices.

Depending on the techniques used, these studies may have an impact on the subsoil (coring) or on the environment (impact of sonars on marine fauna in particular).

The United Nations Convention on the Law of the Sea (UNCLOS) signed in Montego Bay on December 10, 1982 does not specify the legal regime applicable to study activities prior to the laying or removal of a cable or an undersea pipeline.

In national law, article 1 of decree no. 2017-956 of 10 May 2017 setting the conditions for the application of articles L. 251-1 et seq. of the code

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research relating to marine scientific research (MSR) in the territorial sea excludes cable-laying activities from the MSR regime by referring to Article 28 of Ordinance No. 2016-1687 of December 8, 2016 relating to maritime areas under the sovereignty or jurisdiction of the French Republic. However, Article 28 of the Ordinance only applies on the continental shelf and in the exclusive economic zone and does not explicitly deal with survey activities prior to the laying or removal of a cable or an underwater pipeline.

In fact, the maritime prefectures or the services of the government delegates for State action at sea (AEM) overseas have various practices (MSR regime, direct application of UNCLOS) to deal with these types of applications in the exclusive economic zone or in the territorial sea.

This observation led to the modification of decree n° 2013-611 by decree n° 2021-1942 of December 31, 2021. On the continental shelf and in the exclusive economic zone, the study activities prior to the installation of a cable or submarine pipeline are now subject to a notification regime (articles 18-1 to 18-5 of decree no. 2013-611).

However, in the absence of a legislative basis, the activities of studies prior to the laying or removal of a submarine cable or pipeline in the territorial sea are not framed by any national regulations.

It is therefore proposed to create an article 41 bis in Ordinance No. 2016-1687 of 8 December 2016 relating to maritime areas under the sovereignty or jurisdiction of the French Republic in order to create an authorization regime for studies prior to the laying or removal of a submarine cable or pipeline in the territorial sea.

This authorization must take into account the impact that these activities may have on the safety of navigation, the protection of the environment or maritime cultural property, or the safeguarding of national defense interests.

An amendment to Decree No. 2013-611 will subsequently be necessary in order to define this authorization procedure according to an architecture comparable to that of the system for notification of preliminary studies in the exclusive economic zone and on the continental shelf. *Ultim*

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authority must notify the authorization, possibly accompanied by prescriptions, or the refusal to the operator.

The creation of this authorization system makes it possible to establish a protective framework for the defense of the interests of the State while contributing to the attractiveness of France in terms of submarine communication cables by harmonizing the applicable standards.

Chapter V aims to strengthen the security of information systems.

The cybersecurity component of the military programming bill provides for four articles enabling the National Information Systems Security Agency (ANSSI) to increase its knowledge of the operating methods of cyberattackers, to better remedy the effects of their attacks and more effectively alert victims of incidents or threats to their information systems (IS).

Article 32 authorizes ANSSI to prescribe gradual domain name filtering measures for hosts, Internet service providers (ISPs) and domain name registrars, in order to neutralize misuse. of a domain name by a cyberattacker and to better understand and counter his modi operandi.

This can take the form of an injunction to take appropriate measures, to block or suspend the domain name, but also to redirect the domain names concerned without delay to a neutral or secure ANSSI server, to register, renew , suspend and transfer domain names.

Article 33 provides for the communication to ANSSI of technical, non-identifying data, temporarily recorded by the DNS servers which establish the correspondence between the domain name and the IP address of the machines in a network). Such data makes it possible to detect the servers set up by the attackers and to establish the chronology of their attacks.

Article 34 is an incentive measure tending to oblige software publishers who are victims of a computer incident on their IS, or who have a significant vulnerability on a product supplied on French territory, to companies established in France or controlled by them , to notify ANSSI and inform their users. This measure increases transparency on incidents and vulnerabilities affecting software and allows ANSSI to make public the vulnerability or incident as well as the injunction when the publisher has not responded to it.

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Article 35 introduces a set of provisions reinforcing the different detection capabilities of digital players for the purpose of better prevention and characterization of threats.

Its first component supplements article L. 2321-2-1 of the defense on three levels, by:

- extending the data collected to the content of communications passing through the networks (which may reveal the identity of the victims, etc.) and, more broadly, by allowing ANSSI to obtain a copy of the server used by the attacker ;

- including operators of data centers within the scope of operators on which ANSSI could affix technical markers or obtain a copy of their servers;

- including subcontractors of public authorities, operators of vital importance and operators of essential services for whose benefit ANSSI can detect and characterize events likely to affect the security of their information systems.

Its second component complements Article L. 33-14 of the Postal and Electronic Communications Code by requiring electronic communications operators (OCE) who are operators of vital importance (OIV) to acquire detection capabilities.

Its third component extends to data hosts, the obligation to communicate the identity and address of users or holders of vulnerable IS and widens the scope of this communication to the technical data of subcontractors of OIVs, OSEs and public authorities. Its main aim is to adapt to new practices in network design and data hosting through the use of subcontractors and cloud technologies . It also streamlines said procedure by eliminating the swearing in of ANSSI agents.

Finally, Chapter VI contains only one article, Article 36, which specifies the conditions of application of this law in the overseas territories.

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LAW PROJECT

Prime Minister,

On the report of the Minister of Armies,

Considering article 39 of the Constitution,

Decrees:

This draft law relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence, deliberated in the Council of Ministers after consulting the Council of State, will be presented to the National Assembly by the Minister for the Armed Forces, who will be responsible for explaining the reasons and supporting the discussion.

Done in Paris, April 4, 2023.

Signed : **Elisabeth BORNE**

By the Prime Minister:

The Minister of Armies,
Signed: **Sébastien LECORNU**

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TITLE I

PROVISIONS RELATING TO THE OBJECTIVES OF THE DEFENSE POLICY AND PROGRAMMING FINANCIAL

Article 1

This title establishes the objectives of the defense policy and the financial programming associated with them for the period 2024-2030.

Section 2

The report annexed to this law, which sets the orientations relating to the defense policy and the means devoted to it during the period 2024-2030, is approved. It specifies the orientations in terms of equipping the armies by 2035 and translates them into programmed needs and associated budgetary resources until 2030, maintaining the objective of bringing the national defense effort to 2% of the GDP as of 2025.

Section 3

ÿ For the period 2024-2030, the amount of programmed needs amounts to 413.3 billion euros.

ÿ The budgetary resources of the “Defence” mission, excluding pension costs and on a like-for-like basis, will evolve as follows between 2024 and 2030:

ÿ

(in billions of current euros)

	2024	2025	2026	2027	2028	2029	2030			Overall 2024-2030
Credits of payment of the mission " Defense "	47.04	50.04	53.04	56.04	60.32	64.61	68.91			400.00
variation	+3.1	+3.0	+3.0	+3.0	+4.3	+4.3	+4.3			

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ÿ **To these budgetary resources will be added those needed to finance the national support effort for Ukraine, implemented in particular in the form of a contribution to the European Peace Facility (EPF), the sale of all materials and equipment requiring replenishment or aid for the acquisition of defense and security equipment or services. These means will be determined in the initial budget law or in execution, in coherence with the evolution of the geopolitical and military context.**

ÿ **These budgetary resources will also be supplemented, over the duration of the programme, by extra-budgetary resources including, in particular, the return of all proceeds from the sale of real estate by the Ministry of Defence, state fees and rents from concessions or authorizations from any nature granted on the real estate assigned to the ministry.**

Section 4

ÿ **The annual provision for external operations and internal missions will evolve as follows:**

ÿ

(CP, in millions of current euros)

	2024	2025	2026	2027	2028	2029	2030	
Provisioned amount	800	750	750	750	750		750	750

ÿ **In management, the additional costs of external operations and internal missions, net of reimbursements from international organisations, not covered by this provision are subject to interministerial financing. Apart from exceptional circumstances, the contribution of the "Defence" mission to this inter-ministerial funding cannot exceed the proportion it represents in the general State budget. If the amount of net additional costs thus defined is less than the provision, the observed excess is maintained for the benefit of the "Defence" mission.**

ÿ **External operations and internal missions are reported to Parliament each year. In this respect, the Government communicates to Parliament an operational and financial report relating to these external operations and internal missions.**

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Section 5

In the event of a rise in the observed price of operational fuels, the "Defence" mission will benefit from financial management measures and, if the rise is long-lasting, additional appropriations will be opened in the initial finance law, to cover the volumes necessary for the preparation and to the operational activity of the forces.

Section 6

ÿ **The net increase in the staff of the Ministry of Defense will take place according to the following schedule (in full-time equivalents):**

ÿ

(in full-time equivalents)

	2024	2025	2026	2027	2028	2029	2030
Targets net increase in headcount	700	700	800	900	1,000	1,000	1,200

ÿ **This change concerns jobs financed by Ministry of Defense personnel credits, excluding civil and military apprentices, voluntary military service volunteers and universal national service volunteers. As a result, the workforce of the Ministry of Defense will amount to 271,800 full-time equivalents in 2027 and 275,000 full-time equivalents in 2030.**

ÿ **In addition to these numbers, there will be increases in the number of employees in the aeronautical industrial service.**

ÿ **Finally, there will be an increase in the number of volunteers in the military operational reserve, to 105,000 by 2035 at the latest to reach the objective of one reserve soldier for every two active soldiers.**

ÿ **The ministry's human resource transformation effort undertaken during the military programming law for the 2019-2025 period will be continued, in particular to strengthen the loyalty, expertise and adaptability of the ministry's civilian and military agents. .**

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ÿ **The ministry will adapt the achievement of the staffing targets set by this article and its salary policy according to the labor market situation.**

Section 7

This program will be updated before the end of 2027. This update will make it possible to verify that the objectives set in this law are properly matched with the achievements and the means allocated. It will also allow an update of the needs with regard to the security context of the moment and the technological advances observed.

Section 8

Before April 30 of each year, the Government submits to Parliament a report on the results of the execution of the military program for the past year.

Section 9

Before June 30 of each year, the Government submits to Parliament a report on the issues and the main developments in the budget programming of the “Defence” mission.

Section 10

Title I of Law No. 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and containing various provisions relating to defense is repealed as of January 1 , 2024.

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TITLE II

NORMATIVE PROVISIONS OF INTEREST NATIONAL DEFENSE

CHAPTER I RE

Strengthening the link between the Nation and its armies and military condition

Section 11

ÿ **Law n° 99-418 of May 26, 1999 creating the Order of the Liberation (National Council of Communes “Companion de la Liberation”) is amended as follows:**

ÿ **1° Article 1 is replaced by the following provisions:**

ÿ **“ *Art. 1st.* – The Order of the Liberation (National Council of Communes “Companion de la Liberation”), successor to the Council of the Order of the Liberation, is a national public establishment of an administrative nature placed under the protection of the President of the Republic.**

ÿ **“In the name of the President of the Republic, the Grand Chancellor of the Legion of Honor ensures compliance with the founding principles of the Order of the Liberation. » ;**

ÿ **“The Minister of Defense supervises the establishment. » ;**

ÿ **2° In article 2:**

ÿ ***a)* The fourth paragraph is completed by the words: “and medalists of the French Resistance”;**

ÿ ***b)* The last paragraph is replaced by the following provisions:**

ÿ **“- to participate in the moral and material aid to the surviving spouses and children of the Companions of the Liberation, to the medalists of the French Resistance and to their surviving spouses and children. » ;**

ÿÿ **3° In article 3:**

ÿÿ ***a)* 2° is replaced by the following provisions:**

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ÿÿ **"2° The Grand Chancellor of the Legion of Honor or his representative; »**

ÿÿ ***b)*** After 5°, a 5° ***bis*** **is inserted as follows:**

ÿÿ **"5°** ***bis*** **The Director General of the National Office for Combatants and war victims or their representative; »**

ÿÿ **4° In article 6, the words: "and employees belonging to bodies of State or local authority officials made available or seconded as well as contractual agents" are deleted.**

Section 12

ÿ **I. – After Article L. 4123-2-1 of the Defense Code, a Article L. 4123-2-2 worded as follows:**

ÿ **"** ***Art. L.4123-2-2.*** **– Except in the case of damage attributable to a personal fault of the soldier or to any other particular circumstance detachable from the service, are entitled, at the expense of the State, to full compensation for the damage suffered by soldiers injured or having contracted an illness by the fact or on the occasion:**

ÿ **"1° A war operation;**

ÿ **"2° An operation qualified as an external operation, under the conditions provided for in Article L. 4123-4;**

ÿ **"3° A mission mobilizing military capabilities, taking place on national territory or outside it, aimed at defending the sovereignty or interests of France or preserving the integrity of its territory, of a particular intensity and dangerousness comparable to those of an external operation;**

ÿ **"4° Exercises or maneuvers to condition the forces specifically aimed at preparing for combat.**

ÿ **II. – The first paragraph of article L. 133-1 of the code of military invalidity pensions and war victims is supplemented by the words: "when the pensioned disabilities are the direct and determining cause of the need for assistance".**

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ÿ **III. – This article is applicable to requests for compensation that have not given rise to a decision that has become final before the date of publication of this law.**

Section 13

ÿ **Article L. 4123-1 of the Defense Code is supplemented by a paragraph worded as follows:**

ÿ **“In the event of the death of the soldier in service, his remuneration shall be paid for the entire month concerned. »**

Section 14

ÿ **I. – The Defense Code is amended as follows:**

ÿ **1° The first paragraph of Article L. 2171-1 is replaced by the following provisions:**

ÿ **"In the event of a threat, current or foreseeable, weighing on the activities essential to the life of the Nation, the protection of the population, the integrity of the territory, the permanence of the institutions of the Republic or of such a nature as to justify the implementation of the State's international defense commitments, recourse to the national security reserve mechanism may be decided by decree in the Council of Ministers. » ;**

ÿ **2° After article L. 2171-2, an article L. 2171-2-1 is inserted as follows:**

ÿ **“ *Art. L.2171-2-1.* – When recourse to the military operational reserve appears sufficient to respond to the circumstances mentioned in Article L. 2171-1, the decree in the Council of Ministers mentioned in this same article may authorize the Minister of Defense or, for the military the National Gendarmerie, the Minister of the Interior to proceed, by decree, with the call or the maintenance in activity of the reservists subject to the obligation of availability under Article L. 4231-1 under the conditions provided for in article L. 2171-2. » ;**

ÿ **3° In article L. 4138-14:**

ÿ ***a)* In the third paragraph, after the words: “the child” are inserted the words: “and, where applicable, to the military reserve” and the words: “; he retains all of his rights to advancement, within the limit of a period**

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five years for his entire career. This period is assimilated to effective services in the body" are deleted;

ÿ ***b)*** **A paragraph worded as follows is added:**

ÿ **"The soldier placed on parental leave may request to sign a commitment to serve in the military operational reserve. The conditions of application of this paragraph are specified by decree in Council of State. » ;**

ÿÿ **4° The first and second sentences of the last paragraph of Article L. 4138-16 are replaced by the following sentence: "A soldier placed on leave for personal reasons may request to sign a commitment to serve in the military operational reserve. » ;**

ÿÿ **5° Article L. 4138-17 is supplemented by a sentence worded as follows: "When this soldier has signed a commitment to serve in the reserve during one of these leaves, he recovers his rights to advancement in the army of active, in proportion to the number of days of activity completed under this contract of engagement to serve in the reserve under the conditions specified by decree in Council of State. » ;**

ÿÿ **6° After the fifth paragraph of Article L. 4139-9, a paragraph worded as follows is inserted:**

ÿÿ **"An officer placed on standby may ask to sign a commitment to serve in the military operational reserve. In this situation, the services rendered under this contract of commitment to serve in the reserve are taken into account in full for advancement in the active army by choice and seniority. The remuneration provided for in the second paragraph is suspended when the member performs service in the operational reserve. The conditions of application of this paragraph are specified by decree in Council of State. » ;**

ÿÿ **7° The *c* of 1° of III of Article L. 4211-1 is replaced by the following provisions:**

ÿÿ **" *c)* Active military personnel, in the cases provided for in Article L. 4211-1-1; »**

ÿÿ **8° Article L. 4211-1-1 is replaced by the following provisions:**

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ÿÿ **“ *Art. L.4211-1-1.* – Active military personnel may take out a commitment to serve in the military operational reserve only in the cases provided for in Articles L. 4138-14, L. 4138-16 and L. 4139-9. » ;**

ÿÿ **9° Article L. 4211-2 is supplemented by a 5° worded as follows:**

ÿÿ **"5° Possess the skills required for the job he holds in the operational reserve. » ;**

ÿÿ **10° In article L. 4221-1:**

ÿÿ ***a)* In 5°, after the word: “company” are inserted the words: “or of a body governed by private law when the interests of defense or national security justify it,” and the words: “L. 4221-7 to” are replaced by the words: “L. 4221-8 and”;**

ÿÿ ***b)* In the eighth paragraph, the words: “or in 3° of Article L. 4221-4-1” are deleted;**

ÿÿ ***c)* In the last paragraph, the words: "of a State administration, of a public administrative establishment, of a public establishment of a scientific, cultural and professional nature" are replaced by the words: "of an administrative , a public institution or public body, an independent public authority” and after the words: “international organization” are added the words: “under the conditions specified by decree in Council of State”;**

ÿÿ **11° Article L. 4221-2 is replaced by the following provisions:**

ÿÿ **“ *Art. L.4221-2.* – No one can belong to the operational reserve over seventy years.**

ÿÿ **"By way of derogation from the preceding paragraph, the specialist reservists mentioned in article L. 4221-3 and the reservists belonging to the bodies of doctors, pharmacists, veterinarians and dental surgeons may belong to the operational reserve until seventy-two years old. » ;**

ÿÿ **12° Article L. 4221-3 is supplemented by a paragraph worded as follows:**

ÿÿ **“Specialist reservists can be promoted to a higher rank under conditions defined by decree in Council of State when their activity in the operational reserve makes them progress in terms of expertise and responsibility. » ;**

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ÿÿ **13° In article L. 4221-4:**

ÿÿ ***a)*** **In the second paragraph, the word: “five” is replaced by the word: “ten”;**

ÿÿ ***b)*** **In the third paragraph, the words: “, unforeseen and urgent” are replaced by the words: “and unforeseen”;**

ÿÿ ***c)*** **The last paragraph is supplemented by the words: “or the Minister of the interior for the reservists of the national gendarmerie”;**

ÿÿ **14° Article L. 4221-4-1 is repealed;**

ÿÿ **15° In the second paragraph of Article L. 4221-6, the words: “mentioned in the last paragraph of Article L. 4138-16” are replaced by the words: “active mentioned in Article L. 4211-1-1”;**

ÿÿ **16° Article L. 4221-7 is repealed;**

ÿÿ **17° In the first paragraph of Article L. 4221-8, the words: "of Article L. 4221-7” are replaced by the words: “of 5° of Article L. 4221-1”;**

ÿÿ **18° In 2° of article L. 4231-1, the words: “the end of their link to the service” are replaced by the words: “their removal from management or controls and at the latest until age mentioned in article L. 4221-2”;**

ÿÿ **19° Article L. 4231-2 is replaced by the following provisions:**

ÿÿ **“** ***Art. L.4231-2.*** **– The former soldiers mentioned in 2° of Article L. 4231-1 who have not signed a contract of engagement to serve in the operational reserve on the basis of Title II of this book may be summoned in order to assess them or to maintain their skills, for a period that may not exceed a total of ten days over a period of five years. To this end, they are required to inform the military authorities of any change of domicile or residence as well as of professional situation during the period in which they are subject to the obligation of availability.**

ÿÿ **“In the event of a summons on the basis of the preceding paragraph:**

ÿÿ **“1° The military authority is required to respect a minimum notice period of one month;**

ÿÿ **“2° The former soldier must inform his employer of the duration of his absence. » ;**

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ÿÿ **20° In article L. 4231-3:**

ÿÿ ***a)*** **The words: “in article L. 4231-4” are replaced by the words: “in articles L. 4231-4 and L. 4231-5”;**

ÿÿ ***b)*** **A paragraph worded as follows is added:**

ÿÿ **“The conditions for calling up or maintaining the activity of these reservists are set by decree in the Council of State. » ;**

ÿÿ **21° In article L. 4231-4, the reference: “L. 1111-2” is replaced by the reference: “L. 2141-1”;**

ÿÿ **22° Article L. 4231-5 is reinstated as follows:**

ÿÿ **“ *Art. L.4231-5.* – When articles L. 2171-1 and L. 4231-4 are not applied, the call or the maintenance in activity of the volunteers mentioned in 1° of article L. 4231-1 can be decided by order of the Minister of Defense or the Minister of the Interior, for the volunteers of the National Gendarmerie, in the circumstances mentioned in Article L. 2212-2.**

ÿÿ **“This decree specifies the duration of the call or the maintenance in activity, which cannot exceed fifteen days. This duration is taken into account for the application of the second paragraph of Article L. 4221-4. » ;**

ÿÿ **23° The sole chapter of Title III of Book II is supplemented by an article L. 4231-6 worded as follows:**

ÿÿ **“ *Art. L.4231-6.* – In the event of an inherent necessity for the continuation of the production of goods or services or the continuity of the public service, the persons subject to the obligation of availability employed by public or private operators or managers of establishments designated by the The administrative authority in accordance with Articles L. 1332-1 and L. 1332-2 may be released from the obligations provided for in Articles L. 4231-4 and L. 4231-5, under conditions set by decree in Council of State. » ;**

ÿÿ **24° In Articles L. 4271-1 to L. 4271-5, the words: “L. 4231-4 and L. 4231-5” are replaced by the words: “L. 2171-1, L. 4231-4 or L. 4231-5 of this code or article L. 421-3 of the internal security code”.**

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ÿÿ **II. – Articles L. 3142-89 and L. 3142-90 of the Labor Code are replaced by the following provisions:**

ÿÿ **“ *Art. L.3142-89.* – When the provisions of Article L. 2171-1, the second paragraph of Article L. 4221-5 and Articles L. 4231-4 and L. 4231-5 of the Code are not applied defence, the salaried reservist who completes a period of employment or training under the military operational reserve or the operational reserve of the national police during his working time must obtain, when its duration exceeds ten working days per year civil law, the agreement of his employer, subject to more favorable stipulations resulting from the employment contract, agreements concluded between the Minister of Defense or the Minister of the Interior and the employer, a convention or a collective agreement or, failing that, a convention or branch agreement.**

ÿÿ **“ *Art. L. 3142-90.* – To obtain the agreement mentioned in Article L. 3142-89 and subject to more favorable stipulations resulting from the employment contract, agreements concluded between the Minister of Defense or the Minister of the Interior and the employer, of a convention or a collective company agreement or, failing that, of a convention or a branch agreement, the salaried reservist submits his request in writing to his employer at least one month before the start of his absence, indicating the date and duration of the planned absence. In the absence of a response from the employer within this period, his agreement is deemed to have be**

ÿÿ **"When the available military resources appear insufficient to respond to specific and unforeseen circumstances or needs, the notice period provided for in the preceding paragraph may, by order of the Minister of Defense or the Minister of the Interior for the reservists of the National Gendarmerie, be reduced to fifteen days for reservists who have subscribed with the agreement of the employer to the reactivity clause provided for in the eighth paragraph of Article L. 4221-1 of the Defense Code. »**

ÿÿ **III. – In *i* of Article L. 12 of the Code of Civilian and Military Retirement Pensions, the words: “during leave for personal reasons to raise a child under eight years old” are replaced by the words: “military in cases provided for in Article L. 4211-1-1 of the Defense Code”.**

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Section 15

ÿ **Title III of Book I of Part Four of the Defense Code is amended as follows:**

ÿ **1° Section 2 of Chapter II is supplemented by an article L. 4132-4-1 worded as follows:**

ÿ **“ *Art. L.4132-4-1.* – By way of derogation from the provisions of articles L. 4132-3 and L. 4132-4, former career soldiers removed from the ranks for less than five years pursuant to article L. 4139-13 or 8° of the article L. 4139-14, to the exclusion of general officers, may, upon approved request and if their removal from the executives has not taken place within the framework of a measure of assistance with departure provided for in articles L. 4139- 8 and L. 4139-9-1 or Articles 36 and 38 of Law No. 2013-1168 of December 18, 2013 on military programming for the years 2014 to 2019 and containing various provisions concerning defense and national that in article 37 of this law prior to its repeal by law no. officers or career petty officers, with the rank and seniority in rank they held when they were struck off the staff.**

ÿ **“The services performed in respect of this recruitment are taken into account as effective services in respect of the rights to advancement as well as in respect of the establishment and payment of the right to a pension.**

ÿ **“The payment of the military retirement pension of which the soldier thus recruited is the holder is suspended for the duration of the services carried out under this recruitment.**

ÿ **“This pension is revised at the time of the final removal of the executives to take into account the services performed under the said recruitment. The amount of the old pension, if it is more advantageous, is guaranteed to those concerned.**

ÿ **“The soldier thus recruited may benefit, upon approved request, from the training and support arrangements for employment provided for in Article L. 4139-5, under the conditions provided for by this same article. To this end, account is taken of the actual services rendered before the removal of the executives and since the recruitment provided for in this article.**

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ÿ **“A decree in Council of State defines the conditions of application of this article. » ;**

ÿ **2° In the last paragraph of Article L. 4132-6, the word: “two” is replaced by the word: “three”;**

ÿÿ **3° In article L. 4139-14:**

ÿÿ ***a)*** **In 1°, the words: "As soon as it is reached" are replaced by the words: “Subject to the provisions of 1° *bis,* as soon as it is reached”;**

ÿÿ ***b)*** After 1°, a 1° ***bis*** **is inserted as follows:**

ÿÿ **“1° *bis* At the end of the service maintenance period provided for in Article L. 4139-17; »**

ÿÿ **4° The penultimate paragraph of II of Article L. 4139-16 is deleted;**

ÿÿ **5° Section 4 is supplemented by an article L. 4139-17 as follows:**

ÿÿ **“ *Art. L.4139-17.* – By way of derogation from article L. 4139-16, career soldiers, excluding general officers, officers under contract, commissioned soldiers, engaged soldiers and volunteers in the armed forces, may, upon approved request, be kept in service to meet the needs of the armed forces and attached formations for a period which may not exceed three years following the reaching of their age limit or limit of length of service.**

ÿÿ **“This extension of service is taken into account for the constitution and liquidation of pension rights as well as for advancement.**

ÿÿ **“When the career soldier is promoted to a higher rank during this period of continued service, the age limit taken into account for the application of this article is that of his new rank.**

ÿÿ **“At the end of the period of maintenance in service, the soldier is struck off frames or controls.**

ÿÿ **“The continued service provided for in this article is exclusive of those provided for in article L. 4139-16.**

ÿÿ **“A decree in Council of State defines the conditions of application of this article. »**

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Section 16

ÿ **I. – III of Article L. 4139-5 of the Defense Code is amended as follows:**

ÿ **1° The 1° is replaced by the following provisions:**

ÿ **“1° Or at the end of the retraining leave”;**

ÿ **2° In 2°, the words: “the use of the fortieth day of leave” are replaced by the words: “the use of a fraction of the leave fixed by decree and at least equal to forty days”.**

ÿ **II. – The provisions of 2° of III of Article L. 4139-5 of the Defense Code in their version in force on the day of publication of this law remain applicable until the entry into force of the decree provided for in same 2° in its wording resulting from I of this article.**

ÿ **If they are more favorable to them, the provisions of 2° of III of Article L. 4139-5 of the Defense Code in their wording resulting from 2° of I of this article apply to soldiers whose retraining leave is in progress on the date of publication of this decree and who, on this date, have not yet used their fortieth day of leave.**

Section 17

ÿ **Book I of the fourth part of the Defense Code is amended as follows:**

ÿ **1° In article L. 4121-5-1:**

ÿ ***a)*** **The first paragraph is replaced by the following provisions:**

ÿ **"The service time of minor military personnel admitted as students of technical and preparatory military education establishments and over the age of sixteen and the service time of minor military personnel over the age of seventeen are limited to eight hours per day, subject to derogations provided for by decree in Council of State, within the limit of eleven hours. » ;**

ÿ ***b)*** **The last paragraph is replaced by the following provisions:**

ÿ **“Subject to having a recuperation time that cannot be less than eight hours a day, the underage soldiers mentioned in**

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first paragraph may be required to provide night service. Any shift from 10 p.m. to 6 a.m. is considered night service. The duration of these services cannot exceed six hours. They are reserved for the sole activities strictly necessary for the operation of the units and organizations within which they are assigned. » ;

ÿ **2° The 2° and 4° of article L. 4132-5 are supplemented by the words: “, y including military apprentices”;**

ÿ **3° The title is supplemented by a chapter III worded as follows:**

ÿ ***“ CHAPTER III***

ÿÿ ***“Technical and military preparatory education***

ÿÿ **“ *Art. L.4153-1.* – Students admitted under military status to technical and military preparatory education establishments to receive general and professional training provided for in 4° of Article L. 4132-1 undertake to serve in the armed forces and formations attached to the end of their training. This teaching constitutes a specific form of learning.**

ÿÿ **“During their training, they have the status of military apprentices.**

ÿÿ **“ *Art. L.4153-2.* – Military apprentices may only participate in the activities of the units and organizations in which they receive their training as well as, where applicable, the implementation of the civil defense measures provided for in Article L. 1321-2 .**

ÿÿ **“ *Art. L.4153-3.* – A Conseil d'Etat decree defines the conditions application of this chapter. »**

Section 18

ÿ **I. – Sub-section 2 of section 2 of chapter IX of title III of book I of the fourth part of the defense code is supplemented by an article L. 4139-9-1 as follows:**

ÿ **“ *Art. L.4139-9-1.* – I. – Officers and non-commissioned officers and petty officers in a position of activity may, upon approved request and within the limit of an annual quota, benefit from a promotion called “functional promotion”. This consists, in view of their merits and skills, of appointing career officers and non-commissioned officers to the higher rank in order to enable them to exercise a**

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determined before their removal from the ranks or, in the case of general officers, their admission to the second section.

ÿ **"Are not eligible for the provisions of the preceding paragraph, soldiers having benefited from:**

ÿ **“1° The allowance for career soldiers under Article L. 4139-8;**

ÿ **“2° Availability under Article L. 4139-9;**

ÿ **“3° A flexible departure incentive bonus under article 38 of law no. and national security;**

ÿ **“4° A pension relating to the higher grade under Article 36 of the law of 18 December 2013 mentioned above.**

ÿ **“A Conseil d'Etat decree shall determine, for each grade, the conditions required to benefit from the functional promotion provided for in this article. These conditions relate to the seniority of the person concerned in the grade held and the interval separating him from the age limit applicable to this grade on 1 January of the year of submission of his applica**

ÿ **“II. – The general officers of the first section who have benefited from a functional promotion under I may, on their request, be appointed to a second post. This appointment may be accompanied by a new functional promotion. At the end of the period of exercise of this second job, they are admitted to the second section.**

ÿÿ **“III. – No one can be promoted in application of I to a rank other than that of general officer if he is not registered on a special promotion table established, at least once a year, by corps, under the defined conditions. in the second paragraph of article L. 4136-3.**

ÿÿ **“Subject to the requirements of the service, functional promotions are pronounced in the order of this table.**

ÿÿ **“IV. – A decree of the Minister of Defense or the Minister of the Interior for the soldiers of the national gendarmerie and the ministers responsible for the budget and the public service, published before a date provided for by decree, fixed, for a period of three years , the quota mentioned in the first paragraph of I. This order is updated each year. »**

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ÿÿ **II. – Law No. 2013-1168 of 18 December 2013 relating to military programming for the years 2014 to 2019 and containing various provisions concerning defense and national security is thus amended:**

ÿÿ **1° The last paragraph of III of Article 36 is replaced by the following provisions:**

ÿÿ **“The pension provided for in this article is exclusive of the benefit of the departure incentive schemes provided for by article 38 of this law and by article L. 4139-9-1 of the defense code as well as the benefit of the availability provided for in article L. 4139-9 of the same code. Furthermore, it cannot be awarded to soldiers who have benefited from a functional promotion pursuant to article 37 of this law prior to its repeal by law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence. » ;**

ÿÿ **2° Article 37 is repealed;**

ÿÿ **3° In article 38:**

ÿÿ ***a)* In the first paragraph of I, the words: "December 31, 2025" are replaced by the words: “December 31, 2030”;**

ÿÿ ***b)* In 1°, after the words: "more than three years from the age limit of his rank" are inserted the words: "or, for general officers, more than one year from their age, " ;**

ÿÿ ***c)* The penultimate paragraph of I is replaced by the following provisions:**

ÿÿ **“The flexible incentive bonus for the departure of military personnel is exclusive of the benefit of the incentive mechanisms for departure provided for in Article 36 of this law and Article L. 4139-9-1 of the Defense Code as well as only the benefit of the availability provided for in article L. 4139-9 of the same code. Furthermore, it cannot be awarded to soldiers who have benefited from functional promotion pursuant to article 37 of this law prior to its repeal by law no. of relating to military programming for the years 2024 to 2030 and various defense provisions. »**

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CHAPTER II

Intelligence and counter-intelligence

Section 19

In the second paragraph of I of article L. 114-1 of the internal security code, after the words: “for consultation” are inserted the words: “of the bulletin n° 2 of the criminal record and”.

Section 20

ÿ **Chapter II of title II of book I of the fourth part of the defense code is supplemented by articles L. 4122-11 and L. 4122-12 as follows:**

ÿ **“ *Art. L.4122-11.* – The soldier, carrying out functions presenting a particular sensitivity or requiring specialized technical skills, who wishes to carry out an activity in exchange for a personal advantage or remuneration in the field of defense or security for the benefit of a Foreign State or a company or an organization having its headquarters outside the national territory or under foreign control is required to make a declaration to the Minister of Defense respecting a minimum period of notice fixed by a decree in Council of state.**

ÿ **“The same obligation applies in the ten years following the termination of the functions mentioned in the first paragraph.**

ÿ **“A Conseil d'Etat decree determines the fields of employment to which the functions referred to in the first paragraph fall. These are specified by an unpublished decree of the Minister of Defence. The soldiers or former soldiers subject to the obligation provided for in the first two paragraphs are informed.**

ÿ **"The Minister of Defense may oppose the exercise of the activity envisaged by the soldier when he considers, on the one hand, that this exercise entails the risk of disclosure by the person concerned of information, procedures , objects, documents, computerized data or files to which he had access in the context of the functions mentioned in the first paragraph and, on the other hand, that this disclosure is likely to harm the fundamental interests of the Nation.**

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ÿ **“In the event of breach of the obligation provided for in the first and second paragraphs or the opposition provided for in the fourth paragraph:**

ÿ **“1° The contract concluded with a view to the exercise of this activity is null and void;**

ÿ **“2° The administrative authority may:**

ÿ **“a) Order deductions from the pension of the person concerned, not exceeding 50% of its amount and for the duration of the exercise of the illicit activity, within the limit of ten years;**

ÿÿ **“b) Pronounce the withdrawal of the decorations obtained by the person concerned.**

ÿÿ **“ *Art. L.4122-12.* – The fact of carrying out an activity mentioned in the first paragraph of Article L. 4122-11 without having declared it beforehand or in disregard of the opposition of the Minister of Defense is punishable by a prison sentence of five years and a fine of 75,000 euros. »**

Rule 21

ÿ **After Article 628-8 of the Code of Criminal Procedure, an Article 628-8-1 is inserted as follows:**

ÿ **“ *Art. 628-8-1.* – By way of derogation from article 11, the anti-terrorism public prosecutor, for investigation or investigation procedures opened on the basis of one or more offenses falling within the scope of article 628, may communicate to the specialized intelligence services mentioned in Article L. 811-2 of the Internal Security Code, on its own initiative or at the request of these services, elements of any kind appearing in these procedures and necessary for the exercise of the missions of these services for the defense and promotion of the fundamental interests of the Nation mentioned in 1°, 2°, 4°, 6° and 7° of article L. 811-3 of the same code. If the procedure is the subject of information, this communication can only take place with the favorable opinion of the examining magistrate.**

ÿ **"The investigating judge may also carry out this communication, under the same conditions and for the same purposes as those mentioned in the first paragraph of this article, for the information procedures referred to him, after having obtained the opinion of the public prosecutor against terrorism.**

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ÿ **“The information communicated pursuant to this article may not be the subject of an exchange with foreign intelligence services or with competent international organizations in the field of intelligence.**

ÿ **“Unless the information relates to a sentence pronounced publicly, the persons to whom it is addressed are bound by professional secrecy, under the conditions and subject to the penalties provided for in Articles 226-13 and 226-14 of the Criminal Code. »**

Rule 22

ÿ **Article 656-1 of the Code of Criminal Procedure is supplemented by a paragraph worded as follows:**

ÿ **“This article is applicable to the testimony of persons having belonged to the services and units he mentions. »**

CHAPTER III

Defense Economy

Section 23

ÿ **I. – The Defense Code is amended as follows:**

ÿ **1° In the last paragraph of Article L. 1141-6, the words: "by a special evaluation commission set up in accordance with the last paragraph of Article L. 2234-20" are replaced by the words: "in the conditions defined in Article L. 2212-8”;**

ÿ **2° In 2° of Article L. 1323-1, the words: "under the provisions of Article L. 2212-1 and who may be employed according to their abilities and taking into account their profession" are replaced by the words: “in application of the provisions of Articles L. 2212-1 or L. 2212-2 and who may be employed according to their physical and mental aptitudes and their professional or technical skills”;**

ÿ **3° In chapter V of title III of book III of the first part:**

ÿ ***a)* The title is completed by the words: “and strategic fleet”;**

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ÿ ***b)*** **Articles L. 2213-5, L. 2213-6, L. 2213-7 and L. 2213-9 are inserted, which respectively become articles L. 1335-1, L. 1335-2, L. 1335- 3 and L. 1335-4;**

ÿ ***c)*** **In the first paragraph of Article L. 2213-7, which becomes Article L. 1335-3, the reference: "L. 2213-5" is replaced by the reference: "L. 1335-1";**

ÿ **4° In the first paragraph of Article L. 2113-2, the words: , "establishments and services provided for in the fourth paragraph of Article L. 2212-1" are replaced by the words: "and public services or to establishments, installations or structures mentioned in articles L. 1332-1 and L. 1332-2";**

ÿ **5° The last paragraph of Article L. 2161-2 is deleted;**

ÿÿ **6° In book II of the second part:**

ÿÿ ***a)*** **Title I is replaced by the following provisions:**

ÿÿ ***"TITLE I***

ÿÿ ***"REQUISITIONS FOR DEFENSE NEEDS AND NATIONAL SECURITY***

ÿÿ ***" CHAPTER IER***

ÿÿ ***"Subjections prior to requisitions***

ÿÿ **" *Art. L.2211-1.* – The Prime Minister may order, under conditions determined by decree in Council of State, the listing, among the persons, goods and services likely to be required pursuant to this book, of those that each minister may, within the limits of its attributions, submit to all the tests or exercises that it deems essential.**

ÿÿ **"These tests and exercises are organized taking into account the operating needs of the companies concerned and the continuity of the public service. They cannot exceed five days per year, unless an agreement concluded between the persons concerned and the administrative authority provides otherwise. They give rise to the right to compensation under the conditions set out in article L. 2212-8.**

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ÿÿ **"The programming of the tests and exercises is brought to the attention of the persons concerned and, where applicable, of their employer at the latest fifteen days before their execution.**

ÿÿ **" *Art. L.2211-2.* – In the cases provided for in Article L. 2212-1, the blocking of movable assets, with a view to requisitioning them under the conditions and according to the methods defined in Articles L. 2212-3, L. 2212-4 and L. 2212-6, may be prescribed by decree in the Council of Ministers.**

ÿÿ **"This decree may specify the administrative or military authority that it authorized to carry out these measures.**

ÿÿ **" *Art. L.2211-3.* – The blocking mentioned in Article L. 2211-2 entails, for the owner or holder of the goods, the obligation to present them at any request from the administrative or military authority at the place and in the state where they are. were on the day of the blockage.**

ÿÿ **"It is lifted by operation of law if, at the end of the fixed period which may not exceed fifteen days, the requisition has not been ordered or if the blocking order has not been renewed for a second period of maximum same duration.**

ÿÿ **" *Art. L.2211-4.* – The person subject to blocking measures is entitled to compensation for material damage resulting directly and certain from these measures under the conditions defined in the last paragraph of I of Article L. 2212-8.**

ÿÿ **" *Art. L.2211-5.* – The use or disclosure of information obtained by application of Article L. 2211-1 is punishable by imprisonment for one year and a fine of 15,000 euros.**

ÿÿ **"Is punishable by the same penalties the fact of not deferring to the measures of blocking legally ordered pursuant to Article L. 2211-2.**

ÿÿ ***" CHAPTER II***

ÿÿ ***" General principles***

ÿÿ **" *Art. L.2212-1.* – In the event of a threat, current or foreseeable, weighing on the activities essential to the life of the Nation, the protection of the population, the integrity of the territory, the permanence of the institutions of the Republic or likely to justify the implementation of the State's international defense commitments, the requisition of any person, natural or legal, and of all goods and services necessary to counter it may be**

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decided by decree in the Council of Ministers. This decree specifies the territories concerned and, where applicable, the administrative or military authority empowered to carry out these measures.

ÿÿ **“These measures can be implemented without prejudice to other legal requisition regimes.**

ÿÿ **“ *Art. L.2212-2.* – When the provisions of Article L. 2212-1 are not applied and without prejudice to those of Article L. 4231-5, in the event of an emergency, if safeguarding the interests of the defense justifies it, the Prime Minister may, by decree, order the requisition of any person, natural or legal, of any property or any service.**

ÿÿ **“He may also empower the administrative or military authority he designates to carry out requisitions.**

ÿÿ **“ *Art. L.2212-3.* – The measures prescribed pursuant to the provisions of Articles L. 2212-1 and L. 2212-2 are strictly proportionate to the objectives pursued and appropriate to the circumstances of time and place.**

ÿÿ **"They can only be ordered in the absence of any other means adequate available in a timely manner.**

ÿÿ **“They are terminated without delay when they are no longer necessary.**

ÿÿ **“ *Art. L.2212-4.* – The requisition decision specifies its purpose as well as its terms of application.**

ÿÿ **“ *Art. L.2212-5.* – Individuals are requisitioned on the basis of their physical and mental abilities and their professional or technical skills.**

ÿÿ **“The required legal person is required to make available to the requesting authority all the resources in terms of personnel and property for its operation and to provide the services required by the requesting authority.**

ÿÿ **“ *Art. L.2212-6.* – In compliance with the provisions of this title, may be subject to a requisition measure:**

ÿÿ **“1° Any natural person present on the national territory;**

ÿÿ **“2° Any natural person of French nationality not residing on the national territory;**

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ÿÿ **“3° Any legal person whose registered office is located in France;**

ÿÿ **“4° Any vessel flying the French flag, whether the shipowner is of French or foreign nationality, including on the high seas or in foreign waters.**

ÿÿ **“ *Art. L.2212-7.* – The requesting authority may enforce ex officio the measures prescribed by the decision it has issued.**

ÿÿ **“ *Art. L.2212-8.* – I. – Remuneration by the State of the requested person only compensates the material, direct and certain costs resulting from the application of the prescribed measures. It cannot be combined with compensation from another natural or legal person.**

ÿÿ **“In the case of a requisition addressed to a company, when the service required is of the same nature as those usually provided to customers, the amount of the compensation is calculated according to the normal and lawful commercial price of the service.**

ÿÿ **“In addition, material damage suffered by the requested person resulting directly and certain from the execution of the prescribed measures shall be fully compensated by the State, unless it results from his own doing. The State is subrogated in the rights of the victim when the damages he has suffered result from the act of a third party.**

ÿÿ **“II. – For the application of I, the requested person provides the administrative or military authority, if the latter so requests, with all documents or information enabling the amount of compensation due to him to be assessed. .**

ÿÿ **“Notwithstanding all provisions relating to professional secrecy, public administrations and their agents are required, for the application of this article, to communicate to the authorities responsible for settling requisitions all information useful for determining requisition indemnities. These authorities and their agents are bound by professional secrecy under the penalties defined in Article 226-13 of the Criminal Code.**

ÿÿ **“ *Art. L.2212-9.* – The failure to comply with the measures legally ordered pursuant to the provisions of Articles L. 2212-1 and L. 2212-2 is punishable by imprisonment for five years and a fine of 500,000 euros.**

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ÿÿ **“ *Art. L.2212-10.* – The fact for a civil servant or agent of the public authority to carry out illegal requisitions is punishable by the penalties provided for:**

ÿÿ **“1° Article 432-10 of the Criminal Code if the perpetrator is a civilian;**

ÿÿ **“2° In article L. 323-22 of the code of military justice if the author is a military.**

ÿÿ **“ *Art. L.2212-11.* – The terms of application of this title are determined by decree in Council of State. » ;**

ÿÿ ***b)* Title II is repealed;**

ÿÿ ***c)* Title II *bis* becomes Title II and Articles L. 2224-1 to L. 2224-6 become Articles L. 2221-1 to L. 2221-6 respectively. In Articles L. 2221-2, L. 2221-3 and L. 2221-4, the reference: “L. 2224-1” is replaced by the reference: “L. 2221-1”;**

ÿÿ ***d)* Article L. 2234-5-1 becomes Article L. 2221-5-1. In the first paragraph of this article, the words: "Notwithstanding the provisions of sections 1 and 4, in the event of a requisition on the basis of Title II *bis* of this book" are replaced by the words: "In the event of a requisition on the basis of this title” and, in 1° of the same article, the reference: “L. 2224-4” is replaced by the reference: “L. 2221-4”;**

ÿÿ ***e)* Article L. 2236-2-1 becomes Article L. 2221-5-2 and, in this article, the reference: "L. 2224-3" is replaced by the reference: "L. 2221- 3”;**

ÿÿ ***f)* Title III is repealed.**

ÿÿ **II. – Section 5 of the sole chapter of Title VI of Book I of the Insurance Code is amended as follows:**

ÿÿ **1° In the second paragraph of Article L. 160-6, the words: “Article 20 of Ordinance No. 59-63 of 6 January 1959” are replaced by the words: “Article L. 2212-8 of the Code of the defense " ;**

ÿÿ **2° In article L. 160-7:**

ÿÿ ***a)* In the first paragraph, the words: "within the meaning of Article 2 of Ordinance No. 59-63 of January 6, 1959 relating to the requisitioning of goods and services" are replaced by the words: "carried out pursuant to Articles L. 2212-1 and L. 2212-2 of the Defense Code” and the words:**

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“Article 20 of Ordinance No. 59-63 of January 6, 1959 cited above” are replaced by the words: “Article L. 2212-8 of the same code”;

ÿÿ ***b)*** **In the last paragraph, the words: "of article 2 of the aforementioned ordinance" are replaced by the words: "of articles L. 2212-1 and L. 2212-2 of the defense code" and the words : “article 20 of the aforementioned ordinance” are replaced by the words: “article L. 2212-8 of the defense code”.**

ÿÿ **III. – Chapter III of Title IV of Book I of the Energy Code is amended as follows:**

ÿÿ **1° In article L. 143-3, the reference: “L. 2213-5” is replaced by the reference: “L. 1335-1”;**

ÿÿ **2° In the last sentence of the fifth paragraph of Article L. 143-6-1, the words: "of Articles L. 2234-17 and L. 2234-19" are replaced by the words: "of Article L. 2212-8”.**

ÿÿ **IV. – In the second paragraph of V of Article L. 218-72 of the Environment Code, the words: “provided for in Chapter IV of Title III of Book II of Part Two” are replaced by the words: “defined in article L. 2212-8”.**

ÿÿ **V. – In the first paragraph of Article L. 323-22 of the Code of Military Justice, the word: “soldiers” is deleted.**

ÿÿ **VI. – Article 1048 of the General Tax Code is replaced by the following provisions:**

ÿÿ **“** ***Art. 1048.*** **– Acts relating to the settlement of compensation following requisitions ordered pursuant to Articles L. 2212-1 and L. 2212-2 of the Defense Code are exempt from registration fees. »**

ÿÿ **VII. – In the first paragraph of article L. 522-5 of the code for military invalidity pensions and war victims, the words: “chapter III of” are deleted.**

ÿÿ **VIII. – Article L. 130 of the Book of Tax Procedures is amended as follows:**

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ÿÿ **1° In the first paragraph, the words: “second paragraph of Article L. 2234-24” are replaced by the words: “second paragraph of II of Article L. 2212-8”;**

ÿÿ **2° In the second paragraph:**

ÿÿ ***a)*** **In the first sentence, the word: "chapter" is replaced by the word: “article” and the words: , as well as the evaluation commissions, "are “deleted;**

ÿÿ ***b)*** **The second sentence is replaced by the following sentence: “These authorities and their agents are bound by professional secrecy under the penalties defined in Article 226-13 of the Criminal Code. »**

ÿÿ **IX. – In the last sentence of Article L. 3131-8 of the Public Health Code, the words: “is governed by” are replaced by the words: “intervenes under the conditions defined in Article L. 2212- 8 of”.**

ÿÿ **X. – The fifth part of the transport code is thus amended:**

ÿÿ **1° In 1° of I of Article L. 5241-1, the words: "of Article L. 2211-1" are replaced by the words: "of Articles L. 2212-1 and L. 2212- 2”;**

ÿÿ **2° In the second sentence of the last paragraph of Article L. 5331-9, the words: “provided for by Articles L. 2234-1 to L. 2234-7” are replaced by the words: “defined in article L. 2212-8”;**

ÿÿ **3° Article L. 5434-1 is replaced by the following provisions:**

ÿÿ **“** ***Art. L.5434-1.*** **– Without prejudice to the right of requisition provided for in Title I** of Book **II of the second part of the Defense Code, the rules relating to maritime transport in the national interest are set by the provisions of Chapter V of Title III of Book III of the first part of the same code. »**

ÿÿ **XI. – The provisions of I to X of this article enter into force on a date fixed by decree, at the latest twelve months after the publication of this law.**

Section 24

ÿ **I. – The Defense Code is amended as follows:**

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ÿ **1° The last paragraph of Article L. 1141-3 is deleted;**

ÿ **2° Title III of Book III of the first part is supplemented by a chapter IX worded as follows:**

ÿ ***“ CHAPTER IX***

ÿ ***“Provisions relating to the security of supplies for the armed forces and related formations***

ÿ **“ *Art. L.1339-1.* – I. – In order to guarantee the continuity of the execution of the missions of the armed forces and related formations or to secure their supply, the administrative authority may, by decree, order the companies, holders of the authorization mentioned in article L. 2332-1, the constitution of a minimum stock of materials or components of strategic interest and order the communication of the information strictly necessary to ensure compliance with this obligation.**

ÿ **"The value of the stock whose constitution is prescribed pursuant to this article may not exceed a maximum proportion of the turnover relating to the sales of equipment mentioned in 1° below carried out during the two previous years, fixed by decree. This proportion can be differentiated according to the materials and components in cause.**

ÿ **“The maximum stock values fixed by decree as well as the measures prescribed by decree are proportionate, with regard to:**

ÿ **“1° The volume and nature of the equipment sold by each company concerned as well as the orders in progress;**

ÿÿ **“2° The needs of the armed forces and related formations;**

ÿÿ **“3° Supply conditions for the material or component concerned.**

ÿÿ **“The companies concerned may, by agreement subject to the approval of the administrative authority, pool the creation and management of the stocks prescribed in application of this article.**

ÿÿ **“They cannot use the minimum stocks mentioned in the first paragraph without permission.**

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ÿÿ **“The companies concerned cannot be compensated for the damages relating to the costs of constitution and maintenance of the stocks prescribed in application of this article.**

ÿÿ **“II. – The administrative authority may, after formal notice has remained unsuccessful, impose on the person who has breached the obligations defined in I a fine the amount of which may not exceed twice the value of the unconstituted stocks, within the limit of 5% of its average annual turnover recorded during the two previous financial years. In the event of a repeat offense noted within three years following the pronouncement of a fine pursuant to this II, the administrative authority may withdraw the authorization mentioned in Article L. 2332-1, according to the procedures defined in I. article L.**

ÿÿ **“ *Art. L.1339-2.* – I. – In order to guarantee the continuity of the execution of the missions of the armed forces and related formations, to secure their supply, to honor the international commitments to which France is a party in terms of defense or to ensure the continuation of international cooperation in this field, the administrative authority may, by decree, order any company with which it has concluded a defense or security contract mentioned in article L. 1113-1 of the public procurement code to carry out all or part of the services covered by the contract by priority over any other contractual commitment. If necessary, the decree specifies, by way of derogation from the contractual stipulations, the dead**

ÿÿ **“The measures prescribed pursuant to this I are proportionate to the objectives pursued and appropriate to the circumstances of time and place.**

ÿÿ **"The administrative authority may, under the same conditions, order any French company holding a contract with an international organization or with a third State to perform all or part of the services covered by the contract by priority over any other contractual commitment.**

ÿÿ **“Sub-contractors of all levels perform as a matter of priority, under the same conditions, those of their obligations whose performance is essential to the performance of the market or contract mentioned in the first and third paragraphs.**

ÿÿ **“II. – The holder of the market or contract mentioned in I and the sub-contractors mentioned in the last paragraph of the same I are entitled to**

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compensation for material damage resulting directly and certain from the measures prescribed by the administrative authority.

ÿÿ **“They provide the administrative authority, if the latter so requests, with all documents or information likely to justify the amount of compensation due.**

ÿÿ **“III. – The administrative authority may, after formal notice has remained unsuccessful, impose on the person who has breached the obligations defined in this article a fine the amount of which may not exceed twice the value of the services for which it ordered the priority execution, within the limit of 5% of its average annual turnover recorded during the two previous financial years.**

ÿÿ **“ *Art. L.1339-3.* – A Conseil d'Etat decree specifies the terms application of this chapter. »**

ÿÿ **II. – The provisions of I come into force on a date set by decree, at the latest twelve months after the publication of this law.**

Section 25

ÿ **The second part of the public procurement code is modified as follows:**

ÿ **1° Section 4 of Chapter VI of Title IX of Book I is supplemented by an article L. 2196-7 worded as follows:**

ÿ **“ *Art. L.2196-7.* – For the application of this section, the following may be specified by decree, as necessary:**

ÿ **"1° The form in which the technical and accounting elements mentioned in Article L. 2196-5 and in the second paragraph of Article L. 2196-6 are presented to the administration, if the latter so requests ;**

ÿ **“2° The nature of the charges included in the determination of the cost of amounts and the methods of their recognition. » ;**

ÿ **2° In article L. 2396-3, the words: “and L. 2196-5” are replaced by the words : ", L. 2196-5 and L. 2196-7”;**

ÿ **3° Chapter I of Title II of Book V is supplemented by an article L. 2521-6 worded as follows:**

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ÿ **“ *Art. L.2521-6.* – Section 3 of Chapter VI of Title IX of Book III relating to the control of the cost price of contracts for the State and its public establishments is applicable to the public defense or security contracts mentioned in Chapter V of Title I of this book. »**

CHAPTER IV

Strategic credibility

Section 26

ÿ **The Public Health Code is amended as follows:**

ÿ **1° In article L. 1221-10:**

ÿ ***a)*** **After the first paragraph, the following provisions are inserted:**

ÿ **“The following may also store, to meet specific defense needs, labile blood products for delivery:**

ÿ **“1° The medical centres, mentioned in Article L. 6326-1, of French Navy ships;**

ÿ **“2° The medical centers mentioned in Article L. 6326-1, for their mobile teams carrying out their mission in military aircraft;**

ÿ **"3° The Paris fire brigade and the Marseille fire brigade battalion mentioned in article L. 722-1 of the internal security code in the context of medical transport to an army hospital or an establishment of sick or injured soldiers taking part in an operational mission.**

ÿ **“The structures mentioned in 1°, 2° and 3° are authorized to store labile blood products by the administrative authority after consulting the armed forces blood transfusion center under conditions defined by decree. Labile blood products are under the supervision of a doctor or pharmacist subject to the provisions of Article L. 4138-2 of the Defense Code. » ;**

ÿ ***b)*** **In the last paragraph, the word: “prescription” is replaced by the word: “prescription”;**

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ÿÿ **2° In the first paragraph of Article L. 1221-10-2, the words: “or in an army hospital” are replaced by the words: “in an army hospital or in one of the structures mentioned in 1 °, 2° and 3° of article L. 1221-10”;**

ÿÿ **3° VI of Article L. 1222-11 is replaced by the following provisions:**

ÿÿ **“VI. – The army blood transfusion center can:**

ÿÿ **“1° After approval by the National Agency for the Safety of Medicines and Health Products, carry out the collection, the biological qualification of the donation and the preparation of labile blood products, their distribution and their delivery. This approval is issued for an unlimited period. A Conseil d'Etat decree specifies the geographical, technical, medical and health conditions, taking into account the particularities of the army blood transfusion centre;**

ÿÿ **"2° To be authorised, to meet specific defense or national security needs, to manufacture, by way of derogation from the provisions of Article L. 5124-14, import, export and use the medicinal products derived from blood defined in 18° of article L. 121-1. These activities are carried out under the responsibility of a pharmacist subject to the provisions of Article L. 4138-2 of the Defense Code, appointed by the Minister of Defence, performing the duties of head pharmacist.**

ÿÿ **“For the exercise of these activities, the army blood transfusion center is subject to the provisions of Articles L. 5124-2, with the exception of its first paragraph, L. 5124-3, L. 5124-4, to except for its last paragraph, L. 5124-5, L. 5124-6, L. 5124-11 and L. 5124-18. »**

Section 27

ÿ **I. – After Chapter III of Title I of Book II of the Internal Security Code, a Chapter III *bis*** is inserted **as follows:**

ÿ ***“ CHAPTER III BIS***

ÿ ***“Protection against threats resulting from aircraft taxiing without anyone on board***

ÿ **“ *Art. L.213-2.* – State services may use devices designated by order of the Prime Minister intended to render inoperative or**

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neutralize an aircraft traveling without anyone on board, in the event of an imminent threat, for the purposes of public order, national defense and security or the public service of justice or in order to prevent such an aircraft from overflying an area mentioned in article L. 6211-4 of the transport code.

ÿ **“The measures taken pursuant to the preceding paragraph are appropriate, necessary and proportionate with regard to the aims pursued.**

ÿ **“A Conseil d'Etat decree determines the procedures for implementing the measures mentioned in the first paragraph. »**

ÿ **II. – II of article L. 33-3-1 of the post and electronic communications is amended as follows:**

ÿ **1° In the first paragraph, after the word: “paragraph” are inserted the words: “and without prejudice to the provisions of Article L. 213-2 of the Internal Security Code”;**

ÿ **2° The second paragraph is deleted.**

Section 28

ÿ **I. – Ordinance No. 2022-232 of February 23, 2022 relating to the protection of national defense interests in the conduct of space operations and the use of data of space origin is ratified.**

ÿ **II. – Law No. 2008-518 of June 3, 2008 relating to space operations is amended as follows:**

ÿ **1° In Article 1:**

ÿ ***a)* In 3°, the words: "during sound" are replaced by the words: "or of a group of coordinated space objects, during their" and the words: "of sound" are replaced by the word: "of » ;**

ÿ ***b)* 4° is supplemented by a sentence worded as follows: “The launch phase includes, where applicable, the recovery of the reusable parts of the launcher; »**

ÿ ***c)* 5° is supplemented by a paragraph worded as follows:**

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ÿ **“When it concerns a group of coordinated space objects, the control phase begins with the separation of the launcher and the first object launched from the group of objects intended to be placed in outer space and ends with the occurrence, for the last operational object of this group, of one of the events mentioned above; »**

ÿ **2° In 3° of article 2, the words: “during his” are replaced by the words: “or of a group of coordinated space objects during their”;**

ÿ **3° In the first and second paragraphs of article 3, after the word: “space” are inserted the words: “or a group of coordinated space objects”;**

ÿÿ **4° In the first paragraph of Article 4, the words: control and transfer of control of a launched space object" are replaced by the words: "of a space object, control and transfer of control of such an object or of a group of space objects coordinates launched”;**

ÿÿ **5° In article 7:**

ÿÿ ***a)* In the first sentence of II, the word: “space” is replaced by the words: “or group of objects intended to be placed in outer space”;**

ÿÿ ***b)* In the second sentence of the same II, after the word: “space” are inserted the words: “or the person authorized to authorize access to the establishment, premises or installation”;**

ÿÿ ***c)* In the first sentence of the second and last paragraphs of III, after the word: “operator” are inserted the words: “space or the person authorized to authorize access to the establishment, premises or installation” ;**

ÿÿ ***d)* In IV, after the word: “operator”, the word: “spatial” is inserted and after the words: “authorize access”, the words are inserted: “to the establishment, to the premises or”;**

ÿÿ **6° In the first paragraph of Article 8, the words: "or the control of a space object" are replaced by the words: "of a space object or the control of such an object or of a group of coordinated spatial objects”;**

ÿÿ **7° In the second paragraph of Article 9:**

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ÿÿ *a)* **The word: “launched” is replaced by the words: “or a group of coordinated space objects launched”;**

ÿÿ *b)* **The words are added: “or to this group of objects”;**

ÿÿ **8° In article 11:**

ÿÿ *a)* **In 3° of I, the words: “to ensure control” are replaced by the words: “to ensure control of such an object or of a group of coordinated space objects”;**

ÿÿ *b)* **In 1° and 2° of II, after the word: “spatial” are inserted the words: “or a group of coordinated spatial objects”;**

ÿÿ **9° In 1° and 2° of article 11-1 and in article 20-1, the words: , of "return to earth, control or transfer of control of a space object" are replaced by the words: "of a space object, control or transfer of control of such an object or a group of space objects coordinated or back on Earth".**

ÿÿ **III. – In I of Article L. 331-6 of the Research Code, the words: “launch from” are replaced by the words: “space operations at”.**

Rule 29

ÿ **The first part of the defense code is thus modified:**

ÿ **1° In Chapter III of Title III of Book III:**

ÿ *a)* **After article L. 1333-3, an article L. 1333-3-1 is inserted as follows:**

ÿ **“ *Art. L.1333-3-1.* – When protection against any malicious act or loss of nuclear materials and ionizing radiation sources mentioned in Article L. 1333-1 so requires, the use of service providers or subcontractors for carrying out the activities subject to authorization pursuant to Article L. 1333-2 may be prohibited, limited or supervised under conditions defined by decree in Council of State. » ;**

ÿ *b)* **Subsection 2 of Section 2 is supplemented by an article L. 1333-16-1 worded as follows:**

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ÿ **“ *Art. L.1333-16-1.* – When the nuclear safety of defence-related nuclear installations and activities so requires, the use of service providers or subcontractors for carrying out activities of particular importance may be prohibited, limited or supervised under conditions defined by decree in Council of State.**

ÿ **“The licensee monitors the suppliers of equipment important for nuclear safety and activities important for nuclear safety when they are carried out by external contractors. » ;**

ÿ **2° Section 1 of Chapter I of Title I of Book IV is supplemented by an article L. 1411-7-1 worded as follows:**

ÿ **“ *Art. L.1411-7-1.* – When the protection of nuclear installations relating to deterrence against malicious or hostile acts and against breaches of national defense secrecy so requires, the use of service providers or subcontractors for the performance of activities of particular importance for this protection, may be prohibited, limited or supervised under conditions defined by decree in Council of State. » ;**

ÿÿ **3° After section 1 of chapter I of title I** of book IV, a section 1 ***bis*** **is inserted as follows:**

ÿÿ ***“Section 1a***

ÿÿ ***“Protection of nuclear materials assigned to the means necessary for the implementation of the deterrence policy***

ÿÿ **“ *Art. L.1411-7-2.* – When the protection of the nuclear materials mentioned in Article L. 1333-14 against malicious or hostile acts and against breaches of national defense secrecy so requires, the use of service providers or subcontractors for the performance of the activities implementing them may be prohibited, limited or supervised under conditions defined by decree in Council of State. »**

Section 30

ÿ **Article 698-1 of the Code of Criminal Procedure is amended as follows:**

ÿ **1° In the first and last paragraphs, at each of its occurrences, the word: “charged” is deleted;**

ÿ **2° A paragraph worded as follows is added:**

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ÿ **“The public prosecutor notifies the Minister of Defense or the military authority authorized by him of the prosecutions or alternative measures to the prosecutions which have been decided following the denunciation or the opinion mentioned in the first paragraph. When he decides to discontinue the procedure, he also notifies them of his decision, indicating the legal or expediency reasons justifying it. »**

Rule 31

ÿ **Title III of Ordinance No. 2016-1687 of December 8, 2016 relating to maritime areas under the sovereignty or jurisdiction of the French Republic is amended as follows:**

ÿ **1° Its title is replaced by the following title: “Supervision of the research and studies at sea”;**

ÿ **2° After article 41, an article 41 *bis*** is inserted **as follows:**

ÿ **“ *Art. 41a .* – The activities of studies prior to the laying or removal of a cable or submarine pipeline in the territorial sea are subject to the issuance of an authorization under fixed conditions by decree in Council of State.**

ÿ **“This authorization takes into account the impact that these activities may have on the safety of navigation, the protection of the environment or maritime cultural property, or the safeguarding of national defense interests. »**

CHAPTER V

Information systems security

Section 32

ÿ **After article L. 2321-2-2 of the defense code, a Article L. 2321-2-3 worded as follows:**

ÿ **“ *Art. L.2321-2-3.* – I. – When it is found that a threat likely to harm national security results from the use of a domain name without the knowledge of its holder who registered it in good faith, the national information systems security authority may ask this holder to take the appropriate measures to neutralize this threat within the time limit it sets.**

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ÿ **"In the absence of neutralization of this threat within the time limit, the national authority may request:**

ÿ **"1° To a person mentioned in 1 or 2 of I of Article 6 of Law No. 2004-575 of June 21, 2004 on confidence in the digital economy providing a name resolution system supplier activity domain within the meaning of Article L. 2321-3-1 of this code to block the domain name;**

ÿ **"2° At the registration office, mentioned in article L. 45 of the postal and electronic communications code, or at a registration office established on French territory, mentioned in article L. 45- 4 of the same code, to suspend the domain name.**

ÿ **"When the holder of the domain name provides elements to establish that the threat has been neutralized, the national authority requests that the measures taken pursuant to 1° or 2° be terminated without delay.**

ÿ **"II. – When it is found that a threat likely to affect national security results from the use of a domain name registered for this purpose, the national information systems security authority may request:**

ÿ **"1° To a person mentioned in 1° of I to block or redirect the domain name to a secure server of the national authority or to a neutral server;**

ÿ **"2° To the registrar or a registrar, mentioned in 2° of I, to register, renew, suspend or transfer the domain name. At the request of the national authority, the registration data is not made public.**

ÿÿ **"III. – The measures provided for in I and II are taken by the persons mentioned in 1° and 2° of I and II within a time limit, set by the national authority, which may not be less than forty-eight hours.**

ÿÿ **"They are implemented for the duration and to the extent strictly necessary and proportionate in their effects to the preservation of the integrity of the network, to the characterization and neutralization of the threat and to the information of the users or holders of the systems affected, threatened or attacked.**

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ÿÿ **“The measures for redirecting a domain name to a secure server of the national authority taken for the purpose of characterizing the threat cannot exceed a period of two months. They can be renewed once in the event of persistence of the threat, after an assent of the Authority of the regulations of the electronic communications, the posts and the distribution of the press. They end immediately when the threat is neutralized.**

ÿÿ **“Measures other than those provided for in the preceding paragraph are subject to the control of this authority under the conditions provided for in I of Article L. 36-14 of the Post and Electronic Communications Code.**

ÿÿ **“IV. – Data directly useful for characterizing threats, collected by the national information systems security authority pursuant to II, may not be kept for more than ten years. The other data collected are destroyed without delay when they are not useful for characterizing the threat, with the exception of data allowing the identification of the users or holders of the threatened information systems, who may be informed by the national authority, where applicable after implementation of the first paragraph of Article L. 2321-3.**

ÿÿ **“V. – A Conseil d'Etat decree, taken after consulting the Regulatory Authority for Electronic Communications, Posts and Press Distribution, specifies the terms of application of this article as well as the terms of compensation. identifiable and specific additional costs of the services provided in this respect, at the request of the State, by the persons mentioned in 1° and 2° of I and II of this article. »**

Section 33

ÿ **After article L. 2321-3 of the defense code, an article L. 2321-3-1 is inserted as follows:**

ÿ **“ *Art. L.2321-3-1.* – For the purposes of information system security and for the sole purpose of detecting and characterizing computer attacks, electronic communications operators or domain name resolution system providers transmit to agents of the national authority of security of individually designated and specially authorized information systems non-identifying technical data temporarily recorded by their servers managing the domain addressing system.**

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ÿ **“For the purposes of the first paragraph, domain name resolution system provider means any person providing a service allowing the translation of a domain name into a unique number identifying a device connected to the Internet.**

ÿ **“The data collected is neither directly nor indirectly identifying and may only be used for the sole purposes mentioned in the first paragraph, to the exclusion of any other use.**

ÿ **“A Conseil d'Etat decree, taken after consulting the Regulatory Authority for Electronic Communications, Posts and Press Distribution, sets the terms and conditions for the application of this article.**
In particular, it determines the technical data collected by the agents of the national information systems security authority. »

Section 34

ÿ **After article L. 2321-4 of the defense code, an article is inserted L. 2321-4-1 worded as follows:**

ÿ **“ *Art. L.2321-4-1.* – In the event of a significant vulnerability affecting one of their products or in the event of a computer incident compromising the security of their information systems likely to affect one of their products, software publishers notify the national systems security authority this vulnerability or this incident as well as the analysis of its causes and consequences. This obligation applies to publishers who provide this product:**

ÿ **“1° On French territory;**

ÿ **“2° To companies having their registered office on French territory;**

ÿ **“3° Or to companies controlled, within the meaning of Article L. 233-3 of the Commercial Code, by companies having their registered office on French territory.**

ÿ **“Software publishers inform users using this product as soon as possible. Failing this, the national information systems security authority may order software publishers to provide this information. It can also inform the users or make public this vulnerability or this incident as well as its injunction with the editors if this one was not implemented.**

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ÿ **“A Conseil d'Etat decree sets the terms and conditions for the application of this article. »**

Section 35

ÿ **I. – The Defense Code is amended as follows:**

ÿ **1° Article L. 2321-2-1 is replaced by the following provisions:**

ÿ **“ *Art. L.2321-2-1.* – When it becomes aware of a threat likely to affect the security of the information systems of the public authorities, of the operators mentioned in Articles L. 1332-1 and L. 1332-2 of this code or of the operators mentioned in Article 5 of Law No. 2018-133 of February 26, 2018 on various provisions for adaptation to European Union law in the field of security, the national information systems security authority may implement work, on the network of an electronic communications operator or on the information system of a person mentioned in 1 or 2 of I of Article 6 of Law No. 2004-575 of June 21, 2004 for the confidence in the digital economy or of a data center operator:**

ÿ **“1° Devices implementing technical markers;**

ÿ **"2° Or, after obtaining the assent of the Regulatory Authority for Electronic Communications, Posts and Press Distribution, devices allowing the collection of data on the network of an electronic communications operator or on the system information of a person mentioned in 1 or 2 of I of article 6 of the law of June 21, 2004 mentioned above or of a data center operator affected by the threat.**

ÿ **"These systems are implemented for the duration and to the extent strictly necessary to characterize the threat and for the sole purpose of detecting and characterizing events likely to affect the security of the information systems of public authorities, operators mentioned in articles L. 1332-1 and L. 1332-2 of this code or in article 5 of the law of February 26, 2018 mentioned above and public or private operators participating in the information systems of these entities.**

ÿ **“Individually designated and specially authorized agents of the national information systems security authority are authorized, for the sole purpose of preventing and characterizing the threat affecting**

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the information systems of the entities mentioned in the first paragraph, to proceed with the collection of data and the analysis of only the relevant technical data, to the exclusion of any other use.

ÿ **“Data directly useful for the prevention and characterization of threats cannot be kept for more than two years. The other data collected by the devices mentioned in 1° are immediately destroyed and those collected by the devices mentioned in 2° of this article are destroyed without delay when they are not useful for characterizing the threat.**

ÿ **“A Conseil d'Etat decree defines the terms of application of this article. » ;**

ÿÿ **2° In article L. 2321-3:**

ÿÿ ***a)*** **In the first paragraph, the words: "and sworn" are deleted and after the second occurrence of the word: "electronic," are inserted the words: "and the persons mentioned in 2 of I of Article 6 of Law no. ° 2004-575 of June 21, 2004 for confidence in the digital economy, pursuant to II of the same article,";**

ÿÿ ***b)*** **The last two paragraphs are replaced by the following provisions:**

ÿÿ **“When the national information systems security authority is informed, pursuant to Article L. 33-14 of the Postal and Electronic Communications Code, of the existence of an event affecting the security of information systems. information from a public authority, an operator mentioned in articles L. 1332-1 and L. 1332-2 of this code, an operator mentioned in article 5 of the law of February 26, 2018 mentioned above above or from a public or private operator participating in the information systems of one of the entities mentioned in this paragraph, the agents mentioned in the first paragraph of this article may obtain from the electronic communications operators the technical data strictly necessary for the analysis of this event. These data may only be used for the sole purpose of characterizing the threat affecting the security of these systems, to the exclusion of any other use. They cannot be kept for more than ter**

ÿÿ **“The identifiable and specific additional costs of the following services carried out at the request of the national system security authority**

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information are compensated according to the procedures provided for by decree in Board of state :

ÿÿ **“- the services provided by electronic communications operators pursuant to the first paragraph, in accordance with the procedures provided for in VI of Article L. 34-1 of the Postal and Electronic Communications Code, and the second paragraph of this article;**

ÿÿ **“- the services provided by the persons mentioned in 2 of I of article 6 of the law of June 21, 2004 mentioned above. » ;**

ÿÿ **3° In article L. 2321-5, the words: "of article L. 2321-2-1 and the second paragraph of article L. 2321-3" are replaced by the words: "of articles L. 2321-2-1 and L. 2321-2-3, of the second paragraph of Article L. 2321-3 and of Article L. 2321-3-1”.**

ÿÿ **II. – The Postal and Electronic Communications Code is amended as follows:**

ÿÿ **1° In article L. 33-14:**

ÿÿ ***a)* The first two paragraphs are replaced by the following provisions:**

ÿÿ **"For the purposes of the security and defense of information systems, the operators mentioned in Article L. 1332-1 of the Defense Code, thus designated by virtue of their activity as operator of a electronic communications open to the public, use, on the electronic communications networks they operate, devices implementing technical markers provided by the national information systems security authority for the sole purpose of detecting events likely to affect the security of the information systems of their subscribers. These systems are implemented to respond to requests from the national information systems security authority.**

ÿÿ **When it becomes aware of a threat likely to affect the security of information systems, the national information systems security authority asks electronic communications operators to use the technical markers it provides. . » ;**

ÿÿ ***b)* In the first sentence of the third paragraph, in the fourth and fifth paragraphs and in the second sentence of the last paragraph, the words: "of**

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electronic communications” are replaced by the words: “mentioned in the first paragraph”;

ÿÿ **_c)_ The last paragraph is supplemented by the words; "the methods of compensation for the identifiable and specific additional costs of the services provided in this respect by the operators, at the request of the national information systems security authority, as well as the guarantees of fair remuneration for the implementation of the systems mentioned in the first paragraph”;**

ÿÿ **2° In 12° of article L. 36-7, the words: “of article L. 2321-2-1 and of the second paragraph of article L. 2321-3 of the same code” are replaced by the words: “of articles L. 2321-2-1 and L. 2321-2-3, of the second paragraph of article L. 2321-3 and of article L. 2321-3-1 of the same code” ;**

ÿÿ **3° In article L. 36-14:**

ÿÿ **_a)_ In 1°, the words: "of Article L. 2321-2-1" are replaced by the words: “articles L. 2321-2-1 and L. 2321-2-3”;**

ÿÿ **_b)_ In 2°, the words: “same articles L. 2321-2-1 and L. 2321-3” are replaced by the words: “articles L. 2321-2-1, L. 2321-2-3, of the second paragraph of Article L. 2321-3 and of Article L. 2321-3-1 of the Defense Code,”;**

ÿÿ **_c)_ In the sixth paragraph, the word: “mentioned” is replaced by the word: “mentioned”;**

ÿÿ **_d)_ The first seven paragraphs form an I;**

ÿÿ **_e)_ After the seventh paragraph, an II is inserted as follows:**

ÿÿ **“II. – In addition, the training mentioned in I issues an assent on :**

ÿÿ **“1° The renewal of the domain name redirection measures mentioned in the third paragraph of III of Article L. 2321-2-3 of the Defense Code;**

ÿÿ **“2° The implementation of the devices mentioned in 2° of Article L. 2321-2-1 of the Defense Code. » ;**

ÿÿ **_f)_ The last three paragraphs constitute III.**

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CHAPTER VI

Overseas, miscellaneous and final provisions

Section 36

ÿ I. – Article L. 194-1 of the Insurance Code is amended as follows:

ÿ 1° In the eighth paragraph, the words: “Articles L. 160-6 to L. 160-8” are replaced by the words: “article L. 160-8”;

ÿ 2° A paragraph worded as follows is added:

ÿ “Articles L. 160-6 and L. 160-7 are applicable in the Wallis and Futuna Islands in their wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defense . »

ÿ II. – The public procurement code is modified as follows:

ÿ 1° In the tables appearing in Articles L. 2651-1, L. 2661-1, L. 2671-1 and L. 2681-1, the line:

ÿ

"	L.2195-6 to L.2197-1		»

ÿ is replaced by the following three lines:

ÿ

"L. 2195-6 to L. 2196-6		
L.2196-7	Resulting from law no. of relating to the military programming law for the years 2024 to 2030 and containing various provisions relating to defense	
L.2197-1		» ;

ÿÿ 2° In the tables appearing in articles L. 2651-1, L. 2661-1, L. 2671-1 and L. 2681-1, the line:

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"L.	2396-1 to L. 2397-3	»

ÿÿ is replaced by the following three lines:

ÿÿ

"L.	2396-1 And L.2396-2	
	L.2396-3	Resulting from law no. of relating to the military programming law for the years 2024 to 2030 and containing various provisions relating to defense
	L.2396-4 to L.2397-3	» ;

ÿÿ 3° In the tables appearing in articles L. 2651-1, L. 2661-1, L. 2671-1 and L. 2681-1, after the line:

ÿÿ

"	L.2521-5	Resulting from law n° 2019-486 of May 22, 2019 relating to the growth and transformation of companies »

ÿÿ the line is inserted:

ÿÿ

"	L.2521-6	Resulting from law no. of relating to the military programming law for the years 2024 to 2030 and containing various provisions relating to defense ".

ÿÿ III. – The sixth part of the Defense Code is amended as follows:

ÿÿ 1° In Chapter III of Title I of Book I, an article L. 6113-1 is inserted as follows:

ÿÿ " *Art. L.6113-1.* – In the event of a breakdown in communications mentioned in Article L. 1311-1, the right to request the persons, goods and services provided for in Articles L. 2212-1 and L. 2212-2 in Guadeloupe, Guyana,

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Martinique and Reunion belongs to the senior civil servant of the territorially competent defense and security zone, who is responsible for reporting on it, as soon as possible, to the competent authority under these same articles. » ;

ÿÿ **2° Article L. 6123-1 is replaced by the following provisions:**

ÿÿ **“ *Art. L.6123-1.* – In the event of a breakdown in communications mentioned in article L. 1311-1, the right to request the persons, goods and services provided for in articles L. 2212-1 and L. 2212-2 in Mayotte belongs to the senior official in the area of defense and security with territorial jurisdiction, subject to reporting thereon, as soon as possible, to the competent authority under these same articles. » ;**

ÿÿ **3° Article L. 6123-2 is repealed;**

ÿÿ **4° In Chapter III of Title II of Book II, an article L. 6223-3 is inserted as follows:**

ÿÿ **“ *Art. L.6223-3.* – In the event of a breakdown in communications mentioned in Article L. 1311-1, the right to request the persons, goods and services provided for in Articles L. 2212-1 and L. 2212-2 in Saint-Barthélemy belongs to the senior official of the territorially competent defense and security zone, subject to reporting thereon, as soon as possible, to the competent authority under these same articles. » ;**

ÿÿ **5° In Chapter III of Title III of Book II, an article L. 6233-2 is inserted as follows:**

ÿÿ **“ *Art. L.6233-2.* – In the event of a breakdown in communications mentioned in Article L. 1311-1, the right to request the persons, goods and services provided for in Articles L. 2212-1 and L. 2212-2 in Saint-Martin belongs to the senior official of the territorially competent defense and security zone, subject to reporting thereon, as soon as possible, to the competent authority under these same articles. » ;**

ÿÿ **6° In Chapter III of Title IV of Book II, an article L. 6243-3 is inserted as follows:**

ÿÿ **“ *Art. L.6243-3.* – In the event of a breakdown in communications mentioned in Article L. 1311-1, the right to request the persons, goods and services provided for in Articles L. 2212-1 and L. 2212-2 in Saint-Pierre-et-Miquelon belongs to the representative of the territorially competent State, i**

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to report, as soon as possible, to the competent authority under these same articles. » ;

ÿÿ **7° Article L. 6313-1 is replaced by the following provisions:**

ÿÿ **“ *Art. L.6313-1.* – In the event of a breakdown in communications mentioned in Article L. 1311-1, the right to request the persons, goods and services provided for in Articles L. 2212-1 and L. 2212-2 in the Wallis and Futuna islands, in French Polynesia, New Caledonia and the French Southern and Antarctic Lands belongs to the senior official of the defense and security zone with territorial jurisdiction, who is responsible for reporting thereon, as soon as possible, to the competent authority under these sam**

ÿÿ **8° Articles L. 6313-2, L. 6333-1 and L. 6343-1 are repealed;**

ÿÿ **9° In 4° of Article L. 6323-2, the words: “as well as territories excluded from the customs territory of the European Union" are deleted.**

ÿÿ **IV. – The environment code is modified as follows:**

ÿÿ **1° In the last paragraph of Article L. 612-1, the words: "in the wording resulting from Ordinance No. 2021-266 of 10 March 2021 implementing the agreement concluded in Nairobi on the removal of wrecks » are replaced by the words: « in its wording resulting from the law n° of . relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ **2° In the last paragraph of Article L. 622-1, the words: "in the wording resulting from Ordinance No. 2021-266 of 10 March 2021 implementing the agreement concluded in Nairobi on the removal of wrecks are replaced by the words: “in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ **3° In the last paragraph of Article L. 632-1, the words: "in the wording resulting from Ordinance No. 2021-266 of 10 March 2021 implementing the agreement concluded in Nairobi on the removal of wrecks are replaced by the words: “in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ **4° In Article L. 640-1:**

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ÿÿ ***a)*** **In the first paragraph, the reference: “L. 218-72” is replaced by the reference: “L. 218-71”;**

ÿÿ ***b)*** **In the fifth paragraph, the words: "in the wording resulting from Ordinance No. 2021-266 of 10 March 2021 implementing the agreement concluded in Nairobi on the removal of wrecks" are replaced by the words: "in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”.**

ÿÿ **V. – The postal and electronic communications code is amended as follows:**

ÿÿ **1° In article L. 33-3-2, the words: “in its wording resulting from law no. 2021-998 of July 30, 2021 relating to the prevention of acts of terrorism and intelligence” are replaced by the words: “in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ **2° In article L. 33-15, the words: "in its wording resulting from law n° 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and containing various provisions relating to defense are replaced by the words: "in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence".**

ÿÿ **VI. – In the first paragraph of Article 804 of the Code of Criminal Procedure, the words: “in its wording resulting from Law No. 2023-23 of January 24, 2023 aimed at allowing assemblies of elected officials and various associations of elected officials to become a civil party to fully support, in criminal proceedings, a person vested with a public elective office who is the victim of aggression" are replaced by the words: "in its wording resulting from law no. of relating to military programming for years 2024 to 2030 and containing various provisions relating to defence”.**

ÿÿ **VII. – The Public Health Code is amended as follows:**

ÿÿ **1° Article L. 1522-2 is supplemented by two paragraphs drafted as follows:**

ÿÿ **"The second, third, fourth and sixth paragraphs of Article L. 1221-10 are applicable therein in their wording resulting from law no.**

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ÿÿ **“Article L. 1221-10-2 is applicable there in the wording resulting from Law no. of”;**

ÿÿ **2° Article L. 1522-6 is supplemented by a paragraph worded as follows:**

ÿÿ **“For the application of the sixth paragraph of Article L. 1221-10, the references: “1°, 2° and 3°” are replaced by the references: “1° and 2”. » ;**

ÿÿ **3° In article L. 1532-2:**

ÿÿ ***a)*** **In the first paragraph, the words: "and Article L. 1222-9" are replaced by the words: "Article L. 1222-9, the second, third, fourth and sixth paragraphs of Article L 1221-10 and Article L. 1221-10-2, only insofar as it concerns the structures mentioned in 1° and 2° of Article L. 1221-10,”;**

ÿÿ ***b)*** **Two paragraphs are added as follows:**

ÿÿ **“Article L. 1221-10 is applicable in its wording resulting from law no. .**

ÿÿ **"Article L. 1221-10-2 is applicable there in the wording resulting from Law No. of » ;**

ÿÿ **4° In article L. 1542-2:**

ÿÿ ***a)*** **In the first paragraph, the words: “à L. 1221-10-2” are replaced by the words: “, L. 1221-9, L. 1221-10-1, »;**

ÿÿ ***b)*** **Two paragraphs are added as follows:**

ÿÿ **“Article L. 1221-10 is applicable in New Caledonia and in French Polynesia in its wording resulting from Law No. of .**

ÿÿ **"Article L. 1221-10-2 is applicable there in the wording resulting from law no. of , only insofar as it concerns the structures mentioned in 1° and 2° of article L. 1221-10 . » ;**

ÿÿ **5° After 2° of Article L. 1542-3, a 2°** ***bis*** inserted **as follows:**

ÿÿ **“2°** ***bis*** **In Article L. 1221-10, the first and fifth paragraphs are not applicable and, in the sixth paragraph, the words: “at 1°, 2° and 3°” are replaced by the words: “1° and 2”; »**

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ÿÿ **6° In the first paragraph of Article L. 3821-11, the words: "in the wording resulting from Law No. 2022-1089 of July 30, 2022 putting an end to the exceptional regimes created to fight against the epidemic linked to covid-19" are replaced by the words: "in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence".**

ÿÿ **VIII. – The Homeland Security Code is amended as follows:**

ÿÿ **1° In the first paragraph of Articles L. 155-1 and L. 156-1, the words: “in their wording resulting from Law No. 2021-646 of 25 May 2021 for global security preserving freedoms” are replaced by the words: "in their wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence";**

ÿÿ **2° In the first paragraph of Articles L. 157-1 and L. 158-1, the words: "in their wording resulting from Law No. 2020-1525 of 7 December 2020 on the acceleration and simplification of public action are replaced by the words: “in their wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ **3° In articles L. 285-1, L. 286-1 and L. 287-1:**

ÿÿ ***a)*** **In the first paragraph, the words: "in their wording resulting from Law No. 2023-22 of 24 January 2023 on the orientation and programming of the Ministry of the Interior" are replaced by the words: "in their wording resulting Law No. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

ÿÿ ***b)*** **In the second paragraph, after the reference: "L. 213-1," it is inserted the reference: “L. 213-2,”;**

ÿÿ **4° In article L. 288-1:**

ÿÿ ***a)*** **In the first paragraph, the words: "in their wording resulting from Law No. 2021-998 of July 30, 2021 on the prevention of acts of terrorism and intelligence" are replaced by the words: "in their wording resulting Law No. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence”;**

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ÿÿ ***b)*** **In the second paragraph, after the reference: “L. 211-16,” it is inserted the reference: “L. 213-2,”.**

ÿÿ **IX. – Book VII of the fifth part of the transport code is amended as follows:**

ÿÿ **1° After the first paragraph of Article L. 5762-1, a paragraph is inserted worded as follows:**

ÿÿ **““Article L. 5241-1 is applicable in New Caledonia in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence.” » ;**

ÿÿ **2° After the second paragraph of Article L. 5764-1, a paragraph worded as follows is inserted:**

ÿÿ **““Article L. 5434-1 is applicable in New Caledonia in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence.” » ;**

ÿÿ **3° After the first paragraph of Article L. 5772-1, a paragraph worded as follows is inserted:**

ÿÿ **““Article L. 5241-1 is applicable in French Polynesia in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence.” » ;**

ÿÿ **4° After the first paragraph of Article L. 5774-1, a paragraph worded as follows is inserted:**

ÿÿ **““Article L. 5434-1 is applicable in French Polynesia in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence.” » ;**

ÿÿ **5° After the third paragraph of Article L. 5782-1, a paragraph worded as follows is inserted:**

ÿÿ **““Article L. 5241-1 is applicable in the Wallis and Futuna Islands in its wording resulting from law no.**

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military for the years 2024 to 2030 and laying down various provisions relating to defence.” » ;

ÿÿ **6° After the second paragraph of Article L. 5784-1, a paragraph worded as follows is inserted:**

ÿÿ **“ “Article L. 5434-1 is applicable in the Wallis and Futuna Islands in its wording resulting from law no. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence.” » ;**

ÿÿ **7° After the third paragraph of Article L. 5792-1, a paragraph worded as follows is inserted:**

ÿÿ **“ “Article L. 5241-1 is applicable in the Southern Territories and Antarctica in its wording resulting from Law No. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence. » ;**

ÿÿ **8° After the second paragraph of Article L. 5794-1, a paragraph worded as follows is inserted:**

ÿÿ **“ “Article L. 5434-1 is applicable in the Southern Territories and Antarctica in its wording resulting from Law No. of relating to military programming for the years 2024 to 2030 and containing various provisions relating to defence. ".**

ÿÿ **X. – After II of Article 55 of Ordinance No. 2016-1687 of 8 December 2016 relating to maritime areas under the sovereignty or jurisdiction of the French Republic, a II bis is inserted as *follows :***

ÿÿ **“II *bis.* – Article 41 *bis* is applicable in Saint-Barthélemy, Saint-Martin, Saint-Pierre-et-Miquelon, French Polynesia and New Caledonia, subject to the powers devolved to these communities, as well as in the islands Wallis and Futuna and in the French Southern and Antarctic Lands. »**

ÿÿ **XI. – Ordinance No. 2019-1335 of December 11, 2019 on provisions relating to the overseas territories of the defense code is ratified.**

ÿÿ **XII. – The provisions of I, 1° to 8° of III, IV and 6° of VII of this article come into force on the date fixed by the decree mentioned in XI of article 23 of this law.**

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ATTACHED REPORT

- **This military programming law (LPM) confirms and amplifies the defense effort undertaken by the previous one. It reflects the political will of the President of the Republic, since 2017, to put an end to several decades of reduction in our military capabilities. It responds to the issues and challenges identified by the National Strategic Review of November 2022. This analysis of our environment guides our decisions for the future of our military tool in a context of technological breakthroughs, rearmament and explicit challenge to the principles of international law. . Also, this law carries the ambition of a renovated model for our armies, in the service of a sovereign France which defends its strategic autonomy, power of balances and reliable like diplomatic and military partner. A true political and military project of transformation, it complements the previous LPM: after the necessary repairs, it is now time to build the future.**

- **Rigorous work of introspection, this in-depth re-examination of our model of armies – employment army – confirms the great fundamentals of our defense drawn up in the 1960s and updated in the 1990s: a defense of our metropolis and our Overseas which is based on nuclear deterrence, sovereignty forces and projection and intervention capabilities, supported by a professional army and supported by a sovereign industrial and technological defense base (BITD).**

- **Significant changes are however necessary to adapt this military tool to the evolution of threats (expected by 2035-2040), particularly – but not exclusively – in light of the conflict in Ukraine. The developments and lessons learned over more than 20 years in the fight against terrorism in Asia, the Middle East, Africa and Europe are also taken into account.**

- **Finally, to maintain the operational superiority of our armies, a transformation must be undertaken to anticipate technological leaps and associated uses, particularly in the field of space, cyber, drones, quantum or artificial intelligence. In this, this LPM 2024-2030 is decisive for the future of our armies. It allows France to maintain its rank among the nations capable of adapting to the challenges linked to new fields, just like our BITD, to succeed in the agile integration of these developments.**

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ÿ **1. Transform our armies so that France maintains a operational superiority**

ÿ **1.1. Reinforce the protection of our territories against current and future threats**

ÿ **The core of our sovereignty will be consolidated. By nuclear deterrence, first of all, which remains the heart of our defense by protecting France and the French people against any threat of State origin against its vital interests, wherever it comes from and whatever the form. The air, naval and naval components of nuclear deterrence will thus be modernized in a logic of strict sufficiency. First of all in the field of weapons, with the installation of renovated airborne nuclear missiles ASMP-A and the preparation of the fourth generation of airborne missiles, as well as the continuation of developments of the M51 missile for the oceanic component. Next, in the field of carriers of these weapons, with work on the next generations of aircraft (evolution of the Rafale and preparation of the future combat aircraft "SCAF") and submarines (third generation SSBN). The associated means of transmission will also be modernized.**

ÿ **Then, it is a question of improving our contribution to the protection of the national territory, and of reinforcing that of our overseas territories, in particular in the Indo-Pacific, where the accumulation of strategic tensions and hybrid strategies - without forgetting the effects linked to climate change – force us to review our system. A substantial effort will be made to our means of surveillance and intelligence on our environment (planes, satellites and drones), of action (corvettes, helicopters, land vectors), of responsiveness in terms of intervention (first means of immediate local reaction , tactical and strategic transport capabilities for reinforcements), strategic signaling and prevention through the densification of c**

ÿ **Beyond that, the armies will contribute more to the cohesion and resilience of the Nation by relying on a renewed Nation-Army link (UNS, modification of the doctrine for the use of reserves and increase in the latter, organization of the fabric industry, link with local authorities, etc.). Finally, the articulation and coordination with the internal security forces will be further strengthened, in particular by setting up territorial reserves (local management of crises, health or climate). As such, ground-to-air defense – across all layers – will not only support our deterrence but will also contribute to the**

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securing major events (including the Olympic and Paralympic Games) and overseas territories.

ÿÿ **1.2. React decisively in the event of a major engagement**

ÿÿ **The second axis of transformation is our ability to deal with major engagement and high-intensity confrontations. Our responsiveness will be guaranteed by a reinforced and more reliable national emergency level, structured around the means necessary for an intervention at short notice, even at the furthest distance. This involves, on the one hand, raising the level of requirements for operational readiness and availability of equipment (optimization of ammunition stocks and maintenance batches in operational condition), and on the other hand, defining stages of alert enabling us to adapt the level of our defense to the threat. This will result in commitments whose size and duration can be adapted more quickly, in particular**

ÿÿ **This ability to react and hold out over time will depend in particular on the agility of our BITD and the levers of the "war economy", such as securing supplies of certain raw materials or critical components and parts allowing armies to rely on replenished stocks. It will also require designing future equipment for armies by finding a balance between hardiness and hyper-technology to reconcile operational superiority, rapid production times and cost of ownership for the State.**

ÿÿ **This military programming law also provides for anticipating certain capability needs through breakthrough innovations. Rather than simply trying to "catch up", the armed forces and the General Directorate of Armaments (DGA) will assume technological bets to anticipate the future generation, as soon as the context and the threats allow it.**

ÿÿ **Above all, to carry out decisive actions, it will be essential to be able to combine effects in the immaterial and physical fields (electronic and cyber warfare, in particular by strengthening offensive computer combat capacities), with high value capacities added operational that this military programming law plans to toughen.**

ÿÿ **1.3. Defend and act in common spaces, new places of conflict to maintain the law and preserve our freedom of action**

ÿÿ **Third, it will be essential to master the new areas of conflict to prevent, detect, attribute and counter the strategies**

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hybrids, that is to say deliberately ambiguous, direct or indirect, of a military nature or not, attributable or not, of our competitors.

ÿÿ **The special forces of the three armies will have a key role in this context and will be the subject of an effort to strengthen their action capacities in declared major conflicts, but also below this threshold to counter hybrid actions. Our intelligence capabilities will be enhanced to better identify, understand, analyze and attribute destabilizing activities. Our surveillance and action capabilities will thus be extended in maritime, digital, and exo and high-atmospheric spaces. Thus, a capacity for controlling the seabed will be engaged up to a depth of 6000 m. The ramping up of our space capabilities will also be continued, relying in particular on *New Space* and developing a capacity for action in space.**

ÿÿ 1.4. A France power of solidarity and partner of sovereignty

ÿÿ **Finally, we will rethink and diversify our strategic partnerships to strengthen our prevention and intervention capabilities as well as our ability to carry out, with our allies, as a framework nation, a major operation. France, provider of security and sovereignty, wishes mutually beneficial cooperation, in support of our diplomacy as a power of balance. They will be declined in a differentiated way and adapted to our partners, in Africa, Asia, Europe or within the Atlantic Alliance. In liaison with our partners, defense relations will possibly be revised and adapted to the prism of the new ambitions defined jointly.**

ÿÿ **To this end, the land, air and sea resources of the armed forces, as well as their capacities for action in new fields of conflict (cyber, space, digital, seabed, etc.) may be deployed for all partners who request it. . Based on recognized French expertise, our partnerships will be nourished by increased training capacities on various themes. After a long period of reduced places in its military schools, France is breaking with this trend and is going to offer partner countries, whatever their continent of origin, to enroll in training many executive officers as non-commissioned officers.**

ÿÿ **In Senegal, in the Republic of Côte d'Ivoire, in Chad and in Gabon in particular, but for all the partners of the continent wishing it,**

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the French military system will evolve profoundly to respond fully and specifically to the expectations of each host country.
This is how the bases on which French forces are deployed will evolve, with a reduced permanent presence, but welcoming more occasional specialized reinforcements from French forces to respond to requests from partner countries. Emerging fields (drones, cyber, etc.) will also be more present in training, cooperation and operational preparation actions. These partnerships will be jointly defined and tailor-made, and will include a capacity component linked to our BITD.

ÿÿ **2. A job army that strengthens its consistency and responsiveness**

ÿÿ **2.1. A device of postures and reinforced commitment**

ÿÿ **The ambition of this LPM is broken down into operational contracts for the armies, directorates and joint services in the six strategic functions. These contracts are articulated, on the one hand, on a " *responsiveness posture* " encompassing all of the " *permanent postures* ", current operational commitments and the reinforced national emergency level; on the other hand, in the event of engagement in a major operation, additional forces can be mobilized, made up of forces in the regeneration phase, in training or even in trair**

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Responsive Posture	**Permanent posture of deterrence ensured by the strategic oceanic force (FOST) and the strategic air forces (FAS) according to the procedures set by the President of the Republic. The nuclear naval air force (FANU) contributes to this.**	
	Posture expanded permanent protection	**Permanent posture of aviation security, extended to the fight against drones (LAD) and at very high altitude**
		Permanent posture of maritime safeguard, extended to the seabed
		Cyber permanent posture
		Permanent position of strategic intelligence
		Adaptable posture of ground protection (up to 2 brigades, in addition to internal security forces and civilians)
		Posture dedicated to influence and informational struggle
		Spatial protective posture
		Contribution of the armed forces to certain public service missions (safeguarding, relief to populations, support to other

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		authorities)	
	Reinforced national emergency level (ENU-R) Strength joint reaction forces immediate Able to seize an entry point, strengthen in emergency a device, carry out an evacuation of a national s When engaged, the joint immediate reaction force (FIRI) must be replenished within a month	Immediate and autonomous capability of strikes in depth, by air and naval means	
		1st module = reaction force fast *(QRF)*	Elements of light action in all environments, associated with their means of projection
		2 nd module = joint immediate reaction force (FIRI)	Special Forces (SF) and action capabilities in the scope of the fields of conflict (influence, cyber, space, seabed); Army: 2 combined arms tactical groups (GTIA), 1 air combat sub-group, 1 brigade-level command capability, 1 intelligence sub-group, 1 ground-air defense plot with LAD capability; French Navy: 1 amphibious helicopter carrier (PHA), 1 frigate, 1 force supply vessel (BRF), 1 maritime patrol aircraft (PATMAR); Air and Space Force: 1 C2 staff, 1 airborne detection and command system *(AWACS),* 10 fighter aircraft, 2 military transport and refueling aircraft (MRTT), 6 tactical transport aircraft , 1 intelligence plot (ARCHANGE or light surveillance and reconnaissance aircraft, ALSR), 1 ground-air defense plot with LAD capability, 1 combat search and rescue plot (RESCO).
		3 rd module = joint force (FIA)	Additional special forces and action capabilities in the scope of the fields of conflict (influence, cyber, space, seabed); Army: 1 combined arms brigade (BIA) to 4 GTIA including 2 armoured, 1 air combat group, support and support, additional drones and ground-air defenses; National Navy: 1 PHA, 2 frigates, 1 nuclear attack submarine (SNA), 1 mine warfare force, 1 PATMAR; Air and Space Force: 6 aircraft

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			fighter, 1 MRTT, 2 tactical transport aircraft, 1 intelligence plot (ARCHANGE, MALE or ALSR), 1 ground-air defense plot with LAD capabilities.
	Deployment in action in 4 theaters (Crisis management)	- up to 1 brigade of land forces, including support and support; - up to 3 planned air bases, hosting combat, anti-drone and ground/air defense resources, if necessary, strategic transport and supply, tactical transport, drone systems, and the means of associated support; - up to 1 carrier battle group, 1 2 PHA amphibious group, 1 mine warfare group and 1 adapted *task force .*	
complement in case of engagement nt major	Capable of 1 major operation, 1 Joint Air Force Commander (JFACC), 1 in a planes, 2 AWACS, 40 fighter planes, 8 strategic transport and supply (ATT) RESCO plots, 1 combat capacity 15 tactical transport planes with capacity ranging from airdropping, 1 theater intelligence capacity (1 up to the multi- ARCHANGE + 2 ALSR + 2 MALE drone systems), 2 high (force layer ground-to-air defense plots with intensity LAD capability protection), up to 3 projected airbases (including LAD capability and ground defense if needed air) ; framework nation capability in coalition, including ENU R	1 strategic joint staff, 1 operational staff, 1 theater joint support group 1 land staff at army corps level, 1 division (with support and support) made up of 2 releasable BIAs, 1 air combat brigade, 1 ground special forces group; 1 naval force command (MCC), 1 aircraft carrier (PA) and its air group (GAé) (30 fighters and 2 aerial lookout aircraft), 2 PHA, 8 1st rank frigates, 2 SNA, up to 5 PATMAR, up to 2 BRF, 1 mine warfare group, 1 naval special actions group; 1 special forces component headquarters (SOCC) made up of 8 groups and their tactical staffs and means of transport (planes, helicopters, protected tactical vehicles), maritime insertion means, a drone network (tactics, ISR), and associated specific support; 1 cyber defense component based on a centralized command and metropolitan capabilities covering the three areas of cyber warfare: LIO, L2I, and an LID capability rolled out at theater level, based on deployed cyber defense operational centers (theater SOCs) and groups of cyber intervention put on alert for preventive and reactive missions. These devices will be	

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		supplemented at the component level by specialized units belonging to the land, naval, air and space components; **+ support of the space component able to implement the full spectrum of military space operations including the establishment of a shared space situation, operations support (SATCOM, geolocation and positioning and navigation aids, space weather) and actions covering the active and passive defense of space systems.**

ÿÿ **2.2. Means and formats matched to ambition**

ÿÿ **2.2.1. An army model with a reinforced human format, faithful to our history**

ÿÿ **The current context confirms the relevance of the professional army model chosen in the mid-1990s. simultaneous (crisis on national territory, overseas or major commitment). To achieve this objective, our armed forces will rely on a larger and better equipped reserve, fully integrated into the active and versatile in its missions. This ambition is also consistent with the rise of universal national service (UNS), which will strengthen the Nation-army link and work for its resilience. The implementation of the strategic pivots and the implementation of the new priorities lead to the achievement of the ministry's workforce target in 2030 of 290,000 military personnel (including 210,000 active military personnel and 80,000 operational reservists) and 65,000 civilians. By 2035, the reinforcement of the HR model of the armies will continue to reach the ratio of one operational reservist for two active soldiers.**

ÿÿ **To reach this workforce target, the battle for skills and loyalty will have to be won. This will result in a modernized HR policy: career management, in particular the diversity of profiles and cross paths. The technical and scientific streams, crucial to face the current technological challenges, will be the subject of particular attention, as well as the schools which depend on the Ministry of the Armed Forces. The remuneration policy will seek to preserve the attractiveness of careers and the progression of personnel, according to the degree of expertise, the qualifications acquired and the management responsibilities assumed,**

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fully benefiting from the deployment of the new military remuneration policy (NPRM). On a daily basis, efforts will be continued to improve living conditions on military premises and, in general, to improve the consideration of families. The "Family Plan II", designed by involving local authorities, will primarily aim to better compensate for absences and support the mobility of our soldiers.

ÿÿ **Finally, the attention paid to wounded soldiers will be significantly improved: by a unique and coherent management of all injuries, mental and physical; by simplifying administrative procedures; through fair compensation for damages, in accordance with the normative measures of this law. The medical support of our wounded by the Armed Forces Health Service (SSA) will be expanded and other Athos houses aimed at the psychosocial rehabilitation of mentally injured soldiers will be built to ensure local territorial coverage.**

ÿÿ **2.2.2. Modernized operational capabilities**

ÿÿ ***Equipment of our forces***

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Capability segment			Base end of 2023	Base end of 2030	Park horizon 2035
capacity és interar mees	Space	Intelligence EM	-	1 Celestial	1 Celestial
		Picture intelligence	2 CSO satellites	2 satellites CSO	2 satellites Iris
		Communication	1 satellite SYRACUSE IV	2 satellites SYRACUSE IV	2 satellites SYRACUSE IV
		Ability to act in space Aegis	-	1	1
		Space Operations Command System - C4OS	-	1	incremental evolutions s of C4OS
		SERIOUS Radar	1	1 BASS NG	1 BASS NG
	Fight against drone (THE D)	Serval LAD	-	12	at least 40
		Naval LAD	3	20	at least 25
		Parade System	6	15	15

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	Helicopters Joint s Lightweight (HIL)	Cheetah - HIL	-	20	at least 70 (target at ending 169)
	Defense surface to air (DSA)	Ground-air system SAMP-T	8 Mamba	8 SAMP-T NG	12 SAMP-T NG
		Accompaniment terrestrial DSA	-	24 Serval MISTRAL	at least 45 Serval-TCP
		Very short naval range	-	8 turrets MISTRAL	at least 15 turrets TCP
		Short Range earthly	8 to 10 Rattlesnake	9 NAV MICA	12 NAV MICA
Strengths earthstr are	Tanks Battle tanks		200 including 19 renovated	200 of which 160 renovated	200 refurbished
	Armored	Median Armor	60 Jaguar	200 Jaguar 300 Jaguar 1345	
		Griffin	575	1818	
		Serval	189	1405	2038
		VBCI	628	628	628
	Artillery Cannons		58 Caesars + 33 AUF1	109 CAESAR NG	109 CAESAR NG

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	Helicopters	Helicopters of maneuver	61 TTH+54 Puma/Cougar/Cara callus	63 TTH+24 Cougar + 18 TTHFS	at least 105 HM
		Reconnaissance and attack helicopters	67 Tiger	67 Tiger	67 Tiger
	Franchise is lying	SYFRALL	-	8 doors - 300 m	2500m
	Drones	Tactical drone system (SDT)	5 TDS	17 SDTs + armament	17 TDS
	Long Range Strike	Land-based long-range strike launchers	9 11 LRUs	at least 13 systems	26 systems

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Strengths naval	submarines	ANS	2 Barracuda 6 Barracuda 6 Barracuda		
	Door planes	Charles De Gaulle	1	1 renovated	1 renovated

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	PA-Ng	Studies	Manufacturing in progress1	Manufacturing in progress
Surface fleet	1st class frigates	15: 8 FREMM + 2 FDA + 5 FLF	15:8 FREMM + 2 FDA + 3 IDF + 2 FLF renovated	15:8 FREMM + 2 FDA renovated + 5 IDF
	Door amphibious helicopters	3 PHAs	3 PHAs	3 PHAs renovated
	Patrollers	17: 3 APs + 1 POM+6PHM+ 3 PSP + 4 miscellaneous	19: 3 PAG +6 POMs+ 7PH+3 FLF	19: 3 PAG +6 POMs+ 10 PH
	Surveillance frigates	6 surveillance frigates	5 frigates surveillance + 1 corvette	6 corvettes
	Logistics buildings	1 BCR + 1 BRF 3 BRF		4 BRFs
mine warfare	mine action (SLAM-F)	8 old generation minehunters	3 Mine Warfare Buildings (BGDM) 6	6 BGDMs
		1 drone system	drone systems	8 drone systems
		4 Bldg. base divers support (BBPD) 1 Building. of experimentation n BEGDM	3 BBPDs NG	5BBPDs NG
Hydrogra capacity Oceanogr aphia	Physical hydrographic	3 buildings hydrographic (BH) + 1 oceanographic building (BHO)	2 CHF+ 1 BHO	2 CHOF + 1 complement t capacity

[1] The overall PA-Ng program will be conducted to guarantee the sustainability of "nuclear propulsion" skills with particular attention paid to the design and manufacture of the new K22 boiler rooms and then to ensure a controlled transition with the aircraft carrier Charles De Gaulle.

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	Mastery of the seabed	Seabed capacity	-	1 medium and deep-sea capacity - drones and robots	pursuit of increments
	Naval aviation e	Maritime patrol aircraft	8 Std 5 + 14 Std 6	18 Standard 6	At least 18 including 3 Future PATMAR
		Surveillance and intervention aircraft maritime (AVSIMAR)	8 F50 and 5 F200 (Overseas)	8 Albatross + 4 F50	12 Albatrosses + complement t SURMAR
		Marine Aerial Drone System (SDAM)	3	8	at least 15
		Aerial lookout planes	3E-2C	3E-2D	3E-2D
		Navy Burst	41	41	Format combat aircraft (Air+Marine e) at 225
Air forces are	Chase	Burst Air	100	137	
		Mirage 2000D	36 refurbished M2000Ds	48 M2000D	-
		SCAF (NGF)	-	refurbished 1 demonstration ur NGF	
	transportation and assignments	New generation tanker and strategic transport aircraft	12 MRTTs and 3 A330	15MRTT 15MRTT	
		Tactical transport aircraft	22 A400M	at least 35 A400M	at least 35 A400M
			4 C-130J and 14 C-130H	4 C-130 D + 10C-130H	4 C-130 D + ATASM
		Surveillance and control aircraft air	4 AWACS 4 AWACS AFSC		

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	Drones	MALE drone systems	4 systems reaper	4 systems Reaper + 1 system EuroMALE	at least 6 systems EuroMALE
	Inform lies	Light surveillance and information (ALSR)	2	3	3
		Intelligence and electronic warfare aircraft	-	3 ARCHANGE	3 ARCHANGE
	Helicopter are	Maneuver helicopter (HM)	36 (Puma/Caracal/H225)	at least 32 H.M.	36 HM

ÿÿ **2.2.3. Priority efforts for the armies of the future**

ÿÿ **The military programming for the LPM 2024-2030 period sets out, in addition to maintaining the best level of our deterrence, priorities in the following areas:**

ÿÿ ***Innovation: €10bn of needs programmed over the period***

ÿÿ **Innovation aims – among other things – to offer armies control of new fields of conflict (space, seabed, information field, cyber) by 2030, whether by capturing civilian technologies or by exploring new technologies. a break.**
This control will be based on the development of ambitious demonstrators, as well as on the acceleration of the deployment of these innovations in the armies. The budgets dedicated to innovation will strengthen our sovereignty, but will not replace the essential mobilization of our BITD to initiate, without delay, self-financed innovative projects that may be of interest to the French army and our export part

ÿÿ ***Space: €6 billion in needs scheduled over the period***

ÿÿ **By 2030, our spatial observation and listening capabilities will be renewed within efficient and resilient architectures. The means of communication will be supported by a constellation of secure, multi-orbit European connectivity. Our exo-atmospheric space surveillance capabilities *(Space Domain Awareness)* will be increased in order to detect and attribute a suspicious or aggressive act in**

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space. A space operations command, control, communication and computing center (C4OS) will have the means to steer actions to, in and from space. Differentiating technologies, reinforced in a sovereign way or in partnership, will favor active defense to protect our means in low orbit, the reinforcement of connectivity, intelligence and reactive launch.

ÿÿ ***Drones and robots:*** **€5 billion** ***in needs scheduled over the period***

ÿÿ **An acceleration of the use of remotely operated vectors and a broadening of the spectrum of their missions will be undertaken (air, surface or submarine drones as well as terrestrial robots). The development of drone capacities adapted to the various operational contexts will make it possible to increase the functions of detection and remote action. Tactical drone systems with diversified payloads and armaments will improve our operational efficiency. Contact drones as well as tele-operated munitions (MTO) will provide performance, precision and lethality with a favorable cost-effectiveness ratio. The ambition is to develop a French MTO sector and by 2030, to achieve swarm flight capability. The future marine anti-mine warfare system will renew mine warfare capability, while better control of the seabed will make it possible to know, monitor and act up to 6,000 meters deep. Finally, to reduce the exposure of our forces, the use of ground robots and systems capable of cooperating with the soldier and his environment, under his control, will also be developed.**

ÿÿ **Defense** ***Surface-Air (DSA): €5 billion in needs scheduled over the period***

ÿÿ **The short-term strengthening of surface-to-air defense will concern the modernization of anti-aircraft and anti-missile missile systems, the renewal of weapon systems providing low-level defense and investment in the fight against drones. Modern joint action detection and coordination capabilities will be developed. Adaptation to threats benefiting from new technologies, in particular hypersonic, will be initiated by seeking European cooperation (interceptor in the upper layers of the atmosphere).**

ÿÿ ***Overseas*** **sovereignty :** €13 billion in needs programmed over the period

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ÿÿ **The sovereignty forces will have developed anticipatory surveillance capabilities that will improve the coverage of our Overseas Territories and their exclusive economic zones. Command capacities will be hardened and densified in a targeted manner according to regional issues, and their resilience will be improved (communications, ability to influence). Our sovereignty forces will benefit from a general effort in terms of capabilities (protection, intervention and support, infrastructure) and will constitute a reinforced first level immediately available (presence, protection and humanitarian action) in order to discourage any attempt at destabilization or preda**

ÿÿ ***Information: €5 billion in needs programmed over the period***

ÿÿ **Current technological challenges require renewed operating capacities and an industrialization of digital investigation tools. The transformation of services takes the form of ambitious projects in terms of infrastructure, internal operation and mass data processing system. The Defense Intelligence and Security Directorate (DRSD) will continue the reorganization of its central management at Fort de Vanves, and the General Directorate for External Security (DGSE) will materialize the construction of its new modern headquarters at Fort-Neuf de Vincennes. The pooling of tools and resources between departments will also be strengthened. The human capacities for technical research, processing of sources, exploitation of intelligence or action require an increasingly qualified resource, subject to exacerbated competition with the private sector; also, renewed attention will be paid to its recruitment and retention.**

ÿÿ ***Cyber: €4 billion in* needs *scheduled over the period***

ÿÿ **The primary ambition is to pursue the development of first-rate, robust and credible cyber defense against our strategic competitors, able to ensure the long-term resilience of the ministry's critical activities and interoperability with our allies. An increase in staff and a diversification of modes of action will make it possible to adapt to technological developments, to support the most sensitive companies in the defense sector and to support the National Agency for Information Systems Security. (ANSSI) in the event of a national cyber crisis. Finally, the effort also focuses on the IT fight for influence (L2I) to enhance and strengthen the legitimacy of our commitments, and respond to the attacks of our adversaries and our competitors in the field of perceptions. In addition, a center of excellence will be created to structure, around the École polytechnique,**

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content, methods and academic teams for the benefit of the cyber missions entrusted to the Ministry of the Armed Forces.

ÿÿ ***Special forces: €2 billion in needs programmed over the period***

ÿÿ **The special forces, from the three armies and the army health service, will see their role, their versatility, their responsiveness and their means of intelligence, projection and action reinforced. The keys to success are the continued modernization of their equipment as well as the delivery of new capabilities such as modernized transport aircraft, specific NH90 helicopters, more enduring drones, a renewed range of vehicles and surface action means and new generation submarine.**

ÿÿ ***Ammunition: €16bn of needs programmed over the period***

ÿÿ **The consolidation of ammunition stocks and the transition to future capabilities will be continued, in particular for long-range FMAN-type anti-ship missiles and FMC-type cruise missiles, surface-to-air and air-to-air interceptors (Aster-MICA and METEOR family) as well as as F21 heavy torpedoes and anti-tank frame (ACCP, MMP). They will be based on the "war economy" approach to significantly reduce production times (in particular on 155mm and 40mm ammunition, as well as on Mistral, Aster and MMP missiles) and will concretely result in the replenishment of stocks , the modernization of missiles, the acquisition of new capabilities (fires in depth, increased range and improved seeker, remotely operated munitions) and a balance between mass and technology.**

ÿÿ **2.2.4. Cooperation at the service of European strategic autonomy.**

ÿÿ **Cooperation programs will make it possible to acquire military capabilities by pooling the necessary funding. They will contribute to the objective of strengthening European strategic autonomy, in particular *through* its BITD. As far as is necessary, relevant and useful, these partnerships may open up outside Europe. These initiatives create the conditions for native interoperability, develop a common strategic culture and an ability to engage together in operations, like the Motorized Capability (CaMo) partnership. This synergistic model, built with Belgium, will be rolled out in other areas. Sharing spaces, in a "user club" format, will be developed, based on our export successes such as the Rafale or the CAESAR.**

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ÿÿ **Additional avenues of cooperation will be explored, in particular with Italy, Spain, Greece, Germany and the United Kingdom, which are privileged partners. These include the future medium cargo aircraft, drones, surface-to-air defense, long-range strike and surface buildings. Space is also a high-potential area of cooperation for launchers, surveillance, observation, protection of communication, command and control systems and capabilities. France's cooperation with its European partners will continue to rely, as necessary, on the mechanisms put in place by the European Union (European Defense Agency, European Defense Fund, Permanent Structured Cooperation).**

ÿÿ **The export control mechanism and the procedures for informing Parliament will be consolidated. Weapons system exports, an essential object of foreign policy, will remain a sovereign prerogative of France. Cooperation programs will provide long-term support to our strategic partners, including outside the European Union and North Atlantic Treaty Organization (NATO).**

ÿÿ **The replacement of the national air defense system will benefit from the development of the *Air Command and Control System*** program ***(ACCS)* , while the replacement of four Airborne Warning and Control Systems *(AWACS)* could rely on the Alliance Air Surveillance and Control *(AFSC) capability.* Finally, the NGF demonstrator will be developed with Germany and Spain as part of the SCAF program intended to prefigure combat aviation by 2040 in Europe. Similarly, the Main Land Combat System *(MGCS) project,* conducted in cooperation with Germany, should prepare for the future of land combat.**

ÿÿ **2.2.5. Combat ready forces**

ÿÿ **Combat readiness is consubstantial with a job army. This LPM consolidates the training base, an essential prerequisite, broken down into the following annual activity standards:**

ÿÿ

Environment	Kind	PAP target 2023	Target standard in 2030
Earthly	Fighter activity days terrestrial (JACT)	New indicator	120

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	Hours per crew of tanks and armored vehicles workout	80	100 to 130 depending on type
	Shots fired by crew CAESAR in training	77	110
Naval	Days at sea per vessel (offshore vessel)	90 (95)	100 (110)
Aeronautics / Land Force	Hours flown per conventional forces (special forces) helicopter pilot	144 (157)	200 (220)
Aeronautics / Navy	Flight hours per helicopter crew	218	220
	Hours flown by naval fighter pilot	188	200
	Maritime Patrol/Surveillance Crew Flight Hours	340	350
Aeronautics / Air Force and from space	Flight hours per fighter pilot	147	180
	Flight hours per transport pilot	189	320
	Flight hours per helicopter pilot	181	200

ÿÿ **Initially, based on the achievements of the latest military programming law 2019-2025, activity levels will be stabilized and preparation will be qualitatively reinforced by targeting "high-end" training to consolidate the necessary skills. short-term commitments. The use of simulation will be gradually integrated for faster capitalization of the know-how necessary for engagement in a high-intensity conflict.**

ÿÿ **Operational preparation will then progress quantitatively until it reaches activity standards in 2030, making it possible to maintain know-how over time, in line with the arrival of new equipment and very high versatility requirements.**

ÿÿ **In order to achieve these objectives, benefiting fully from the repair efforts of the previous LPM, a higher level of performance for the maintenance in operational condition (MCO) of our equipment will be negotiated – at con**

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– with manufacturers, conditioned by a consolidation of strategic stocks and improved management of spare parts. The MCO of equipment will be better taken into account from the early stages of the life of a program, for reasoning in cost of ownership over time.

ÿÿ

Programmed requirement for combat preparation and training of forces

(including non-complex P178 ammunition)

CP, in €bn	LPM 19-25	LPM 24-30
Land Force	13	18
Navy	17	24
Air and Space Force	19	27

ÿÿ **2.3. Preserving the consistency of the model through reinforced support**

ÿÿ **This LPM will reinforce the resources and the means allocated to the support of the forces, which irrigate all the fields of activity of the armies. The consolidation of the common support services, in particular the service of the Commissariat of the Armed Forces (SCA) and the defense bases, will make it possible to have pre-positioned stocks at the right level as well as modern means (equipment, infrastructure, digita**

ÿÿ **The SSA hospital model will be based on a redesigned territorial map and a renovated model. The increased mobility of deployable health capabilities and the modernization of military medical supplies will also improve its responsiveness in the event of a major engagement.**

ÿÿ **The new "infrastructure" ambition will serve the strategic objectives of protection, resilience and improvement of living conditions and the exercise of the profession on national territory and abroad. A particular effort will be made on the routine maintenance and upgrading of operational and daily infrastructure to improve the conditions for exercising the profession in military control (work and activity environment, accommodation, food sets, installations sports) and support for families.**

ÿÿ **The ministry's digital infrastructures will be gradually renovated to guarantee their level of resilience and robustness. In particular, the DESCARTES transport network, vital for deterrence and**

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operations, will be hardened and local service networks will be modernized in stages. Efforts to converge and rationalize the application base will be continued. The new developments will be at the service of operations, professions and users, including families, the injured and reservists.

ÿÿ **The need associated with support is programmed over the period as follows:**

ÿÿ

Needs scheduled ***CP, in €bn***	**LPM 19-25**	**LPM 24-30**	**Examples of achievements by 2030**
Supporters of strengths (SCA, SSA, Defense Bases)	**14**	**18**	**- Reinforcement and modernization of stocks ballistic protection, CBRN clothing, extreme cold equipment and field living equipment;** **- Domain upgrade catering (with associated infrastructure);** **- Creation of data processing centers contaminated and contaminated radio casualties chemicals (CTBR2C) at the HIA Sainte-Anne (Toulon) then at Percy; -** **Acquisition of a military field hospital with a structure of 30 hospital beds; - Projects to improve the working environment of agents and efforts on sustainable mobility.**
Infrastructure	**12**	**16**	**- "Family Plan" effort – renovation and fitting out of premises;** **- "Accommodation" and "housing ambition" plans;** **- Space command building at Toulouse;** **- Overseas port facilities in Papeete ;** **- "APOGEE" plan for improving training camps to harden the**

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			Army operational readiness; **- "Water plan" for the renovation of networks including those of the Toulon naval base.**
Digital	**4**	**8**	**- Modernization (throughput, resilience) of the communication support network that serves the rights-of-way in mainland France, overseas, abroad and in operation; - Secure hosting of applications for operations support services; - Support for artificial intelligence to improve ministry services (HR, management, etc.); - Development and modernization of digital services accessible from the Internet to support ministry officials and their families (management, accommodatio**

ÿÿ **2.4. The modernization of the ministry will be strongly oriented towards the simplification, digitization and subsidiarity of its operation**

ÿÿ **While the Nation is making an exceptional budgetary effort for its defense system, the ministry intends to continue its work of modernization and transformation to free up additional room for maneuver and gain even more efficiency. As such, all the lessons of the health crisis and the conflict in Ukraine will be learned.**

ÿÿ **This effort will focus primarily on the simplification of organizations, processes and standards, the digital shift and the ecological transition. It will concern both the structures and operating methods of the staffs, the DGA and the General Secretariat for Administration (SGA). Administrative simplification, deconcentration, subsidiarity and trust, favoring a posteriori control, will be the guiding principles of the reform of the functioning of the major entities of the ministry.**

ÿÿ **In particular, the DGA will be transformed to better understand the challenges of production, at the heart of the "war economy" project, in its relationship with the defense industry and will evolve to help the arr**

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seize the full potential of innovation and technological advances. To this end, a systematic analysis of the need and the technical solutions available will be carried out during the upstream phases of the programs to optimize the costs and performance of the systems. Finally, the DGA will work to consolidate the BITD, in particular through the attention paid to the fabric of SMEs in the supply chain as well as support for exports.

ÿÿ **3. An LPM supported by historical budgetary means**

ÿÿ **This LPM is based on a trajectory of €413 billion of current needs programmed over the period 2024-2030, allowing the implementation of its ambition. The armed forces budget will benefit from extra-budgetary resources, in particular from the SSA, as well as the return of all proceeds from the sale and transfer of real estate from the ministry.**

ÿÿ **The Ministry's contribution to the European Peace Facility (EPF) and the needs related to the replenishment of equipment transferred to Ukraine as well as aid for the acquisition of defense and security equipment or services will be financed. This financing will be ensured in budgetary construction or in management, in coherence with the evolution of the geopolitical and military context.**

ÿÿ **Furthermore, if the amount of the provision financing external operations and internal missions proves to be insufficient, the residual net additional costs will be the subject of net openings in amending finance laws under management.**

ÿÿ **Over the period of the LPM, the "equipment" aggregate represents 268 €bn (€172bn in 2019-2025) of needs, the main sets of which are detailed below:**

ÿÿ

Planned needs *CP, in €bn*	**LPM 19-25**	**LPM 24-30**
Scheduled maintenance of equipment	**35**	**49**
Major impact programs	**59**	**100**
Other armament operations	**11**	**13**
Upstream studies	**6.8**	**7.5**

ÿÿ **Finally, because it is a condition of its responsiveness, the ministry, authorized to reach the staff ceilings defined in article 6 of this law, will adapt continuously, in a context marked by a**

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evolving and more competitive labor market, the achievement of the workforce targets set by Article 6 as well as its salary policy.

ÿÿ **4. Role of Parliament and parliamentary oversight**

ÿÿ **Parliament plays an essential role in defining the guidelines for national defence: during the vote on the military programming law, but also during the examination of each annual finance law. Under the terms of article 24 of the Constitution, it controls the action of the Government and evaluates public policies. To do this, it relies on the organic provisions relating to the finance laws, on the control mechanisms provided for by the regulations of the parliamentary assemblies as well as on specific control mechanisms provided for by the military programming law.**

ÿÿ **Parliament thus ensures the implementation of the military programming law on the occasion of the vote of the finance laws which decline it. It is also based on the performance reports and reports provided for by the provisions of this LPM relating to parliamentary control**

ÿÿ **Finally, the Government submits to Parliament an annual report on arms exports. This report presents France's arms export policy as well as the methods of controlling arms and sensitive goods and the position of French defense industries in relation to international competition.**

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PREMIÈRE
MINISTRE
Liberté
Égalité
Fraternité

IMPACT STUDY

LAW PROJECT

relating to military programming for the years 2024 to 2030 and containing various provisions relating to defense

NOR: ARMD2305491L/Blue-2

April 5, 2023

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GENERAL INTRODUCTION

This 2024-2030 military programming bill (LPM) provides an ambitious response to the issues and challenges identified by the National Strategic Review of November 2022, at a time when war is back in Europe and prospects for rupture are emerging. major technologies in the field of space, cyber, drones and artificial intelligence.

If it is part of the complementarity of the current LPM, this military programming bill proposes, after the necessary repairs, to build the future following an in-depth introspective review of our army model . It is a question of consolidating the fundamentals of our defense model drawn up in the 1960s and updated in the 1990s around nuclear deterrence, projection and intervention capabilities and sovereignty forces in mainland France and overseas. sea. The lessons learned from several decades of the fight against terrorism or the recent conflict in Ukraine and the perception of new risks and technological breakthroughs nevertheless imply a transformation of our armies, to adapt to new conflicts:

- **Reinforce resilience on national territory, particularly overseas, and the affirmation of our sovereignty: beyond the attention paid to the components of our nuclear deterrence and the maintenance of permanent postures, a significant effort will be devoted to contribution of the armies to the cohesion of the Nation (UNS, modification of the doctrine for the use of reserves and increase in the latter, interministerial mobilization, organization of the industrial fabric, etc.);**

- **Anticipating high intensity and a major commitment by making sure to strengthen our responsiveness (definition of alert stages; raising the level of operational readiness requirements and availability of equipment, securing supplies of raw materials or critical equipment). The bill thus proposes to create new levers within the framework of the "war economy", while combining military effects with civilian capabilities with high operational added value;**

- **Defend common spaces, new places of conflict (outer space, digital spaces, maritime spaces), to anticipate, allocate and counter the hybrid strategies, of a military nature or not, of the competitors of the France ;**

- **Rethink and diversify strategic partnerships to strengthen our capacities for influence, prevention and intervention beyond our borders as well as our ability to train our allies and partners to lead as a framework nation, if necessary , a major operation.**

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For the implementation of these ambitious objectives, this military programming bill is based on a trajectory of €413.3 billion of current needs programmed and financed over the period 2024-2030. The report appended to this bill details the orientations of French defense policy for the next seven years. It covers all areas of interest to the armed forces, whether geostrategic, capability, industrial, financial or related to the living and working conditions of women and men in defence.

The programming bill also presents a series of normative provisions that contribute to this ambition through four main axes:

1/ Reinforcing the Nation-Army link: these measures are mainly aimed at consolidating cardinal institutions for the world and combatant memory, at consolidating the tools for attracting and retaining personnel, better supporting the combatant and the families, and facilitating the increase in power of the operational reserve;

2/ strengthen our resilience and facilitate intelligence and counter-intelligence activities, with regard to new threats and modes of action of our competitors, by completing the action framework of the intelligence services and by providing better protection of fundamental interests of the Nation in the event of private activity in connection with a foreign power;

3/ Provide the Ministry with the means to prepare and mobilize the industrial and technological defense base for the "war economy": these measures aim to give the State the legislative means to ensure its strategic supplies and meet its needs in all circumstances;

4/ Reinforce the strategic and operational credibility of the armies, through the reinforcement of the autonomy and health resilience of the armies and measures allowing to face the extension of the conflictuality (strengthening of the legal regime of fight against drones attacks, reinforcement of the autonomy of the armies in health matters, modernization of the law on space operations to take into account the new realities of the space environment).

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SYNOPTIC TABLE OF CONSULTATIONS

Article	Subject of the article	Obligatory consultations	Consulting optional
1 st		High Council of Finance (HCFP)	None
2		High Council of Finance (HCFP)	None
3		High Council of Finance (HCFP)	None
4		High Council of Finance (HCFP)	None
5		High Council of Finance (HCFP)	None
6		High Council of Finance (HCFP)	None
7		High Council of Finance (HCFP)	None
8		None	None
9		None	None
10		None	None
11	Ensure the continuity of the missions of the Order of Liberation	None	Ministerial Technical Committee board of directors the order
12	Strengthen the compensation scheme for soldiers injured in service	Superior council of the military service	None
13	Further protect the heirs of military personnel who died in service by guaranteeing the payment of the remaining balance of the month of death	Superior council of the military function	None
14	Promote engagement and journey within the reserve	Superior council of the military service	None

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Article	Subject of the article	Obligatory consultations	Consulting optional
	operational to strengthen its resources and efficiency	national commission for collective bargaining, employment and vocational training	
15	Strengthen the capacity of armies to have a human resource in line with the need for staff and quality and improve the conditions of re-employment	Superior council of the military function	None
16	Raising the irreversibility threshold retraining leave	Superior council of the military service	None
17	Strengthen the attractiveness of careers military by creating a military learning regime	Superior Council of the military function	None
18	Extend and modernize the allocation of the flexible departure incentive pay and functional promotion	Superior council of the military service	None
19	Allow access to the services of Criminal record information for administrative security investigations	None	None
20	Guarantee the consideration of interests fundamentals of the Nation in case private activity by a former soldier, in the field of defense or security, in relation to a foreign power	Superior Council of the military function	None
21	Allow the communication by the judicial authority to the intelligence services of the elements of an open procedure for war crimes and offenses or crimes against humanity	None	None
22	Protecting the anonymity of former intelligence service agents or former members of special forces or specialized response units	None	None

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Article	Subject of the article	Obligatory consultations	Consulting optional
	in legal proceedings		
23	Modernize and adapt the system of requisitions in time of peace and in time of war	Overseas communities Superior Council of administrative courts and administrative courts call	None
24	Organize the possibility of building up strategic stocks of materials or components of strategic interest for the armies as well as the prioritization of the delivery of goods and services to the benefit of armies	None	council of industries french defense
25	Change the system of cost surveys in public procurement	None	None
26	Strengthen the autonomy of the armies by sanitary material	None	National Agency for the Safety of Medicines and health products
27	Reinforcement of the legal regime for the fight against aircraft circulating without person on board presenting a threat	None	None
28	Ratification of the order in space matters – Take into account, in the law on space operations, the constellations of satellites by subject to the same regime as space objects as well as launcher stage recovery	None	None
29	Consolidate the provisions concerning nuclear defense	None	None
30	Communication by the judicial authority of the follow-up given to military criminal cases	None	None
31	Creation of an authorization system for preliminary study activities	None	None

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Article	Subject of the article	Obligatory consultations	Consulting optional
	laying or removal of a submarine cable or pipeline at sea territorial		
32	Prescribe domain name filtering measures (DNS) to hosts, access providers to Internet (ISP) or registrars in case of national security threats	Communications Regulatory Authority electronics, post and press distribution (ARCEP)	None
33	Provide communication to ANSSI certain domain name system (DNS) server cache technical data	Communications Regulatory Authority electronics, post and press distribution (ARCEP)	None
34	Oblige software publishers who are victims of a computer incident on their information systems or who have a critical vulnerability in a product or service to inform ANSSI and their French customers	None	Communications Regulatory Authority electronics, post and press distribution (ARCEP)
35	Strengthen capacities for detecting cyberattacks and informing victims	Communications Regulatory Authority electronics, post and press distribution (ARCEP)	None

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SYNOPTIC TABLE OF APPLICATION MEASURES

Article	Subject of the article	Texts of application	Competent administration
1 st			
2			
3			
4			
5			
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8			
9			
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11	Ensure the continuity of the missions of the Order of Liberation	Decree in Council of State and in the Council of Ministers	Ministry of the Armed Forces – Legal Affairs Department Grand Chancellery of the Legion of Honor – General Secretariat Prime Minister – Secretariat General of the Government
12	Strengthen the compensation scheme for soldiers injured in service	None	Not applicable
13	Better protect rights holders from soldiers who died in service in guaranteeing the payment of the remaining balance of the month of death	simple decree	Ministry of Armies
14	Promote commitment and career paths within the operational reserve to strengthen its resources and effectiveness	Decree in Council of State	Ministry of the Armed Forces (Human Resources Department of the Department of Defense)

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Article	Subject of the article	Texts of application	Competent administration
15	Strengthen the capacity of the armies to have a human resource in line with the need in terms of manpower and quality and improve the conditions of re-employment	Decree in Council of State simple decree	Armed Forces Ministries (Human Resources Department of the Ministry of defense)
16	Raising the irreversibility threshold retraining leave	Decree in Council of State	Ministry of the Armed Forces (Human Resources Department of the Department of Defense)
17	Strengthen the attractiveness of careers military by creating a military learning regime	Decree in Council of State	Ministry of the Armed Forces (Human Resources Department of the Department of Defense)
18	Extend and modernize the allocation of the flexible departure incentive pay and functional promotion	Decree in Council of State simple decree	Ministry of the Armed Forces (Human Resources Department of the Department of Defense)
19	Allow access to the services of Criminal record information for administrative security investigations	None	Not applicable
20	Guarantee that the fundamental interests of the Nation are taken into account in the event of private activity by a former soldier, in the field of defense or security, in relation to a foreign power	Decree in Council of State Stopped	Ministry of Armies
21	Allow the communication by the judicial authority to the intelligence services of the elements of an open procedure for war crimes and offenses or crimes against humanity	None	Not applicable
22	Protecting the anonymity of former intelligence service agents or former members of special forces or specialized intervention units in the context of legal proceedings	None	Not applicable

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Article	Subject of the article	Texts of application	Competent administration
23	Modernize and adapt the system of requisitions in time of peace and in time of war	Decree in Council of State	Ministry of Armies
24	Organize the possibility of building up strategic stocks of materials or components of strategic interest for the armies as well as the prioritization of the delivery of goods and services to the benefit of armies	Decree in Council of State	Ministry of Armies
25	Change the system of cost surveys in public procurement	simple decree	Ministry of Armies
26	Strengthen the autonomy of the armies by sanitary material	simple decree	Ministry of Armies
27	Reinforcement of the legal regime for the fight against aircraft circulating without person on board presenting a threat	Decree in Council of State Stopped	General Secretariat for Defense and National Security (SGDSN) / Ministry of the Armed Forces / Ministry of the Interior
28	Ratification of the order in space matters – Take into account, in the law on space operations, the constellations of satellites by subject to the same regime as space objects as well as launcher stage recovery	Decree in Council of State Stopped	Ministry of Economy, Finance and Sovereignty industrial and digital
29	Consolidate the provisions concerning nuclear defense	Decree in Council of State	Ministry of Armies Ministry of Transition energy
30	Communication by the judicial authority of the follow-up given to military criminal cases	None	None
31	Creation of an authorization system relating to study activities prior to the laying or removal of a submarine cable or pipeline in the territorial sea	Decree in Council of State	Ministry of Transition ecological

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Article	Subject of the article	Texts of application	Competent authority
32	Prescribe domain name filtering measures (DNS) to hosts, access providers to Internet (ISP) or registrars in case of national security threats	Decree in Council of State	National Information Systems Security Agency (ANSSI)
33	Provide communication to ANSSI certain domain name system (DNS) server cache technical data	Decree in Council of State	National Information Systems Security Agency (ANSSI)
34	Oblige software publishers who are victims of a computer incident on their information systems or who have a critical vulnerability in a product or service to inform ANSSI and their French customers	Decree in Council of State	National Information Systems Security Agency (ANSSI)
35	Strengthen capacities for detecting cyberattacks and informing victims	Decrees in Council of State Order fixing the terms of benefit compensation	National Information Systems Security Agency (ANSSI)

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TABLE OF INDICATORS

Indicator	Objective and modalities of the indicator	Target objective (in value and/or tendency)	Time horizon of the evaluation (period or year)	Identification and purpose of the provisions concerned
Workforce of the reserve operational	The indicator aims to measure increasing the number of reservists within the reserve operational by introducing legal means to expand the pool of reservists, by facilitating and simplifying their employment and by strengthening the operational employability of the reserves. The evaluation of this indicator will be carried out by the human resources department of the related Ministry of Defense with the armies.	Doubling of volume of the reserve operational From 40,000 to 80,000 reservists	2024-2030	Section 14
Number apprentices in the armed forces	This indicator aims to measure the development of of learning within the armies. The evaluation of this indicator will be carried out by the human resources department of the related Ministry of Defense with the armies.	Goal in value: train several thousands of apprentices	Annual follow-up until 2030	Section 17
Number of decisions unfavorable to exercise by elders soldiers of a lucrative activity in the field defense or from security to benefit of a state	Provision is made for the establishment of a preventive and dissuasive control concerning the military former soldiers who held functions of a sensitivity particular and wishing engage in gainful employment on behalf of a foreign power in the field of defense or security.	Objective: to prevent the risk or of disclosure of know-how military operations at foreign competitors	Annual follow-up	Section 20

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foreigner or a foreign company	This system is accompanied by a prior declaration procedure as well as sanctions in the event of failure to declare. or ignorance of the decision of the Minister of defense. The indicator aims to measure the effect of this device. It will be subject to annual monitoring by various departments of the Ministry. armies.			
Number of inventory made up of under article 24	This indicator aims to measure the effect of the provisions provided for by the draft law in respect of the defense economy, in particular those providing for the possibility of ordering the constitution of stocks of strategic. This indicator will be monitored annually by the Directorate General for Armaments.	Objective: to ensure that manufacturers meet the requirements for inventory strategies that the article sets them 24	2024-2030	Section 24
Number of decisions of prioritization issued by the State pursuant to Article 24	It is planned to introduce a system for prioritizing orders at the request of the State in relation to any other contractual commitment, for to meet its needs or those of a of a third State or of a international organisation. This indicator will be monitored annually by the Directorate General for Armaments.	Satisfy a need of armament the State's emergency, State third party or a international organisation	2024-2030	Section 24
Proportion of publishers of main software that applies a dissemination policy of information about	This indicator makes it possible to assess the effectiveness of the provisions encourage software with having a policy of informing their products on their vulnerabilities. Indicator evaluation will be carried out by the Agency	Increase in number of publishers of tending to software publishers users of the dissemination of information on the vulnerabilities of their products	2028	Section 34

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vulnerabilities of their products	national security systems of information (ANSSI), which will take into consideration the editors of hundred most commonly used software in France as well as the top five the goal vendors serve 90% of customers business sector1 . ANSSI will observe their information of diffusion policies on THE vulnerabilities of their products, by verifying in particular the fate that reserve to they vulnerabilities that are reported to it thanks to article L. 2321-4 of the defense code, or of which it is aware as part of its activities incident response and vulnerability management. them	conform to the regulations. Five years after entering application of the measure, is that software in each publishers of software identified have a policy in accordance with regulations and, in particular, that ANSSI has not no drift observed significance of the policy of 90% of for a period of one year.		

[1] To determine the sectors of activity concerned, ANSSI may initially refer to the sectors of activity of vital importance as well as those covered by the Network and Information Security (NIS) directive.

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TITLE I – PROVISIONS RELATING TO OBJECTIVES DEFENSE POLICY AND FINANCIAL PROGRAMMING

Articles 1 to 10

1. STATE OF PLAY

1.1 While it does not call into question the strategic analysis that has prevailed since 2017, the context of increasing international and regional tensions, the return of high-intensity warfare in Europe, health and climate crises nevertheless justifies a reassessment of the 2019-2025 military programming law. It makes it all the more necessary to pursue our efforts in the area of defense and strategic autonomy.

1.2 After a period of post-Cold War decline, the period that began in 2014 with the annexation of Crimea and the crystallization of a conflict in the Donbass forced NATO and its member states to make an effort to adapt. This awareness has manifested itself in increased investment with the defense budgets of a third of allies reaching or exceeding the 2% of GDP target set at the 2014 NATO Newport summit.

1.3 This effort must continue. It is important that this increase in power takes place both at national and at European level. It must make it possible to ensure the protection of the national territory, the security of the Member States of the European Union (EU) and of the Euro-Atlantic area, the stability of our neighborhood and the freedom of access to common areas.

1.4 In line with the National Strategic Review, which concluded that the full mobilization of society is necessary, a strengthening of the Nation's resilience and a transition to a war economy, the 2024-2030 military programming law must establish in the long term, in line with the military programming law (LPM) 2019-2025, the effort in financial terms and manpower in favor of the armies.

1.5 The 2019-2025 military programming law was intended to repair the armies, the LPM 2024-2030 must allow their transformation to adapt them to the conflicts of tomorrow.

2. OBJECTIVES

2.1 Defense policy is by nature long-term. The defense strategy, the objectives set for the armed forces and the human and material resources needed to carry out their missions must therefore be programmed over a multi-annual period. Such a

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programming, an essential element of the coherence and effectiveness of our defense policy, recognized as such for more than 60 years, constitutes the basis of this military programming law.

The amount of programmed needs amounts to 413.3 billion euros.

Within the scope of the "Defence" mission, the resources programmed, excluding pensions, to ensure the financing of this need will amount to €400 billion in current budget appropriations over the period 2024-2030, according to the following trajectory:

Current €bn	2024	2025	2026	2027	2028	2029	2030	Total 2024-2030		
Payment credits of the "Defence" job	47.04	50.04	53.04	56.04	60.32	64.61	68.91			400
variation	+3.1	+3.0	+3.0	+3.0	+4.3	+4.3	+4.3			

The scope of this programming, which provides the means for the renewal of our defense tool and its transformation, is presented in the report annexed to this law.

Taking into account the geopolitical and economic contexts, with a total budgetary effort of €400 billion over seven years, it further strengthens the ambitious means of the LPM 2019-2025 which were €295 billion.

These appropriations are in line with those included in the draft public finance programming law (LPFP) for 2023 to 2027 in article 12 for the years 2024 and 2025. The trajectories defined in article 3 of the draft LPFP, in particular the trajectory of public administration expenditure, are established in accordance with Articles 9 and 12 of the same draft. Thus, the military programming bill complies with the expenditure provided for in the draft LPFP 2023-2027.

The means necessary for the national support effort for Ukraine, implemented in the form of contributions to the European Peace Facility (EPF), transfers of equipment requiring replenishment and aid for the acquisition of equipment or defense and security services, will be added to this resource trajectory and will be determined in the initial budget law or in execution, in line with the evolution of the geopolitical and military context.

The LPM's resource trajectory will also be supplemented by non-tax revenue from, in particular, proceeds from real estate sales on the one hand, and sales of Ministry of Defense equipment, on the other hand, as well as state royalties and rents from concessions or authorizations of any kind granted on real estate assigned to the ministry.

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As such, following on from the previous LPM, the 2024-2030 military programming bill guarantees the Ministry of Defense a return rate of 100% of the proceeds of real estate sales. Overall, the Defense effort will be increased to 2% of GDP in 2025, which is now a threshold and no longer just an objective.

2.2 The €400 billion of resources in budgetary appropriations programmed for the benefit of the "Defence" mission over the period 2024-2030 are divided between the "staff", "equipment" and "operating" aggregates.

To achieve the objectives of this LPM, the ministry's staff will amount to 271,800 full-time equivalents in 2027 and will increase to reach 275,000 full-time equivalents by 2030. The net increases in staff will be broken down according to the diagrams following jobs:

(AND P)	2024	2025	2026	2027	2028	2029	2030
Increase targets net workforce	700	700	800	900	1000	1000	1200

In particular, this will involve strengthening the areas of intelligence, cyber defense and digital technology.

Our armed forces will also rely on a larger and better equipped reserve, fully integrated into active duty, with a target number of personnel raised to 105,000 by 2035 at the latest, to achieve the objective of a military reserve for two active military personnel.

The HR transformation effort undertaken during the 2019-2025 LPM will be continued. Salary measures will contribute to strengthening the loyalty, expertise and adaptability of the ministry's human resources.

The drafting of article 6 allows the ministry to benefit from greater flexibility in terms of staff compared to the previous LPM. Defense, to fulfill its missions and increase its power in the most critical areas (cyberdefense, intelligence, etc.), needs agility. The department must be able to act quickly and in a counter-cyclical manner: limit the consequences of an overly competitive labor market by focusing on compensation, take advantage of favorable periods to increase the workforce. This is the reason why this law allows it to devote all or part of the credits left available by the non-achievement of the workforce targets to an increase in the effort to attract remuneration.

The means devoted to the "equipment" aggregate will also increase, in order to work on the transformation of armies, while building a real "war economy" to prepare for a major engagement.

It is a question, first of all, of consolidating the heart of sovereignty. The effort for the benefit of nuclear deterrence, on which the protection of the vital interests of the Nation rests, will thus be reinforced. It will allow the maintenance of the holding of the permanent posture of det

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continuation of the renewal of the two components. Intelligence, which makes it possible to anticipate crises and threats, will see its capacities increased. Additional means of action and intervention will also be allocated to our areas of sovereignty, in particular to the DROMs and COMs. Finally, sovereignty, whose solidity is manifested by the resilience of the Nation, will be defended by world-class cyber defense.

Secondly, it is necessary to be able to evolve in contested environments, facing seasoned adversaries, with proven technological capabilities across the entire spectrum of conflict. The national emergency level must therefore be reinforced and have the necessary means for an intervention on short notice, even far from mainland France. This requires enhancing operational preparation, increasing the availability of equipment, adapting the stages of alert to the intensity of the threat, thinking about and constructing ammunition stocks accordingly.

Military effects will be combined through digitization of the battlefield, including collaborative combat capabilities, such as the SCORPION ground system and tomorrow, among others, the Future Air Combat System (FAS). Capabilities in areas with high operational added value will be strengthened, such as ground-to-air defence, long-range strike, suppression of enemy air defenses and anti-submarine warfare, with a view to establishing of a true war economy.

Finally, thirdly, we must be able to respond to the plurality of actions in common spaces. To do this, it will be necessary to be able to detect weak signals, by adopting a decompartmentalized and proactive approach, from influence to direct action through an effort in the military, but also informational, digital, cultural, economic and industrial fi For this, the ability to monitor and react, but also to take the initiative, to pass on clear strategic messages in the exo-atmospheric space, in the digital space and in the maritime spaces will be reinforced. The ramping up of space capabilities will be continued. Means of action in the digital space will be developed. In the maritime space, it is necessary to have naval capacities commensurate with national maritime assets. A capacity to control the seabed down to a depth of 6,000 meters will be acquired in particular, for military reasons, but also for the protection of our critical underwater infrastructures. The armed forces will also be more and better present in the overseas territories.

With regard to the "operation" aggregate and, more generally, the elements contributing to the improvement of the conditions of the personnel, the hardening of the missions, such as the reversibility of the situations on the theaters, but also the taking into account of the surprise strategy and the unpredictability of crises, reinforce the need for an agile and reactive support capability. This is why an effort will be made in favor of support services to modernize them, meet the challenges of recruitment and retention and simplify their mode of operation.

Investments are also undertaken to renew, modernize and adapt the operational infrastructures of the various armies specific to their field of conflict, to

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the increase in power of their intelligence activities and those of logistical support, and finally to ensure the security-protection of rights-of-way at the minimum level necessary for the protection of defense interests will be achieved.

At the same time, a particular effort will be made for routine maintenance and upgrading of day-to-day infrastructure. The objective will be to facilitate the conditions for exercising the profession and to better organize the living environment, in particular thanks to the investments that will be made in the work environments, accommodation and power supply units.

2.3 This programming will be updated before the end of 2027 and will propose a reorientation of the trajectory of resources and staff for the period 2027-2030 depending on the evolution of the geopolitical and military context.

2.4 The sincerity and conforming execution of military programming also require a certain number of clauses and mechanisms for correcting the assumptions made during construction.

Firstly, external operations (OPEX), internal missions (MISSINT) are distinguished by their unpredictable nature (triggering in response to crises or political intervention decision). This situation does not allow for exact budgeting in the initial finance law and justifies the use of a provision mechanism, supplemented by a safeguard clause guaranteeing management coverage of additional costs beyond the provision.

This 2024-2030 military programming bill adjusts the annual OPEX MISSINT provision downwards, mainly to take into account the reduction in the operational footprint (in particular for the Barkhane disengagement). The annual provision will therefore change as follows:

(in €m)	2024	2025	2026	2027	2028	2029	2030
Provision OPEX-MISSINT	800	750	750	750	750	750	750

The 2024-2030 military programming bill also provides, like the 2019-2025 LPM, mechanisms to promote better information and better control of net additional costs related to OPEX and MISSINT.

Secondly, this LPM, like the previous one, provides for mechanisms to protect military programming from the effect of the volatility of certain prices.

Article 5 aims to preserve the continuity of operational preparation and the activity of the forces, in the continuity of the previous LPM, and allows the Ministry of Defense to benefit from financial management measures in the event of a rise in the observed price of operational fuels, and additional credits in the initial budget law if the increase is sustainable.

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3. MONITORING THE EXECUTION OF THE PROGRAMMING

This bill intends to capitalize on the tools already put in place during the previous LPM, which enabled Parliament to exercise real control over the execution of the programming law, thus contributing to its proper application. this.

It thus provides for the transmission of two annual reports to Parliament, one, before April 30, on the results of the execution of the military program for the past year, and the other, before June 30, on the issues and main developments in the budget programming of the "Defence" mission.

This mechanism includes a slight change in the rate of transmission of reports on execution: unlike what the current LPM provided for, it is a question of transmitting to Parliament the data of the execution of the past year and no longer of the last six months. This allows Parliament to have an overall annual vision that a half-yearly analysis would not allow.

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TITLE II – NORMATIVE PROVISIONS CONCERNING THE NATIONAL DEFENSE

CHAPTER I RE – STRENGTHENING OF THE LINK BETWEEN THE NATION AND ITS ARMIES AND MILITARY CONDITION

Article 11: Ensure the continuity of the missions of the Order of Release

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

The Order of Liberation was created by an ordinance of November 16, 19402 , in order to " to reward the persons or the military and civilian communities who will have distinguished themselves in the work of the liberation of France and its Empire". The Cross of Liberation, the only insignia of this order, materializes the expression of this recognition. A decree of January 29, 19413 , taken for the application of this ordinance, specified the organization of the Order of the Liberation, which was based on a "Council of the Order of the Liberation", and the methods of attribution of the cross of the Liberation .

Ordinance No. 45-1779 of August 10, 19454 endowed the Order of the Liberation with legal personality and budgetary autonomy, according to provisions and a statute inspired by the Legion of Honor. This ordinance was modified by decree n° 2008-459 of May 16, 20085 which created within the Order the museum of the Order of the Liberation, which "contributes to the knowledge of the heroic actions of the companions of the Liberation and the history of the order of the Liberation" and "ensures the conservation, presentation and enhancement of the collections owned by the order or in its custody".

Law No. 99-418 of 26 May 19996 created "a national public institution of an administrative nature called the National Council of Communes "Compagnon de la Liberation", placed under the supervision of the Keeper of the Seals, Minister of Justice". By constituting the Order in the f

[2] Ordinance No. 7 of November 16, 1940 creating the Order of Liberation.

[3] Decree of January 29, 1941 regulating the organization of the Order of the Liberation.

[4] Ordinance No. 45-1779 of August 10, 1945 on the organization of the Order of Liberation.

[5] Decree no. 2008-459 of 16 May 2008 relating to the Museum of the Order of the Liberation.

[6] Law No. 99-418 of 26 May 1999 creating the Order of Liberation (National Council of Communes "Compagnon de la Liberation").

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of a public establishment, the legislator aimed in particular to guarantee that the actions carried out in matters of memory would be continued, despite the gradual disappearance of the natural persons holding the cross of the Liberation. To this end, the institutive provisions of the newly created establishment provided in particular that the mayors in office of the five communes holders of the cross of the Liberation were part of the board of directors of the Order and that the management of the establishment was provided by a national delegate appointed by the President of the Republic.

Article 10 of this same law also organized the terms according to which the establishment was to succeed the Council of the Order of the Liberation; the law coming into force when "the Council of the Order of the Liberation can no longer bring together fifteen members, natural persons". This same article 10 also provided that the incumbent chancellor of the Order of the Liberation would, simultaneously with this entry into force, be appointed national delegate by decree of the President of the Republic for the remaining duration of his term of office as chancellor.

The gradual decrease in the number of Companions of the Liberation and the constraints linked to the management of the Order7 subsequently justified not waiting for the condition provided for by article 10 of the aforementioned law of 26 May 1999 to be fulfilled, in order to allow the establishment of new methods of governance of the establishment. This was the subject of article 4 of law no. 2012-339 of March 9, 20128 , which amended the aforementioned article 10 in order to provide for the entry into force of the 1999 law “on a date fixed by decree in the Council of State and no later than 16 November 2012”. On this basis, Decree No. 2012-1253 of November 14, 2012 relating to the National Council of Municipalities "Compagnon de la Liberation" set November 16, 2012 as the date of entry into force of the law of May 26, 1999 and specified the organizational and operating methods of the establishment. In accordance with the provisions of this same article 10, Colonel Fred Moore was appointed national delegate of the establishment by decree of November 15, 2012.

More recently, and still with a view to ensuring the continuity of the Order and the traditions it carries, several changes have been made by legislative and regulatory means to the organization of the establishment.

Decree No. 2017-538 of April 13, 20179 thus transferred supervision of the establishment from the Minister of Justice to the Minister of Defence, consistent with the memorial and museum duties of the latter.

7 In particular those related to the management of the museum of the Order of the Liberation which had been entrusted to the Council of the Order by decree no. 2008-459 of May 16, 2008 relating to the museum of the Order of the Liberation.

8 Law No. 2012-339 of March 9, 2012 amending Law No. 99-418 of May 26, 1999 creating the National Council of communes “Compagnon de la Liberation”.

9 Decree No. 2017-538 of 13 April 2017 relating to the Order of the Liberation (National Council of Communes “Compagnon de la Liberation”)

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Article 48 of the law of July 13, 201810 changed the name of the establishment, which became "Order of the Liberation (National Council of Municipalities "Compagnon de la Liberation")" in order to give it greater visibility and to materialize the continuity with the Order created in 1940. This same article also widened the composition of the board of directors, in order to provide for the presence of representatives of the State, of the armies of membership of the titular combat units de la Croix de la Liberation, associations working in the field of memory and the history of the Resistance and the Liberation, as well as qualified persons.

During the burial ceremony of Hubert Germain on November 11, 2021, the President of the Republic expressed the desire to perpetuate the "spirit of Resistance" carried by the Order of the Liberation. Despite the disappearance of the last Companion of the Liberation, the Order is called upon to continue to live, "protected by the Head of State".

1.2. CONSTITUTIONAL FRAMEWORK

The Order of the Liberation is a *sui generis* public establishment **without equivalent on the national level which, consequently, constitutes in itself a "category of public establishments" which falls under article 34 of the Constitution.**

Thus, the decision of the Constitutional Council n° 64-27 L of March 17, 1964 according to which the legislator alone is competent to set the rules for the creation of this category of establishment, which necessarily include the constitutive rules, is applicable with regard to the Order.

1.3. CONVENTIONAL FRAME

Not applicable.

1.4. ELEMENTS OF COMPARATIVE LAW

Not applicable.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

As a *sui generis public establishment,* the Order of the Liberation obeys a special regime since its constitutive provisions fall within the domain of the law. According to

[10] **Law No. 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and relating various defense provisions.**

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case law of the Constitutional Council11, are considered as constitutive provisions the rules relating to the general framework of the missions entrusted to the establishment, to the determination of the governing bodies (role, conditions of appointment and qualities of the persons composing them) and to the categories of resources of which it can benefit.

The placement of the Order under the protection of the President of the Republic and the consecration of the role of the Grand Chancellor of the Legion of Honor contribute to the rules that constitute the establishment through their symbolic significance and the stability they confer.

The same applies to the composition of the Board of Directors, which must be modified to take into account the disappearance of Hubert Germain, the last natural person to hold the Cross of the Liberation, and to ensure the presence of the Grand Chancellor of the Legion of honor or his representative to take over the attributions.

Furthermore, the extension of the missions of the Order of the Liberation to medalists of the French Resistance and the extension of the moral and material aid granted by the Order to surviving spouses, and more exclusively to widows, of the Companions of the Liberation and medalists of the French Resistance, cannot be adopted by regulatory means.

2.2. OBJECTIVES PURSUED

This article materializes the special attention paid by the Head of State to the Order of the Liberation by placing it under his special protection and concretizes the announcements made during the speech of homage to Hubert Germain on November 11, 2021.

The presence of the Grand Chancellor of the Legion of Honor on the Board of Directors and the official extension of the Order's attributions to medalists of the French Resistance also make it possible to ensure the continuity of the traditions and the transmission of the values that he door. The Order of the Liberation is indeed an essential actor in the development of the spirit of defense of the youth and the guardian of the memory of the combatants and resistance fighters of the Second World War.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTIONS ENVISAGED

The possibility of carrying out the reform of the Order of the Liberation without going through a legislative vector, by modifying the provisions concerned by decree after delegalisation or by inserting them directly into the draft decree accompanying the bill, has been studied.

[11] Decision n° 64-27 l of March 17, 1964.

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However, it was found that, while it was possible to make some of the changes desired for the Order by decree, either directly or by delegating, the use of a legislative vector remained essential to carry out this reform. .

3.2. SELECTED OPTION

The military programming law will give Parliament the opportunity to adopt the provisions necessary for the sustainability of the Order of Liberation.

The proposed article reinforces the regal character of the Order of the Liberation by placing it under the special protection of the Head of State.

In addition, he modifies the composition of the Board of Directors in order to ensure the presence of the Grand Chancellor of the Legion of Honor or his representative. The Director General of the National Office for Combatants and War Victims is also introduced to the Board of Directors.

Moreover, as proposed by Hubert Germain, this article consecrates the role of the medalists of the Resistance in terms of spreading the influence of the Order of the Liberation.

Finally, it makes various editorial adjustments which aim, on the one hand, to take into account the disappearance of the last of the companions of the Liberation and, on the other hand, to remove the provisions relating to the personnel of the Order: in addition to hey do not come under the legislative domain, the said provisions did not allow the national delegate of the Order to be possibly assisted by military personnel.

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

The reform of the Order of the Liberation led to the modification of articles 1, 2, 3 and 6 of law n° 99-418 of May 26, 1999 creating the Order of the Liberation (National Council of Communes "Compagnon ").

4.1.2. Articulation with international law and European Union law

Not applicable.

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4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

Not applicable.

4.2.2. Business impacts

Not applicable.

4.2.3. Budgetary impacts

Not applicable.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

Not applicable.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

Not applicable.

4.5. SOCIAL IMPACTS

4.5.1. Impacts on society

The reform of the Order of the Liberation makes it possible to consolidate its existence and its missions and to ensure the influence of the establishment and the values it conveys. It participates fully in developing the spirit of defense in French society.

4.5.2. Impacts on people with disabilities

Not applicable.

4.5.3. Impacts on equality between women and men

Not applicable.

4.5.4. Impacts on youth

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The continuity of the Order of the Liberation brought about by this reform also consolidates its mission of bearing witness, to future generations, to what the Companions of the Liberation did for our country. It contributes to developing the spirit of defense of young people by being the guardian of the memory of the combatants and resistance fighters of the Second World War.

4.5.5. Impacts on regulated professions

Not applicable.

4.6. IMPACTS ON INDIVIDUALS

Not applicable.

4.7. ENVIRONMENTAL IMPACTS

Not applicable.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

Pursuant to the provisions of the general civil service code (CGFP)12 , the social administration committees deal with issues relating to the operation and organization of services.

As the Order of the Liberation does not have its own committee because of its numbers, the reorganization project concerning it13 was presented to the ministerial technical committee on December 13, 202114 .

However, in the light of the constant case law of the Council of State15, the amendments made to law no. 'having no sufficiently significant effects on the working conditions of the agents of the Order, the consultation of the technical committee

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[12] **Article L. 253-1 of the CGFP.**

[13] **Draft decree modifying in particular decree n° 2012-1253 of November 14, 2012 relating to the Order of the Liberation.**

[14] **Pursuant to the provisions of article 251-2 of the CGFP.**

[15] **Case no. 387542 - general meeting of the Council of State, May 16, 2013; Case no. 399211 - administration section of the Council of State, December 11, 2019; Case no. 405237 - administration section of the Council of State, May 24, 2022.**

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ministerial was not required. The presentation of the bill to the ministerial technical committee of December 13, 2021 was therefore of an informational nature.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

This provision comes into force the day after the publication of the law in the *Official Journal* of the French Republic.

5.2.2. Application in space

This provision is applicable throughout the territory of the Republic.

5.2.3. Application texts

In order to draw the consequences of the legislative changes brought about by this article and to supplement them on various points, several regulatory provisions will have to be modifi

1° Decree No. 2012-1253 of 14 November 2012 relating to the Order of the Liberation (national council of municipalities "Compagnon de la Liberation");

2° Article R. 117 of the code of the Legion of Honor, of the Military Medal and of the Order of Merit, in order to extend the compulsory consultation of the Grand Chancellor of the Legion of Honor to all questions of principle concerning French decorations;

3° Decree n° 89-655 of September 13, 1989 relating to public ceremonies, precedence, civil and military honours, in order to provide for the rank of precedence of the national delegate of the Order in public ceremonies, following the disappearance the honorary chancellor;

4° Decree n° 2006-313 of March 10, 2006 instituting on June 18 of each year a national commemorative day of General de Gaulle's historic call to refuse defeat and to continue the fight against the enemy, in order to confer to the Order of the Liberation a supervisory role in the organization of a symbolic ceremony devolved from now on to the competent authorities of the Ministry of Defence.

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Article 12: Strengthen the military compensation regime injured on duty

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

The contemporary evolution of conflictuality towards more hybridity and the development of commitments marked by the triptych "competition, contestation, confrontation" are reflected in the field by the increase in operational missions taking various forms:

- ÿ **external operations (OPEX);**
- ÿ **deployments within the framework of NATO (“Aigle” and “Eagle” reassurance missions) Lynx”, respectively in Romania and Estonia);**
- ÿ **the strengthening of operational military partnerships in areas as close as possible to conflicts (particularly in the Sahel);**
- ÿ **exercises with a strong strategic communication content;**
- ÿ **high-intensity deployments on national territory (“Harpie” mission, dedicated to the fight against gold panning in Guyana).**

The increase and intensification of the missions weighing on the armies leads to exposing the soldiers to significant risks for their life and their health.

Similarly, specifically military high-intensity training, hardening or testing activities can be the cause of accidents with sometimes very serious consequences.

Thus in 2022, nearly 357 soldiers submitted a request for additional compensation for service accidents occurring on operational mission (MISSOPS) within the meaning of Article L. 121-1 of the Code of military disability pensions and victims of war (CPMIVG), while 410 soldiers applied for a pension following an OPEX.

Currently, in law, the system of compensation for the military is specified by the decisions of the Council of State of July 1 , 2005, Mrs. Brugnot, n° 258208 and of October 7, 2013, Mr. Hamblin, n° 337851.

Firstly, a soldier injured in service or having contracted an illness attributable to service may benefit from a military invalidity pension (PMI), paid by the administration, intended to compensate, on a lump sum basis, for a on the one hand, the loss of income and the occupational impact of the physical incapacity and, on the other hand, the functional deficit,

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understood as all of the damage of a personal nature linked to the loss of quality of life, the permanent pain and the problems felt by the victim in their personal, family and social living conditions. When accompanied by the increase for a third person, the pension also covers the costs of assistance by a third person.

To claim the benefit of this pension, the soldier must prove that his disability is of a certain degree of severity: disability rate of 10% for injuries, 30% for illnesses. Below these thresholds, the PMI will not be granted16 except in exceptional cases17 .

It follows from the flat-rate nature of this benefit that, in the majority of cases, the PMI does not fully cover the damage it is intended to repair.

Secondly, in addition to the fixed compensation, additional compensation may also be granted as compensation for damages not covered by the PMI even in the absence of fault on the part of the State due to the professional risk suffered (suffering experienced before consolidation, aesthetic damage, sexual damage, loss of pleasure linked to the impossibility of continuing to practice a specific sporting or leisure activity, loss of establishment linked to the impossibility of starting a family, adjustment costs housing or a vehicle, and finally a third party if the increase has not been requested or has been refused)18 .

Lastly, the serviceman whose damage results from a fault of the administration in the organization or the operation of the service can ask for the integral repair of the whole of the damages undergone. The soldier, in such a case, can therefore obtain, for the items of damage falling within the scope of the PMI (loss of income, professional impact of physical incapacity, functional deficit and costs of third-party assistance when the pension is accompanied by the corresponding increase), additional compensation in the event that these losses are not fully covered by the pension19 .

Nevertheless, this action is subordinated to the demonstration by the soldier of a fault of the administration, which feeds a "legalization" of the link between the soldiers and the armies.

In doing so, an injured soldier does not always obtain full compensation for the damage suffered, this being guaranteed only in the event that the damage suffered is the result of a fault on the part of the State.

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[16] Article L. 121-5 of the CPMIVG: "The pension is granted: 1° For infirmities resulting from injuries, if the degree of invalidity they cause reaches or exceeds 10%; 2° For disabilities resulting from illnesses associated with disabilities resulting from injuries, if the overall degree of disability reaches or exceeds 30%; 3° In respect of disabilities resulting exclusively from illness, if the degree of disability they cause reaches or exceeds: a) 30% in the event of a single disability; b) 40% in the case of multiple disabilities".

[17] Article L. 121-6 of the CPMIVG: "Notwithstanding the provisions of Article L. 121-5, are entitled to a pension, as soon as the disability observed reaches the minimum of 10%, soldiers whose infirmities result from illnesses contracted by the fact or on the occasion of the service when the latter is accomplished: 1° In time of war or during expeditions declared war campaigns or giving right to the benefit of the double campaign; 2° In captivity; 3° In external operations".

[18] See in particular the decision mentioned *above :* CE, 7 October 2013, *M. Hamblin,* no. 337851, §4.

19 *Ibid.* See also CE, July **1, 2005, *Mme Brugnot,* no. 258208, §2.**

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The discrepancy between the reality of the damage and the lump sum value of its compensation by the PMI is particularly marked with regard to assistance by a third party.

Furthermore, in the event that an injured soldier is ineligible for the benefit of the PMI, due to a degree of invalidity below the thresholds mentioned above, the damages resulting from the loss of professional earnings, the incidence professional, and functional deficit cannot, in the absence of fault, benefit from the slightest compensation20 .

1.2. CONSTITUTIONAL FRAMEWORK

The proposed measure must notably take into account two principles with constitutional value: on the one hand, the principle of responsibility and, on the other hand, the principle of equality before the law.

1.2.1. With regard to the principle of responsibility

The Constitutional Council recognizes, since its decision n° 82-144 DC of October 22, 1982, the constitutional value of the principle according to which: *"any act whatever of the man which causes to another a damage obliges that by the fault of which it happened to fix it ."* This principle of responsibility, which takes over textually the provisions of Article 1240 (formerly Article 1382) of the Civil Code, results from Article 4 of the Declaration of the Rights of Man and of the Citizen (DDHC) of 1789 according to which : *"Freedom consists in being able to do anything that does not harm others" (decision* no. 99-419 DC of November 9, 1999); it is therefore only applicable in the event of fault, as judged by the Council, implicitly, in its decision no . 12-12.159 of July 5, 2012.

This constitutionalization of the right to reparation reserves, in any case, to the legislator an important margin to, if necessary, arrange and limit it. The Council thus consistently considers that *"this [constitutional requirement] does not preclude the legislator from adjusting, for reasons of general interest, the conditions under which liability may be incurred; that it may thus, for such a reason, make exclusions or limitations to this principle provided that this does not result in a disproportionate infringement of the rights of victims of wrongful acts and of the right to a judicial remedy effective which results from article 16 of the Declaration of 1789 "21*

In this respect, for example, it deemed the system of compensation for accidents at work and occupational diseases of private sector employees (ATMP) to be constitutional, justified by the reason of general interest of "reconciling the rights of victims *of wrongful acts to obtain redress*

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[20] CE, 14 November 2014, *Miss Billot,* n° 357999.

[21] 2010-2 QPC, June 11, 2010, cons. 11; 2010-8 QPC, June 18, 2010, cons. 10; 2011-116 QPC, April 8, 2011, cons. 4; 2011-127 QPC, May 6, 2011, cons. 7; 2011-167 QPC, September 23, 2011, cons. 4; 2014-415 QPC, September 26, 2014, cons. *5.*

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their prejudice with the implementation of the requirements resulting from the eleventh paragraph of the Preamble of 1946" **and whose rules** ***"do not establish disproportionate restrictions" to this objective since the victims "are thus exempted from initiating an action for damages against the employer and from proving the fault of this one ; that these provisions guarantee the automaticity, rapidity and safety of compensation for industrial accidents and occupational diseases; that they also take into account the burden represented by all the services provided ”22*** **.**

This provision, which enshrines a mechanism for full reparation of all damages exempting the soldier by benefiting from the need to prove the fault of the State, does not appear to be contrary to this principle.

1.2.2. With regard to the principle of equality

The principle of equality before the law, proclaimed by article 6 of the Declaration of 1789, ***"does not prevent the legislator from regulating different situations differently, nor from derogating from the equality for reasons of general interest, provided that, in either case, the resulting difference in treatment is directly related to the purpose of the law establishing it. However, this does not mean that the principle of equality obliges people in different situations to be treated differently. »23*** **.**

The difference in status between soldiers and civilians, as well as the difference between bodies and executives in the public service or between the different trades and professions, necessarily implies the existence of different situations and rules. The Constitutional Council has, for example, already ruled that the existence of a special system of compensation for accidents at work for seafarers is in conformity with the Constitution: " ***in view of the particular conditions in which seafarers carry out their duties and the risks to which they are presentations »24*** **.**

Furthermore, in its decision no. 2018-756 QPC, the Constitutional Council ruled that: ***“Gendarmerie soldiers remain subject to these special rules in their law enforcement activity. (…) despite the similarities in the framework of action of the soldiers of the gendarmerie and the members of the national police in the service of maintaining order, the legislator did not, based on the particularities of the military state of the gendarmes to provide for the competence of the courts specialized in military matters, established of unjustified discrimination between the litigants (…)”.***

In this regard, it may be recalled that the operational missions in which the military are engaged and the exercises and training through which they prepare for them are part of statutory conditions of employment like no other, requiring of them, " ***in all circumstances, spirit of sacrifice, which can go as far as the supreme sacrifice*** **", as recalled by**

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[22] **Decision No. 2010-8 QPC of June 18, 2010.**

[23] **CC, May 6, 2011, No. 2011-127 QPC.**

[24] **CC, May 6, 2011, No. 2011-127 QPC.**

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Article L. 4111-1 of the Defense Code. The level of risk to which they are exposed in this context distinguishes them from other public officials.

It follows that a differentiation of the right to reparation, based on the constraints specific to the military status and the specific risks induced by their operational activities appears to be consistent with the principle of equality.

1.3. CONVENTIONAL FRAME

The general status of military personnel gives them a system of guarantees and risk coverage specific to them, provided for in Articles L. 4123-2 to L. 4123-9-1 of the Defense Code, taking into account the specificities of the conditions of exercise of their missions. This system is governed by an essentially national legal framework.

The rights of French soldiers on the territory of a third NATO member state are governed by the Status of Forces Agreement (SOFA), signed in London on June 19, 1951, which contains a single article relating to this protection (Article VIII).

Indeed, 8. of article VIII of the SOFA specifies that *"each contracting party waives the right to claim compensation from another contracting party in the event that a member of its armed forces has suffered injuries or died in the execution service".* Thus, in the context of an intervention by the French armed forces abroad in which the SOFA applies, only the French State compensates the injured soldier or, in the event of death, the latter's family.

Article 50 of Law No. 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and containing various provisions relating to defense has extended its application to bilateral or multilateral cooperation activities carried out in the field of defense or civil security, on national territory or on board State ships or aircraft.

For other interventions, similar agreements can be made between the intervening States.

1.4. ELEMENTS OF COMPARATIVE LAW

Not applicable.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

The present reform aims to remedy a state of the law which encourages the injured soldier who would like to obtain full compensation for his damages to demonstrate the existence of a fault on his part.

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hierarchical authority, at the origin of his damage, thus opening the way to a "legalization" of relations between the soldier and his army.

Furthermore, as indicated in section 2.2, the current state of the law leads to certain military personnel being less well compensated than civilian public officials.

The implementation of the new system also comes under Article 34 of the Constitution in that it is up to the law to set the rules concerning: "the *fundamental guarantees granted to civil and military civil servants of the State* ".

2.2. OBJECTIVES PURSUED

This measure aims to meet several objectives.

2.2.1. Strengthening the compensation regime offered to injured soldiers

In his speech to the armed forces on July 13, the President of the Republic indicated that: " ***There is no lasting moral force without a strong bond with our wounded, their families and with bereaved families. Protector of invalids, heir to a tradition rooted since Louis XIV and which obliges me, I carry with vigilance the concern of "those who freely exposed their lives and lavished their blood for the defense and support of our country" (…). We must guarantee the injured and their families immediate, lasting, appropriate and benevolent care in the event of injury or death in service. I will therefore be attentive to the progress of the new projects launched in recent weeks, whether it concerns the simplification and improvement of administrative procedures, or the adequacy of measures for recognition, compensation and support for families. It is a condition of serenity, of confidence, therefore of moral strength for the accomplishment of your missions. »***

National Assembly report no. 4016 of April 14, 2021 by Bastien Lachaud relating to the bill for better recognition and better support for mentally wounded soldiers25 also underlines that: "The care of wounded soldiers is *a major issue for the effectiveness of our military operations, the coherence of the military status, the cohesion of our armies and for national solidarity* " (p.5).

The 13th thematic report of the High Committee for the Evaluation of Military Condition (HCECM) of July 2019, relating to "Death, injury, illness", recommends "studying the integration [in the code of military pensions of 'invalidity and war victims] *of this possibility, opened up by case law, of obtaining compensation for damage suffered as a result of the risk run, independently of the military invalidity pension* " (recommendation no. 5).

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[25] Report made on behalf of the National Defense and Armed Forces Committee on the bill for better recognition and better support for mentally injured people in war (n° 4016), by Mr. Bastien LACHAUD, deputy.

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In close collaboration with the armed forces, a 2022-2025 action plan for injured soldiers and their families has been drawn up within the Ministry of the Armed Forces. This article implements the axes of the plan requiring the intervention of the legislator, by strengthening the compensation for damages for soldiers injured in the context of operational activities.

This reform contributes to ensuring greater recognition of the Nation vis-à-vis the military and the specificities of their commitment as well as the risks to which it exposes them.

In addition, this reform is accompanied by the development of internal administrative procedures at the Ministry of the Armed Forces, not requiring the intervention of the legislator, aimed at facilitating the administrative procedures for injured soldiers, in particular the establishment of a "digital house of the injured" or even a single application form for PMI and additional compensation.

2.2.2. Closing the gap vis-à-vis other public officials

If the servicemen's flat-rate pension compensates, as for civilians, the professional impact of the physical incapacity and the loss of professional income, it differs from them by being deemed, in the state of the case law, also to repair the functional deficit (temporary and permanent) as well as assistance by a third party when the PMI is accompanied by the increase provided for in article L. 133-1 of the CPMIVG[26] .

However, unlike the complementary reparation which assesses each damage and compensates it, the pension package is calculated on the soldier's pay. Consequently, functional impairment and third-party assistance are currently compensated, not taking into account the damage suffered by each person concerned (as is the case for civilians), but give rise to the payment of a lump sum pension. calculated on the soldier's pay. And it is of course on these two items of compensation that the gap may be the greatest between the amount of the military pension and the reality of the damage suffered. This broader scope of the pension package for the military explains, in particular for the lower ranks among them, that the compensation scheme is concretely less favorable than for civilians.

The need for the soldier to go through the demonstration of a fault to obtain full compensation for these two heads of damage also artificially fuels the "legalization" of relations with the hierarchy, to the detriment of the cohesion essential to the operational efficiency of the armed forces.

As the following tables illustrate, the differences in the calculation methods of the PMI, for the military, and the temporary disability allowance (ATI), for civil servants, as well as the difference in the scope of the damage whose compensation is covered by these benefits, generate a significant difference, to the benefit of the latter , In

[26] **CE, October 7, 2013, No. 337851, Min. Defense v. Mr. Hamblin; CE, October 7, 2013, No. 338532, Mr. and Mrs. Noé.**

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the level of compensation that military and civil servants can benefit from in the event of a service accident.

CIVIL SERVANT - Temporary disability allowance (ATI) - Amputation of one leg - Reference disability rate (medico-legal indicative scale): 70%.				
The purpose of the ITA is to repair only the loss of income and the incidence professional resulting from physical incapacity caused by an accident in the service or an occupational disease	Location of the agent	Amount annual pension	Amount capitalized as a life annuity27	The ATI is not correlated to the civil servant's grade - it is, moreover, replaced by the lifelong disability pension as soon as the civil servant retires.
	36-year-old civil servant	€9,981.36	441 €146.30	
	Official 42 year old civilian	€9,981.36	€384,551.97	
	Official 54-year-old civilian	€9,981.36	€293,971.10	

MILITARY - Non-increased military invalidity pension (PMI) (without bonus for assistance costs by a third party) - Amputation of one leg - Reference invalidity rate (CPMIVG): 85%. Military family status: Married, one child				
The purpose of the PMI is to repair, on the one hand, the loss of income and the incidence professional and, on the other hand, the functional deficit (when it is accompanied by the planned increase to	Military	Annual amount of pension	Pension amount capitalized in life annuity not increased ATI	Difference between PMI and the
	Soldier (36 years old)	€5,627.99	€248,740.27	-€192,406.03
	Warrant Officer (36 years old)	€6,162.73	€272,374.05	-€168,772.25

[27] The capitalized amount of the annuity is calculated according to a capitalization scale published by the "gazette du palais". The latter is mainly based on the most recent general population tables for “France as a whole” published by INSEE. These are the 2017-2019 tables for metropolitan France which constitute the national mortality tables established on a definitive basis.

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For this purpose, which must be requested by the beneficiary, the purpose of the pension is also to cover the costs relating to third party assistance)	Captain (36 years old)	€8,633.74	€381,585.50	-€59,560.80
	Lieutenant colonel (42 years old)	€10,425.03	€401,645.25	+€17,093.28

Simulation Increased military invalidity pension (in respect of assistance by a third party) - Amputation of one leg - Reference invalidity rate: 85%. Family situation of the soldier: Married, one child.

	Military	Amount annual of the pension	Amount of pension capitalized in non-increased life annuity	Third-party markup person	Amount of capitalized increased pension
The purpose of the PMI is to repair, on the one hand, the loss of income and incidence professional and, on the other hand, the functional deficit (when combined with the increase provided for this purpose, which must be requested by the beneficiary, the purpose of the pension is also to cover the costs relating to third party assistance)	Soldier (36 years old)	€5,627.99	€248,740.27	€62,185.07	€310,925.34
	Warrant Officer (36 years old)	€6,162.73	€272,374.05	€68,093.51	€340,467.56
	Captain (36 years old)	8,633.74 €	€381,585.50	€95,396.37	€476,981.87
	Lieutenant colonel (42 years old)	€10,425.03	€401,645.25	100 €411.31	€502,056.56

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Additional compensation for a soldier - Brugnot - no-fault liability regime - for the same disability - case in which the PMI was not increased				
	Soldier (36 years old)	Warrant Officer (36 years old)	Captain (36 years old)	Lt. Colonel (42 years old)
Functional deficit temporary	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Functional deficit permanent	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Revenue losses	Included in board	Included in board	Included in board	Included in board
Impact professional	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Third party support person if the pension is not increased (2 hours per day at the hourly rate of €15) - capitalized as a life annuity	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Approval damage €9,000.00		€9,000.00	€9,000.00	€9,000.00
Sufferings endured	13,500.00 €	€13,500.00	€13,500.00	€13,500.00
Sexual harm	€1,000.00	€1,000.00	€1,000.00	€900.00
Aesthetic damage	€2,000.00	€2,000.00	€2,000.00	€2,000.00

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PEFP allowance	13,355.00 €	€13,355.00	€17,657.00	€17,657.00
Total compensation additoinal	€38,855.00	€38,855.00	€43,157.00	€43,057.00
Total compensation PMI increased + Brugnot	€349,780.34	€379,322.56	520 €138.87	545 €113.56

Complementary compensation for a soldier - Brugnot - no-fault liability regime - for the same disability - case in which the PMI is increased				
	Soldier (36 years old)	Warrant Officer (36 years old)	Captain (36 years old)	Lieutenant Colonel (42 years old)
Functional deficit temporary	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Functional deficit permanent	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Revenue losses	Included in board	Included in board	Included in board	Included in board
Professional impact	Included in the pension	Included in the pension	Included in the pension	Included in the pension
Third-party assistance if the pension is not increased (2 hours per day at the hourly rate of €15) - capitalized as a life annuity	546 €274.92	546 €275.92	546 €275.92	476 €193.72
Accreditation prejudice	€9,000.00	€9,000.00	€9,000.00	€9,000.00

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Sufferings endured	€13,500.00	€13,500.00	€13,500.00	€13,500.00
Sexual harm	€1,000.00	€1,000.00	€1,000.00	€900.00
Aesthetic damage	€2,000.00	€2,000.00	€2,000.00	€2,000.00
PEFP allowance	€13,355.00	€13,355.00	€17,657.00	€17,657.00
Total additional compensation	€571,774.92	€571,775.92	€571,775.92	€501,593.72
Total PMI compensation no increased + Brugnot	820 €515.19	844 €149.97	953 €361.42	903 €238.97

Complementary compensation for a civil servant - "Moya-Caville" case law - no-fault liability regime - for the same infirmity					
	Official A (36 years old)	civil servant e B (36 years old)	Official C (36 years old)	Worked re D (42 years old)	civil servant e E (54 years old)
Temporary functional deficit	€10,000.00	€10,000.00	€10,000.00	€10,000.00	€10,000.00
Functional deficit permanent	€168,134.00	168,134.00 €	€168,134.00	168,134.00 €	168,134.00 €
Revenue losses	Included in allowance	Included in allowance	Included in allowance	Included in allowance	Included in allowance
Professional impact	Included in allowance	Included in allowance	Included in allowance	Included in allowance	Included in allowance
Third party assistance if the pension is not increased (2 hours per day at the hourly rate	€546,274.92	546,275.92 €	546 €275.92	476,193.72 €	364,026.72 €

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of €15) - capitalized as a life annuity					
Accreditation prejudice	€9,000.00	€9,000.00	€9,000.00	€9,000.00	€9,000.00
Sufferings endured	€13,500.00	€13,500.00	€13,500.00	€13,500.00	€13,500.00
Sexual harm	€1,000.00	€1,000.00	€1,000.00	€900.00	€800.00
Aesthetic damage	€2,000.00	€2,000.00	€2,000.00	€2,000.00	€2,000.00
Total additional compensation	€749,908.92	€749,909.92	€749,909.92	€679,727.72	€567,460.72
Amount of compensation ATI + Moya Caville	1,191,055.22 €	1,191 €056.22	1,191,056.22 €	1,064 €279.69	861,431.82 €

Integral reparation for the same infirmity - Military in operation. Family situation of the soldier: Married, one child.				
	Soldier (36 years old)	Warrant Officer (36 years old)	Captain (36 years old)	Lieutenant Colonel (42 years old)
Temporary functional deficit	€10,000.00	€10,000.00	€10,000.00	€10,000.00
Permanent functional deficit	168 €134.00	168 €134.00	168 €134.00	€168,134.00
Revenue losses	€72,000.00	€94,000.00	€110,000.00	€126,800.00
Professional impact	€30,000.00	€30,000.00	€30,000.00	€30,000.00
Third-party assistance if the pension is not increased (2 hours per day at the hourly rate of €15). Capitalized in life annuity	546 €274.92	546 €275.92	546 €275.92	476 €193.72
Accreditation prejudice	€9,000.00	€9,000.00	€9,000.00	€9,000.00
Sufferings endured	€13,500.00	€13,500.00	€13,500.00	€13,500.00
Sexual harm	€1,000.00	€1,000.00	€1,000.00	€900.00

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Aesthetic damage	€2,000.00	€2,000.00	€2,000.00	€2,000.00
PEFP allowance	€13,355.00	€13,355.00	€17,657.00	€17,657.00
Total compensation full compensation	865 €263.92	887 €264.92	907 €566.92	854 €184.72

2.2.3. Full compensation already retained in certain cases

The legislator has already enshrined the principle of full compensation for damages suffered for the benefit of:

- ÿ **conscripts performing national service obligations and victims of bodily injury, Article L. 62 of the national service code laying down in their favor the principle of "full compensation for the damage suffered, calculated according to the rules of common law" of the state;**
- ÿ **for reservists, article L. 4251-7 of the defense code providing since the last LPM that "the reservist victim of physical or mental damage suffered during periods of activity in the reserve and, in the event of death, his beneficiaries are entitled, at the expense of the State, to full compensation for the damage suffered, except in the event of damage attributable to a personal act detachable from the service".**

In addition, the legislator has extended the benefit of full reparations to reservists of the national police (article. L. 411-16 of the internal security code) and those of civil security (article. L. 724-13 of the code homeland security).

Other schemes allowing full compensation for damages are certainly accessible to active military personnel but have limits or are not adapted to the specificity of military engagement:

Functional protection

Like civil servants, article L. 4123-10 of the defense code relating to the legal protection of soldiers provides that " *Soldiers are protected by the penal code and special laws against willful attacks on personal integrity, threats, violence, moral or sexual harassment, assault, insults, defamation or insults to which they may be subjected. The State is required to protect them against the threats and attacks to which they may be subjected in the exercise of their functions and to repair, if necessary, the damage resulting therefrom. He is subrogated to the rights of the victim to obtain from the authors of the threats or attacks the restitution of the sums paid to the victims* ".

These provisions, which imply an obligation for the public employer to fully compensate for the damage caused by violence suffered by an agent in the exercise of his functions, constitute a way of guaranteeing full and complete compensation for the gendarmes.

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injured in the line of duty. On the other hand, they are useless for soldiers injured in operations outside the territory or during training.

The Guarantee Fund for victims of acts of terrorism and other offenses (FGTI)

Public officials are likely to benefit from full compensation for damages by the FGTI. This is a completely separate scheme from the pension and the supplementary compensation; it is provided for by the Insurance Code28 and the Code of Criminal Procedure29 .
Like any victim, public officials are eligible, including if the damage occurred during the performance of their duties.

2.2.4. The proposed reform does not call into question the special provisions applicable to the military in terms of pensions, which have neither the purpose nor the effect of compensating the military and have no impact on the terms of compensation for damages.

In accordance with the second paragraph of I of Article L. 4123-3 of the Defense Code, " ***the State participates in the financing of additional social protection guarantees intended to cover the risks of incapacity for work, invalidity, incapacity or death to which the soldiers they employ subscribe*** **. However, this coverage has neither the purpose nor the effect of guaranteeing full compensation for damages suffered by soldiers in operational activity.**

Provident allowances paid to soldiers by the Public Provident Fund Establishment are financed by contributions deducted on a compulsory basis from the pay of soldiers (Article L. 4123-5 of the Defense Code) are fixed (Articles D .4123-4 and following). While they can, like any form of additional protection, supplement the compensation, they cannot be taken into account for the assessment of the sums owed by the State for the protection of soldiers on account of the risks specific that they take in the service of the Nation.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTIONS ENVISAGED

One option that was studied consisted of removing article L. 133-1 instituting the increase in the pension for third-party assistance costs so that these are covered, no longer under the pension. , but as an additional remedy. Thus, it would have been up to the administration, under the control of the judge, to fix the compensation for this damage item according to the actual costs borne by the interested parties.

[28] **Articles L.126-1 and L.422-1.**

29 Section 706-3.

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Nevertheless, such an abolition would have implied reviewing the mechanism of various allowances or social rights provided for in the code of military invalidity pensions and war victims which make the benefit of the increase a substantive condition.

This is the case of the special allowances granted to the severely disabled (L. 131-1), the special allowance granted to the blind in the Resistance (L. 135-2), the pension granted to the surviving spouses and partners of the military deceased (L. 141-16, L. 141-18 and L. 141-20), the special allowance granted to the surviving spouses and partners of blind people in the Resistance (L. 142-3), free train travel granted to the 100% disabled person's guide (L. 251-2) or the issue of a special priority card (L. 251-4).

3.2. SELECTED OPTION

The option chosen is to remain on the same division between the pension and the repair of common law but to fill the gaps of the current device. The bill maintains the specificity of compensation for soldiers while establishing a guarantee of full compensation for soldiers injured in operational activity, drawing the consequences from the fact that this full compensation for their damage is, in certain situations, more difficult for them accessible.

To do this, it consists in including in the legislative part of the Defense Code the principle of full reparation for soldiers suffering from infirmities arising during war events or during certain operational activities.

Section I of this article provides, in accordance with Article L. 4111-1 of the Defense Code30 and like the system provided for in Article L. 4251-7 of this code for reservists31, that the active military personnel are entitled to full compensation for damage suffered, even through no fault of the State, when the damage originates from:

- ÿ **a war operation;** ÿ **an operation**
- **qualified as an external operation, under the conditions provided for in Article L.4123-4;**
- ÿ **a mission mobilizing military capabilities, taking place on national territory or outside it, aimed at defending the sovereignty or interests of France,**

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[30] **Article L. 4111-1 of the Defense Code: "** ***The military state requires in all circumstances a spirit of sacrifice, which can go as far as supreme sacrifice, discipline, availability, loyalty and neutrality. The duties it entails and the constraints it implies deserve the respect of the citizens and the consideration of the Nation. / The status set out in this book provides those who have chosen this status with the guarantees that meet the specific obligations imposed by law. It provides compensation for the constraints and demands of life in the armed forces and related formations.*** **»**

[31] **Article L. 4251-7 of the Defense Code: "** ***A reservist who is the victim of physical or psychological damage suffered during periods of activity in the reserve and, in the event of death, his heirs are entitled, at the expense of the State, to full compensation for the damage suffered, except in the event of damage attributable to a personal act detachable from the service*** **".**

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the preservation of the integrity of its territory of a particular intensity and dangerousness comparable to those of an external operation;

- **exercises or maneuvers to condition the forces when they have specifically for the purpose of combat preparation.**

The following will therefore now be fully compensated, regardless of the fault of the State:

- **accidents occurring in OPEX or during missions taking place on the territory national ;**
- **accidents occurring during training courses or commando training (parachute jumping, scuba diving, testing prototypes of military equipment, training courses in the mountains, airlifting exercises, etc.).**
- **crashes of military aircraft during training *(cf.* the air accident at the Los Llanos base of January 26, 2015 in Albacete in Spain, which notably caused the death of nine French soldiers);**
- **exercises carried out within the framework of NATO, the European Union, the UN.**

On the other hand, so-called "routine" service accidents, unrelated to the operational missions defined above, will not fall within the scope of application of the right to full compensation without fault of the State enshrined in the Code of defence32, such as for example:

- **a fall or an accident at the place of service;**
- **maintaining normal physical condition without an operational aim;**
- **an accident occurring while traveling between home and the place of work.**

Thus, in addition to the pension and without having to demonstrate a fault on the part of the State, the soldiers concerned will be entitled to the payment of an indemnity to compensate for the possible insufficiency of the pension to cover the damages of loss of income and professional impact, functional impairment and costs of assistance by a third party.

The measure thus makes it possible to improve the guarantees offered to the military within the framework of their operational missions (by providing, for these specifically military activities, a system that appears to be more favorable than that applicable to civilian agents but which in reality compensates for the disadvantages that may induce the flat-rate calculation of the permanent functional deficit and the use of a third party, specific to the military).

This proposal also has the effect of no longer forcing the wounded soldier to have to seek fault on the part of his superiors in the preparation or conduct of a combat operation in order to be able to hope to obtain full compensation for his injuries suffered. It thus tends to limit a tendency to “legalization”.

Furthermore, concerning the mechanism for the increase for third parties provided for in Article L. 133-1 of the code for military invalidity pensions and war victims, II of this

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[32] Without prejudice to special legal regimes giving the right to full compensation for damages.

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Article provides that the damage must be the direct and determining cause of recourse to assistance by a third party, thus softening the position consistently adopted by administrative case law, which considers that "the benefit of Article L. *133- 1 of the code of military invalidity pensions and war victims in favor of invalids whose disabilities make them unable to move, to conduct themselves or to perform acts essential to life can only be granted if the need for the The constant help of a third person is the direct and exclusive consequence of affections imputable to the service* "33. The purpose of this paragraph is to clarify the system and to simplify the payment of the increase for third parties person.

Finally, III provides for the terms and conditions for the temporal application of this reform and indicates that this article is applicable to claims for compensation that have not given rise to a decision that has become final before the promulgation of this law.

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

I of the draft article creates a new article L. 4123-2-2 within the fourth part of the defense code devoting the right to full compensation for soldiers injured or having contracted an illness by the fact or on the occasion of a war event or an operational mission.

II amends article L. 133-1 of the CPMIVG relating to the increase for third parties.

Finally, III provides for the terms of temporal application of this reform.

4.1.2. Articulation with international law and European Union law

Not applicable.

4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

Not applicable.

[33] **CE, Sect., 17 December 2003, no. 246728; EC, July 9, 2008, No. 302150; EC, March 10, 2022, No. 448876.**

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4.2.2. Business impacts

Not applicable.

4.2.3. Budgetary impacts

Full reparation involves the payment, where applicable, of the difference between the amount of damages covered by the PMI, assessed according to the rules of common law, and that of the capital representing the PMI.

The proposed measure will not result in a major increase in the indemnities paid.

The study of a panel of files in which the recognized fault of the State led to full reparation shows that, on average, the provision relating to full reparation would imply an additional cost evaluated at 2 M€ per year, it being specified that depending on the year, the compensation paid to repair service accidents in operational missions varies between 2.5 and 4.5 million euros34. /

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

Not applicable.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

Not applicable.

4.5. SOCIAL IMPACTS

4.5.1. Impacts on society

Not applicable.

4.5.2. Impacts on people with disabilities

By providing that the damage must be the direct and determining cause of the costs of assistance by a third party under Article L. 133-1 of the CPMIVG, and no longer their exclusive cause (jurisprudential condition), the proposed reform relaxes the conditions compensation for the corresponding costs, thus allowing:

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34 It may happen, in a limited number of cases, that the capital representing the PMI is greater than the actual amount of the damage that the pension is intended to repair.

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- ÿ **simplification and acceleration of the payment of the increase for third parties person by the administration;**
- ÿ **easier access to compensation represented by the MTP, as well as a improving the quality of life of the injured.**

4.5.3. Impacts on equality between women and men

Not applicable.

4.5.4. Impacts on youth

Not applicable.

4.5.5. Impacts on regulated professions

Not applicable.

4.6. IMPACTS ON INDIVIDUALS

Full compensation for damage suffered by soldiers injured as a result of or during war operations or specifically military operational activity will guarantee them better compensation, in the absence of fault on the part of the State.

4.7. ENVIRONMENTAL IMPACTS

Not applicable.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

The system received a favorable opinion from the Superior Council for Military Service on March 9, 2023.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

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This article will enter into force the day after the day of publication of this law in the *Official Journal* of the French Republic, with the exception of the provisions relating to article L. 4123-2-2 of the defense code which apply to requests that have not given rise to a decision that has become final before the promulgation of this law.

5.2.2. Application in space

This article is applicable throughout the territory of the French Republic. Indeed, the amended provisions are part of the general status of the military, applicable automatically throughout the territory, including in the overseas departments and regions as well as in the overseas communities governed by article 74 of the Constitution and in New

5.2.3. Application texts

These provisions do not require any application text.

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Article 13: Further protect the beneficiaries of soldiers who died in service by guaranteeing the payment of the balance of the balance of the month of death

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

Since 2011, 257 service members have died from causes attributable to service, excluding illness and commuting accidents.

In its wording stemming from Law No. 2010-1330 of November 9, 2010 reforming pensions, Article L. 90 of the Civil and Military Retirement Pensions Code (CPCMR) provides that the remuneration of civil and military civil servants is interrupted from the date of cessation of activity.

Thus, in the event of the death of a soldier, his rights to remuneration are interrupted on the day of death.

Created by Ordinance No. 2021-1574 of November 24, 2021 on the legislative part of the General Civil Service Code (CGFP) and which entered into force on March **1 , 2022, Article L. 711-4 of this code introduces an exception to the principle laid down by the CPCMR. It provides that: " *Public officials who died in service are entitled, for the benefit of their heirs, to payment of the remainder of the remuneration for the current month (…).* »**

It follows from the provisions of articles L. 6 and L.7 of the general civil service code (CGFP) relating to the scope of application of this code that the military do not benefit from these provisions.

Article L. 4123-1 of the Defense Code grants the military the fundamental statutory guarantee that any general measure affecting the remuneration of civil servants of the State must be, subject to the necessary adaptation measures, applied to military.

1.2. CONSTITUTIONAL FRAMEWORK

Article 6 of the Declaration of the Rights of Man and of the Citizen of 1789 states that: The law "must be the same for all, whether it protects or punishes. »

Article 34 of the Constitution of October 4, 1958 places in the legislative domain the fundamental guarantees granted to the civil and military civil servants of the State.

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1.3. CONVENTIONAL FRAME

The European Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights do not explicitly consider the question of equality before the law from a statutory angle.

1.4. ELEMENTS OF COMPARATIVE LAW

Not applicable.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

The principle of continued remuneration of public officials who died in service was established as a fundamental guarantee for their benefit.

The military benefit from the statutory guarantee posted in article L. 4123-1 that any general measure affecting the remuneration of civil servants of the State must be, subject to the necessary adaptation measures, applied to the military. Granting the fundamental guarantee that public officials now enjoy to soldiers who died in service falls within the legislative domain under the terms of Article 34 of the Constitution. It must be included, like the other fundamental guarantees enjoyed by the military, in the legislative part of the defense code.

This transposition is necessary with regard to the principle of equality before the law between public officials within the meaning of the CGFP and the military. Indeed, if the military have different statutes from those of the civil public agents of the State, the fact remains that they can have to carry out similar missions, in particular the gendarmes, the soldiers of the brigade of the firefighters from Paris, the battalion of marine firefighters from Marseille and military training from civil security, or soldiers from the army health service as part of the participation of army hospitals in the public hospital service. They may die in service, in comparable circumstances, or even in the same event.

In the current state of the legislation, the heirs of a customs official, the national police or the departmental fire and rescue services who died in service can benefit from the remainder of the remuneration for the month of death, whereas the heirs of a gendarme, a soldier, a sailor or an airman who died in similar circumstances, or even died for France, are deprived of it.

The difference in treatment between the heirs of State, territorial or hospital public officials and those of the military cannot be objectively justified.

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The particular case of continuation of the remuneration of public officials who died in service derogates from the more general principle of the cessation of remuneration on the day of the cessation of activity of civil and military civil servants laid down in Article L. 90 of the Pensions Code civilian and military disability. This derogation from the law can only be authorized by a text of the same level.

2.2. OBJECTIVES PURSUED

The new rule should make it possible to interrupt the payment of the remuneration of the soldier who died in service only at the end of the month of death. The balance being paid in arrears by transfer to the bank account of the person concerned, there will be no need to seek the identity of the beneficiaries of the remainder after the day of death. These will automatically be beneficiaries insofar as the entirety of the last month paid will enter into the estate.

Maintaining rights to remuneration until the end of the month of death in service will prevent, for the soldiers concerned, the creation of overpayments, due to the material impossibility of taking into account a death occurring late in the month when the liquidation has already been completed, and even the payment has already been made. The recovery of these overpayments from bereaved families may cause them to misunderstand the circumstances of the death.

Furthermore, in the event of a major engagement of the French armed forces, assuming a high rate of losses, the compensation system could be clogged by the requirements for recovery of overpayments of compensation for the month of death. Alleviating this constraint contributes to strengthening the resilience of the support of the armed forces.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTION ENVISAGED : DELEGALIZATION OF THE BINDING PROVISIONS OF THE CPCMR (DISCARDED)

The third paragraph of I of article L. 90 of the CPCMR fixes the date of cessation of the rights to remuneration of public officials on the day of their cessation of activity. The legislative nature of this provision could be discussed insofar as it does not obviously fall within the scope determined by Article 34 of the Constitution; in particular, the cessation of remuneration can hardly be considered as a fundamental guarantee.

A delegalization procedure following the procedure provided for in Article 37, paragraph 2, of the Constitution could therefore be undertaken. If this is successful, the government could then, by decree, introduce an exception for the benefit of the successors of soldiers who died in service.

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However, this path was not adopted. In addition to the uncertain nature of the Constitutional Council's conclusion, which does not guarantee the effectiveness of this option, this modus operandi has not been considered for civil public officials.

3.2. SELECTED OPTION

**The new provision of Article L. 711-4 of the CGFP relating to continued processing is transposed into the legislative part of the Defense Code, in Book I of Part Four, relating to the general status of military personnel, in the form a new paragraph in article L.
4123-1. Indeed, the CGFP has established the principle of continued remuneration as a fundamental guarantee for the benefit of public officials within the meaning of this code. It would be unfair if this same principle were not established as a fundamental guarantee for the benefit of the military.**

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

The provision added to Article L. 4123-1 of the Defense Code introduces a second exception to the principle laid down in I of Article L. 90 of the CPCMR establishing the cessation of the right to remuneration on the day of cessation of activity .

It consolidates the mechanism introduced in Article L. 711-4 of the CGFP, by restoring equal treatment before the law between the heirs of public officials placed in similar situations.

4.1.2. Articulation with international law and European Union law

Under the terms of Title I of the Treaty on the Functioning of the European Union, the remuneration of public officials of the Member States does not form part of the exclusive competences of the Union, shared, or for which the Union coordinates policies.

As stated *above,* international law and European human rights law do not address the issue of equality before the law from a statutory perspective.

4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

None.

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4.2.2. Business impacts

None.

4.2.3. Budgetary impacts

Maintaining until the end of the month of death the remuneration of soldiers who died in service is likely to increase in a random, non-permanent and limited way, the State's remuneration expenditure.

Statistically, over the period 2011-2021, the annual average of military deaths attributable to service (excluding illness and commuting accidents) is 26.

The median net monthly salary of the military is €2,16235. Taking into account a contribution rate estimated at 17%, the average value of the remaining gross remuneration is estimated at half the gross monthly remuneration, ie €1,269.

The potential annual cost of the measure is estimated at €32,606.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

The maintenance until the end of the month of death of the remuneration of soldiers who died in service within these formations is likely to increase in a random, non-permanent and limited way the expenses of these local authorities.

The special budget of the Paris police headquarters, 75% financed by the City of Paris and the communes of the bordering departments on the one hand36, topped up at 25% by the State on the other37 , bears the cost of the remuneration of soldiers of the Paris fire brigade (BSPP). The budgetary impact of the measure, estimated on the basis of the elements communicated by the BSPP, is €761 per year, including €571 at the expense of the local authorities concerned.

The salary expenses of the battalion of marine firefighters of Marseille are, for their part, the responsibility of the City of Marseille38. The budgetary impact of the measure is of the same order of magnitude as that estimated for the BSPP.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

On the basis of a sample, approximately eight cases out of ten for the recovery of undue payments of remuneration against successors of military personnel who died in service proceed

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[35] **Single social report from the Ministry of the Armed Forces 2021, page numbered 123.**

[36] **Article L. 2522-2 of the general code of local authorities.**

[37] **Article L.2512-19 of the general code of local authorities.**

[38] **Article L.2513-5 of the general code of local authorities.**

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the liquidation, or even the payment, in full of the remuneration for the current month on the day of death.

The measure could divide by five the volume of operations to recover overpayments of remuneration from the administrations in charge of ordering the salaries of the military, as well as from the services of the general directorate of public finances.

It will consolidate the resilience of these administrations in the event of significant human losses in the event of a major engagement of the armies.

4.5. SOCIAL IMPACTS

4.5.1. Impacts on society

None.

4.5.2. Impacts on people with disabilities

None.

4.5.3. Impacts on equality between women and men

None.

4.5.4. Impacts on youth

None.

4.5.5. Impacts on regulated professions

None.

4.6. IMPACTS ON INDIVIDUALS

The heirs of a gendarme, a soldier, a sailor or an airman who died in service will benefit from the payment of the full remuneration for the current month on the day of death, in the same way as the heirs - cause of a public official of the State, territorial or hospital.

The measure will avoid aggravating the conditions of mourning for the families of soldiers who died in service by eliminating the overpayments of remuneration caused by the material constraints of the timetable for the liquidation and payment of remuneration.

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4.7. ENVIRONMENTAL IMPACTS

None.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

Pursuant to Article L. 4124-1 of the Defense Code, the Higher Council for the Military Function must be seized of bills modifying the general status of the military and its implementing texts having a statutory, index or compensative. It issued a favorable opinion on March 9, 2023.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

The measure will enter into force the day after the publication of the law in the *Official Journal.*

5.2.2. Application in space

The measure is applicable regardless of the place of assignment, deployment and death of the soldier in service.

5.2.3. Application texts

The article is of direct application.

A modification of consistency of the decree n° 2008-280 of March 21, 2008 modified fixing the system of delegation of pay to the heirs of the soldiers participating in external operations will be necessary.

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Article 14: Promote commitment and career within the operational reserve to strengthen its resources and effectiveness

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

The professionalization of the armed forces and the suspension of conscription have reinforced, since 1996, the importance of military reserves as a pool of forces essential to the defense of our country and closing the army-Nation link. The reserves fulfill essential functions, provided for in Article L. 4211-1 of the Defense Code, namely: " *to strengthen the capacities of the armed forces and attached formations of which* [they are] *one of the components for the protection of the national territory , as in the context of external operations ",* " *maintain the spirit of defence* " and " *contribute to maintaining the link between the Nation and its army* ".

The context of accentuation of armed threats, which does not exclude the hypothesis of high intensity conflicts, requires the adaptation of the current model of the defense tool and in particular imposes a redefinition of the role of military reserves. Anxious to strengthen the " *moral force* " of the Nation, the Head of State has set himself the objective of doubling the number of reservists39 .

The Ministry of the Armed Forces currently has 40,000 volunteers from the operational military reserve40, while the national gendarmerie has 30,80041 . as part of their legal obligation of availability. It is to this end that the " *Renovated Reserves* " project will be implemented during the military programming period. The volume of the reserve forces must adapt to the format of the active and, in the long term, have one volunteer from the operational military reserve for two active soldiers (i.e. 105,000 volunteer reservists, excluding the national gendarmerie) on the horizon. 2035.

This project will lead the reservists to take an increasing place in the operational contract of the armies alongside the active army. Beyond its contribution to the strategic "protection" function, the operational reserve will contribute to taking into account the challenges of resilience and will constitute a resource for meeting the needs for expertise in specialized fields - such as, for example, cyberdefence, design, implementation and support of networks, maintenance of equipment, particularly aeronautical equipn

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39 Speech by the President of the Republic, wishes to the armies of January 20, 2023.

40 Under the conditions of nationality, age and satisfaction of national service obligations identical to those required of active military personnel (Article L. 4232-1 of the Defense Code), as well as under conditions of aptitude and probity specific to reservists (articles L. 4211-2 and L. 4221-2 of the Defense Code).

41 End of December 2021.

42 End of December 2021, respectively for the Ministry of the Armed Forces and the Ministry of the Interior.

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resources, energy and infrastructure support, *etc*, in which the human resources of the armed forces are scarce. The reserve will constitute a real complementary force, capable of individually reinforcing the structures (operational and organic staffs) needing to increase in power, to bring new skills, essential to the hybrid commitment in the different environments and fields of conflictuality, and to structure itself around new units of appropriate size (from the team to the battalion).

The concept of use of reserves will be based on three principles:

- **uniqueness: a reserve that is unique in its meaning but different in its terms (specificity of the citizen reserve for defense and security, longer age limits for the operational reserve, increase in the duration of employment of specialist reservists, *etc.) ;***
- **integration: balanced and integrated employment between the missions of the reservists and those of the active personnel, without limiting the role of the reserves to making up for shortcomings in the active army;**
- **completeness: a complete model (all categories, all armed forces and attached formations) in a peace scheme capable of responding to situations of gradual and potentially simultaneous intensity of engagement (crisis on national territory, pandemic, hypothesis of major commitment, etc.).**

With regard to the evolution of the geostrategic context and the multiplication of the factors of tension, the National Guard has vocation to take an increasing place in the operational contract of our armies. Through the variety of profiles it mobilizes, it offers skills to the armed forces and related formations in specialized fields where human resources are often scarce. Experts in cyber communication, IT specialists, logisticians, engineers, doctors, nurses, this support can prove decisive in enabling the armed forces and related formations to ward off all types of threats.

In 2030, the armed forces better prepared for engagement in a high-intensity conflict including the protection of the national territory will rely on an operational reserve of 80,000 volunteers organized in:

- **a combat reserve made up of operational units equipped and trained, able to intervene with active units on national territory or outside our borders, with 20,000 reservists;**
- **a reserve of skills, capable of strengthening units and staffs, in emerging fields or in the use of new technologies, or the defense industrial and technological base (BITD), to meet the challenges of the economy of war ;**
- **a "protection and resilience of the national territory" reserve, responsible for the protection and defense of military and civilian sites in mainland France and overseas *via* territorialized and battalionary units or coastal flotillas;**

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- **a reserve invested with a mission of "radiation", in charge of maintaining the spirit of defense and strengthening the link between the Nation and its armed forces, while providing the forces with additional expertise in areas presenting a strong civil-military duality.**

The armed forces and attached formations will continue to rely on the citizen defense and security reserve, centered on outreach missions and strengthening the spirit of defense and the values of commitment.

These provisions create the legal means to expand the pool of reservists, to facilitate and simplify their employment, to strengthen their operational employability, and to retain specialist reservists.

To date, nearly 1,200 specialist reservists, mainly officers, are employed by the armed forces and attached formations and by category, according to the following breakdown[43] :

	Army earthen	Marine national	Army of the air and space	Gendarmerie national	Service health of the armies	Business maritime	Service of infra structure of the defense
officers	417	69	110	177	260	0	24
Below officers or officers sailors	100	3	8	26			0
Military rank and equivalent grades	0	0	0				0

1.2. CONSTITUTIONAL FRAMEWORK

The provisions proposed in this article fall within the current constitutional framework.

[43] **Effective in January 2023, from the human resources departments of the armed forces and attached formations.**

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1.3. CONVENTIONAL FRAME

None.

1.4. ELEMENTS OF COMPARATIVE LAW

None.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

Most of the proposed measures come under statutory provisions mentioned, on the one hand, in book II of the fourth part of the legislative part of the defense code. It is therefore appropriate to modify the legislative provisions of the Defense Code relating to the provisions common to all the components of the military reserve (art. L. 4211-1 and following), on volunteers to serve in the operational reserve (art. L. 4221-1 et seq.), on the obligation of availability (art. L. 4231-1 et seq.) and the corresponding penal sanctions (art. L. 4271-1 et seq.). On the other hand, as this bill is intended to modify the provisions relating to certain positions of non-activity, it modifies articles L. 4138-14, L.
4138-16, L. 4138-17 and L. 4139-9 of the same code.

Certain provisions relating to the reserve require the adaptation of the legal defense regimes of exceptional application of Title VII of Book I of the second part of the Defense Code.

Finally, taking into account the references made therein to the Defense Code, this bill amends, by way of coordination, certain legislative provisions of the Labor Code (art.
L. 3142-89 and L. 3142-90) and the code of civil and military retirement pensions (art. L. 12).

These provisions, relating to the constraints imposed by the national defense on the citizens in their person, come under the law in application of article 34 of the Constitution.

2.2. OBJECTIVES PURSUED

2.2.1. Increase in the maximum age of service in the operational reserve

The proposed amendment aims to raise and standardize the maximum age of service in the reserve in order to broaden the pool of potential volunteers from the operational reserve.

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The maximum age for all operational reservists is thus raised to seventy, except for that of military practitioners and specialist reservists, which remains set at seventy-two.

2.2.1.1. *Effect on Operational Military Reserve Volunteers*

This increase in the maximum age of service makes it possible, on the one hand, to create, the day after the publication of this law in the *Official Journal* of the French Republic, new and considerable pools of first-time recruitment of reservists and, on the other hand, to keep in service longer the reservists who, failing that, would be removed from the operational reserve by reaching the current age limit.

This increase is very significant for non-commissioned members and junior non-commissioned officers, whose current age limits in the reserve are set at fifty years for non-commissioned members, and fifty-two years for sergeants and master sergeants. and equivalent grades44 .

The increase will also be significant for senior non-commissioned officer reservists (thirteen, seven and six years respectively for warrant officers, chief warrant officers and majors), for air force officers (eighteen or fourteen) and for the corps of arms officers of the army and the national navy, as well as for the corps of gendarmerie officers (six years).

Finally, it will be more moderate – three years – for the officers of the corps coming under the services or joint support services and attached formations, whose age limits for active military personnel are higher.

The maximum age for maintenance in the 1st section of general officers, which is between sixty-three and sixty-seven years old, has not been changed, as has that of reservists attached to the corps of engineers coming under the general management of armaments and the defense infrastructure service (corps whose age limit for active officers is also high: sixty-six years).

The main pool of initial recruitment created, which is very significant, is that of non-commissioned soldiers. Raising to age 70 creates a pool of approximately 8.83 million French women and 8.15 million French45, including a large proportion of professionals engaged in working life. They represent a potentially very fruitful breeding ground, including for the exercise of dual skills (of a concurrently civil and military nature) making them capable of exercising essential functions within the armies in logistics, transport, defense protection or common support (for example as drivers of public transport vehicles).

The measure opens up to a very large number of potential reservists the option of taking out a commitment or new commitment to serve in the reserve at an age when, often engaged in active life, they are still likely to render many services that are very useful to the armed forces. 'they

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[44] ***See*** **Articles L. 4221-2 and L. 4139-16 of the Defense Code.**

[45] **INSEE data as of** January **1 , 2023.**

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are deemed suitable. It thus creates new opportunities for commitment in favor of national defense for citizens – numbering approximately 25,000 – whose professional life may have excluded them from the military reserve and whose experience can be useful at all ranks. of the military hierarchy, within a more diversified reserve.

In this sense, it makes it possible to create the conditions for doubling the numbers of the operational reserve, at the cost of a possible, but not certain, aging of its numbers.

Indeed, the operational reserve will also be a way of engagement in the service of the defense of the Nation for the young trainees resulting from the "phase 2" of engagement of the Universal national service, in particular for those of them who will carry out their internship within the ministries of the armed forces or of the interior. This source of recruitment, which could represent 15,000 young reservists, will contribute to ensuring a balanced recruitment of the operational reserve in terms of age, qualifications and experience.

The significant increase in the maximum age of service in the reserve does not call into question the imperative of youth specific to the military state and the objective of enhanced operationality of the reserve, since the age groups higher will be essentially mobilized to attract and retain the specialists whose armed forces have a growing need.

2.2.1.2. *Effect on former military reservists under the standby requirement*

Raising the maximum age of service in the operational military reserve also increases the number of former soldiers subject to the obligation of availability, because the volunteers of the operational reserve are required to do so[46] .

It makes it possible to guarantee full compliance with their obligation of availability by certain experienced soldiers who – recruited at over 18 years of age – have completed a full career as a non-commissioned member or junior non-commissioned officer under contract and, after twenty-seven years of service, reach their age limit in the reserve before having fully assumed the obligation of availability incumbent on any former soldier.

2.2.1.3. *Effect on Specialist Reservists*

This measure to raise the maximum age of service for volunteers in the operational reserve does not affect specialist reservists, whose age limit has already been increased by the military programming law 2019-202547, without being able to exceed a ceiling fixed at seventy-two years. This level is considered satisfactory and is not changed.

2.2.1.4. *Effect on Advancement in Reserves*

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[46] ***See* 1° of Article L. 4231-1 of the Defense Code.**

[47] **Law No. 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and relating various defense provisions.**

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Insofar as the hierarchy of ranks accessible to soldiers in the operational reserve has not been modified, but where the career of a reservist can now run for a longer period, advancement in the reserve could be slowed down by continuing to serve in the operational reserve of the highest-ranking soldiers (majors and colonels).

This side effect will however be neutralized insofar as the doubling of the manpower of the operational military reserve will lead to a need for more executives. On the other hand, the granting of the ranks of reservists is not limited. Since the rules for advancement in the reserve are not modified by this bill (except to explicitly extend the benefit to specialist reservists), advancement in the reserve will therefore not be penalized by the modification of the limits of age, which therefore takes effect without a transitional phase.

2.2.2. Relaxation of the rules for determining the suitability of reservists operational (articles L. 4211-2 and L. 4221-2 of the defense code)

The modification of the age limits of the operational reserve as well as the need to facilitate the competition of certain specialists in the armed forces and attached formations impose a clarification of the conditions for evaluating the medical fitness of operational reservists, including specialist reservists .

2.2.2.1. *Inadequacy of the legal framework relating to the assessment of the aptitude of reservists*

The medical skills of operational reservists are set out in articles L. 4221-2 (" *The reservist must have all the skills required to serve in the operational reserve* ") and R. 4221-2 *("The signing of the commitment is conditional on the prior recognition of all the skills required to hold a job there. The physical fitness required is identical to that required for professional soldiers* ") of the Defense Code.

The law therefore currently provides for the same level of aptitude for a volunteer from the operational reserve, who has signed an engagement contract for an identified reserve assignment, and for a former soldier subject to the obligation to availability, not provided with employment in the reserve.

These combined provisions submit, upon recruitment, the assessment of the aptitude of the volunteer of the operational reserve to two methods of evaluation: by reference to the job in which the reservist is assigned ("exercise of the function") or by reference to general conditions of service for reservists (" *serve in the operational reserve* "). The second approach is more restrictive since it requires the reservist to have the ability to occupy a wide spectrum of potential functions.

In this regard, active military personnel are subject to the provisions of Article L. 4132-1 of the Defense Code in terms of physical fitness, which provides that: "No one may be a soldier: (.. .) *3° If he does not have the aptitudes required for the exercise of the function* ".

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2.2.2.2. *Legislative measure establishing the mode of assessment of the aptitude of operational reserve volunteers*

The purpose of this draft law is to include in Article L. 4211-2 the option of applying only to volunteers from the operational reserve, when recruiting them, the principle of fitness to carry out activities arising of the job to which they are assigned. This relaxation of the conditions of aptitude will particularly concern specialist reservists, who have the particularity of being recruited because of the possession of specific skills, which makes them immediately employable. As such, they are not required to undergo prior military training *(see* article L. 4221-3).

In its new wording, Article L. 4211-2 allows armed forces and attached formations to define more flexible medical fitness profiles for operational reservists[48] .

The application of the principle of aptitude for employment is consistent with the deletion in article L. 4221-2 of the concept of age limit for the operational reserve, and with its replacement by the concept of age ceiling 70 or 72 years old.

2.2.3. Opening of the option to subscribe to a commitment to serve in the reserve to active military personnel in a greater number of positions of non-activity (articles L. 4211-1, L. 4211-1-1 new, L. 4138-14 , L. 4138-16, L. 4138-17, L. 4139-9 and L. 4221-6 of the Defense Code and Article L. 12 of the Civil and Military Retirement Pensions Code)

Access to the operational reserve of active soldiers in a position of non-activity was introduced into the general status of soldiers by the aforementioned military programming law 2019-2025: it allows a soldier on leave for personal reasons to raise a child under the age of eight to sign up for volunteering in the operational reserve. This development met a triple objective of strengthening the operational reserve, promoting diversity, building loyalty through the preservation of skills, promoting the return to military employment at the end of leave. It was aimed in particular at soldiers holding rare and strained qualifications, or having benefited from costly training, whose departure at the end of the leave represented a loss for the institution. It also aimed to facilitate the continued service of soldiers (often female) on leave for personal reasons for raising a child. This measure has already benefited around twenty soldiers between 2019 and 2022, who have been able or will thus be able to resume their career in better conditions.

This lever of management and military status has therefore proved useful to the armed forces and attached formations to keep in service a population that a long break with professional activity led to leaving the service. It is in line with the *Plan*

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[48] Former soldiers subject to the obligation of availability, operational reservists who have not been recruited and who do not hold a job, do not therefore require an assessment of suitability for recruitment. They are not covered by any aptitude requirement expressly stated by the Defense Code, but remain subject to the rules applicable to soldiers of the corps or statutes to which they are attached.

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Family **set up to improve the lives of soldiers and their families by taking into account the specificities of their profession. It fully meets the objective of improving the balance between military life and family life, without threatening the statutory principle of availability by creating a part-time "military" regime. Indeed, leave for personal reasons comes under the position of non-activity, in which the soldier is neither subject to the principle of availability nor paid.**

However, the yield from this lever has remained limited, due to its restriction to leave for personal reasons taken for the education of children under the age of eight[49] .

The military community – through the Superior Council of the Military Function (CSFM) – has expressed since 2019 the wish for an extension of the system, for the same purposes as those that inspired the legislative innovation of 2018. The system is, in fact, , which may be extended to all statutory situations of non-activity not resulting from medical unsuitability for employment or departure from the institution. This is the objective of this measure.

These statutory situations of non-activity are as follows:

- **availability (article L. 4139-9 of the defense code): career officers who, having completed more than fifteen years of service, including six as an officer and, where applicable, meet the obligations of the specialized training provided for in Article L. 4139-13, have been admitted, upon approved request, to temporarily cease to serve in the armed forces and related formations. The time spent on availability is not taken into account for advancement by choice, but it is for retirement pension rights and, for half of its duration, for advancement based on seniority. This leave is partially remunerated, on a decreasing basis: the first year 50% of the last salary received before termination of service, 40% of this salary the second year and 30% the following three years;**

- **parental leave (Article L. 4138-14 of the Defense Code), granted by law upon simple request by the soldier after the birth or adoption of a child. The soldier does not acquire the right to retirement (subject to the legislative or regulatory provisions relating to pensions providing for the taking into account of periods of interruption of activity related to the child), he retains all of his rights. to promotion (within the limit of five years for the whole of his career). During the parental leave, the soldier does not receive any remuneration, and cannot exercise another professional activity, the parental leave must be devoted to the education of the child;**

- **leave for personal reasons (Article L. 4138-16 of the Defense Code), unpaid, may be granted to a soldier who has completed four years of service, or without service length conditions in three cases: either when the soldier wishes to follow his spouse or partner in the place of residence far from his garrison of assignment, where this spouse is compelled to fix his residence for professional reason; either to raise a**

[49] **The eight-year age provided for by the military programming law for 2019-2025 has been raised to 12 years by article 213 of law *no* . 1° of article L. 9 of the code of civil and military retirement pensions.**

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child under the age of 12, or to give a relative (dependent child, spouse or partner, ascendant) the care required by an accident, serious illness or disability. This leave is granted upon approved request, for a maximum duration of two years, renewable within the total limit of ten years. The soldier, in this situation, loses his rights to advancement and retirement pension (except in cases where the leave for personal reasons is taken for the education of a child: in this situation, the soldier retains these rights within the limit of five years for his entire career).

Case of availability

The soldiers likely to be placed on standby are experienced soldiers, career officers with between fifteen and twenty-six years of service. The statutory situation of availability allows them, in particular, to organize a professional transition over a longer period (maximum duration of five years, non-renewable) than that offered by the retraining mechanism provided for in Articles L. 4139-5 and L. 4139-5-1 of the defense code (which leads to faster and irreversible removal of executives). It also preserves the military's ability to re-enlist.

The measure aims to create the possibility for the military authority to employ the soldier on standby as an operational reservist, without calling into question the professional activity he could exercise. The objective for the armies is to be able to continue to benefit from the skills of these soldiers and to preserve their know-how, with a view to later reintegration or their compulsory recall. Indeed, the officer on availability is only removed from the executives if he acquires the right to liquidate his pension (twenty-seven years of service). Until this deadline, he remains likely to be employed in the armed forces and attached formations by being recalled automatically "when the circumstances so require".

The employment ceiling will be set at 90 days, similar to the current threshold for commitments to serve in the reserve subscribed by soldiers on leave for personal reasons for the education of a child. The possibility of extending it to 150 days will be provided for in the event of employment in external

The objective of the Ministry of the Armed Forces is not to encourage officers on availability to seek a form of part-time employment with the accumulation of decreasing pay and reservist pay, but to implement a system limited to officers removed from service for a long period, but who have not broken their military status and whose employability must be enhanced or preserved. The targeted nature of the device is based on:

- **on the limitation of the duration of commitment to serve in the reserve;**
- **on the prior approval to be issued by the manager to the candidate for the availablity ;**
- **on the quota of the number of military personnel on standby (160 rights maximum for 2022);**
- **on the number of soldiers actually affected by this statutory situation (23 officers placed on standby in 2022; 19 in 2021).**

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During his reserve periods, the soldier will cease to receive the reduced remuneration to which availability entitles him (article L. 4139-9 of the Defense Code) and will only receive his reserve remuneration. There is therefore no risk of a windfall effect: active military personnel will always remain significantly better paid by remaining in an active position than by carrying out activities in the reserve in favor of an availability. . The conditions for advancement during the time spent on availability are also much less attractive than those of the active position. Finally, placement on availability is not automatic and the number of beneficiaries is limited[50] .

Case of parental leave

Article L. 4138-14 of the Defense Code does not prohibit activity during parental leave. Only a regulatory provision provides limitations, by providing for checks aimed at verifying that the activity carried out by the beneficiary of parental leave is actually "dedicated to the education of the child". It provides for the end of parental leave in the opposite case (Article R. 4138-62 of the Defense Code for the military; Article 56 of Decree No. 85-986 of September 16, 198551 for civil servants).

The law expressly provides the option for the military on parental leave the possibility of signing a commitment to serve in the reserve during parental leave. It will be able to benefit about 450 soldiers. It is only envisaged on an exceptional basis, that is to say in favor of soldiers whose training has been very expensive, whose maintenance of qualification requires regular training, or whose specialty is in deficit and on approval of military authority.

Furthermore, no activity or employment other than engagement in the operational reserve will be authorized on parental leave for the military.

The maximum duration of employment is currently set at 90 days of reserve for soldiers on leave for personal reasons who have subscribed to a commitment to serve in the operational reserve (except in the event of possible participation in an external operation) in accordance with the provisions of the article R. 4138-65-1 of the defense code. This ceiling is not intended to be modified for soldiers on parental leave admitted to serve in th

The measure will therefore not amount to institutionalizing a "military part-time" analogous to part-time in the public service, but incompatible with the principle of availability and service "at any time in any place" (L. 4121-5 of the Code of defense). It aims to broaden the use of a loyalty lever, to make costly training profitable and to improve operational availability.

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[50] ***See*** **article R. 4138-67 of the defense code.**

[51] **Decree No. 85-986 of September 16, 1985 relating to the special regime for certain positions of civil servants in the State, to the secondment, to the integration and to the definitive cessation of functions.**

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By attenuating the total prohibition, applicable only to the military, to benefit from an income in the event of the birth of a child whom they wish to educate before the age of three, the legislative measure responds to a constant request from the CSFM since 2018.

Lastly, the measure will have no counterclaim effect on the civil service, since a civil servant who wishes to have time to educate his child from 0 to 3 years of age without losing his professional skills can ask to benefit from partial activity, a way which is currently closed to the military. As such, Articles L. 612-1 et seq. of the General Civil Service Code set the conditions for part-time work in the civil service, which is obtained by right in four cases (among which is the birth of a child and up to his third birthday). It can be obtained in other cases, not automatically but only subject to the requirements of continuity and operation of the service.

Case of leave for personal reasons

Extending the measure taken in 2018 in favor of soldiers on leave for personal reasons for the education of a child, explained *above,* this possibility open under the same conditions to other reasons for leave for personal reasons will make it possible to remedy two difficulties:

- **the interruption of duties of soldiers with rare skills;**
- **the loss of skills that are not kept up to date, due to an interruption time that may hinder the resumption of activity at the end of the leave.**

The number of military personnel likely to benefit from leave for personal reasons amounts to 600 annually.

2.2.4. Promotion and retention of specialist reservists (article L. 4221-3 of the defense code)

This measure aims to offer specialist reservists similar development prospects to those of other operational reservists.

Specialist reservists are a specific category of operational military reserve volunteers.

Recruited for their expertise for a job, to which the grade conferred on them corresponds, they exercise very specialized and sometimes rare skills in various fields: medical, interpreting in rare languages, cyber-defence, *etc.* Seeing himself granted by ministerial decree a rank for the sole exercise of the employment for which he is recruited (article L. 4221-3 of the defense code), the reservist specialist is, therefore, not likely to to benefit from a promotion, except to be admitted by new engagement to occupy a new employment. On the other hand, the rank which is allotted to him can be a rank superior to the first rank of the hierarchy of the corps to which he is attached.

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This operation puts specialist reservists at a disadvantage and harms the long-term development of their skills, which are nevertheless precious to the armies.

Furthermore, neither Article L. 4143-1 of the Defense Code, which applies Article L. 4136-1 to reservists carrying out an activity under a commitment to serve in the reserve, nor Article L 4221-3, relating to specialist reservists, do not except the latter from the benefit of promotion. However, specialist reservists do not in fact benefit from advancement unless they take out a new commitment to serve in the reserve under another function.

Explicitly opening up to specialist reservists the possibility of advancement, to take into account the increase in their responsibilities and their military professional experience, constitutes a necessary condition for the creation of longer reservist careers, including a change in employment or succession of different assignments. This is the objective of this measure. It will make it possible to enroll specialist reservists in a long-term military professional career, to capitalize on their high professional qualifications, their experience and help them progress in their field of expertise.

It is part of a logic of permanent adaptation of the human resources necessary for the armed forces and related formations, allowing them to have personnel who have developed rare technical skills, in sufficient numbers to respond as effectively as possible to the growing needs inherent in the new threats to the Nation.

It extends and completes the measure to increase long-term employability included in the 2019-2025 military programming law, which raised the age limit for these reservists to ten years (instead of five years) in - beyond the age limit of active servicemen of the corresponding corps (up to seventy-two years old).

By standardizing the provisions applicable to all operational reservists, it will be a source of attractiveness and loyalty in the operational reserve for rare, immediately employable skills.

The possibility of advancement offered to specialist reservists also makes it possible to moderate the recruitment grade, when it will be called upon to evolve during the reservist career.

2.2.5. Definition of the scope of the availability obligation; terminology harmonization (article L. 4231-1 of the defense code)

This draft law clarifies the scope of the obligation of availability incumbent on former military personnel, by deleting the terms " *end of service link* " currently listed in 2° of Article L. 4231-1 of the Code of defense.

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This concept, consistent with the wording used for other articles of the general statute of the military, is replaced by the date of " ***radiation from the executives or controls or until the date of reaching the age limit provided for in article L. 4221-2*** **".**

2.2.6. Simplification of the procedures for recalling reservists subject to the obligation of availability (article L. 4231-2 of the defense code)

As the law stands, the possibilities of recalling former soldiers subject to the obligation of availability are restricted. Apart from the case of general mobilization or warning (art. L. 4213-4 of the Defense Code), they can only be recalled for the sole purpose of verifying their aptitude and for a very short period. (five days, over a period of five years).

Recall options should be expanded. The purpose of the reminder must therefore extend to maintaining skills, in order to guarantee the truly operational nature of their availability. In addition, the number of days over five years is doubled, to be fixed at ten.

To this end, the legislative provisions applicable to the persons concerned are supplemented to expressly enshrine the obligation incumbent on them " ***to inform the military authorities of any change of domicile or residence as well as of professional situation during the period in which they are subject to the obligation of availability*** **".**

One of the objectives pursued is also to broaden the scope of criminal sanctions in the event of non-compliance with all the obligations now incumbent on reservists subject to the obligation of availability, in the event of recall or maintenance in activity of the operational military reserve (armies and national gendarmerie).

2.2.7. Exempt the military authority from obtaining the agreement of the operational reserve volunteer's employer before summoning him for less than ten days per year (article L. 4221-4 of the defense code and article L. 3142-89 of the labor code)

The maximum annual number of reserve days that a volunteer can perform by right without the prior agreement of the employer is currently set at five or eight days, depending on the number of employees in the reservist's company (articles L. 4221- 4 of the Defense Code and L. 3142-89 labor code). In order to increase the availability of reservists and to simplify their summons procedure, the measure increases this number to ten days, outside of crisis periods, regardless of the number of company employees.

This development makes it possible to increase the effective availability of reservists and, thus, to consolidate the integration between the reserve and the active and to streamline the convocation procedure for reserve periods.

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Furthermore, it should be noted that this new threshold will be aligned with that applicable for the summoning of the operational reserve of the national police (article L. 411-13 internal security code).

2.2.8. Increase the employment hypotheses of operational reservists (articles L. 4221-1, L. 4221-7 and L. 4221-8 of the defense code)

It is a question of widening the hypotheses of employment of volunteers from the operational military reserve defined in article L. 4221-1 of the defense code, in the interest of the service, by allowing the assignment of reservists in a greater variety of jobs that do not come under the Ministers of Defense or the Interior, nor are they of a permanent natu

This measure increases the attractiveness of the operational reserve and its complementarity with the active army, by authorizing the assignment of volunteers from the operational military reserve to the same range of jobs as that accessible to active military and sometimes in subsidiarity of the latter.

2.2.9. Arrange a better gradation between the situations of call or maintenance in activity of military reservists (articles L. 2171-1, L. 2171-2-1 new, L. 4221-1, L. 4221-4, L. 4221 -4-1, L. 4231-2 to L. 4231-6 new and L. 4271-1 to L. 4271-5 of the Defense Code and articles L. 3142-89 and L. 3142-90 of the labor code)

Under the current law, it is possible to resort to the military operational reserve in the following situations:

1) <u>at all times,</u> as previously indicated in sections 2.2.6 and 2.2.7:

- **volunteers who have subscribed to a commitment to serve in the reserve (ESR), forming the first level operational reserve (RO1), can carry out periods of activity under the conditions provided for in their commitment, subject to prior notice of one month and obtaining the prior agreement of their employer for more than five days per year[52] ;**
- **former soldiers subject to the obligation of availability, forming the second level operational reserve (RO2), can be summoned by the military authority in order to check their aptitude, within the limit of five days over a period of five years[53] ;**

2) when the available military resources appear insufficient to respond to specific, unforeseen and urgent <u>circumstances or needs, the volunteers ha</u>ving

[52] ***See*** **first and second paragraphs of Article L. 4221-4 of the Defense Code.**

[53] ***See*** **article L. 4231-2 of the defense code.**

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subscribes to an ESR including a reactivity clause, the regime of which is set out in the eighth paragraph of article L. 4221-1 of the same code, may be summoned by order of the Minister of Defense or the Minister of the Interior, subject to fifteen days' notice and obtaining the prior agreement of their employer beyond five days per year54, unless specific clauses of the ESR concluded under the last paragraph of Article L 4221-4 of this code provide otherwise;

3) in the event of a crisis threatening national security:

- **volunteers who have subscribed to an ESR can be summoned by order of the Minister of Defense or the Minister of the Interior, subject to fifteen days' notice and obtaining the prior agreement of the employer at the more than ten days per year55 ;**
- **volunteers who have subscribed to an ESR including a reactivity clause can be summoned by order of the Minister of Defense or the Minister of the Interior, subject to giving five days' notice and obtaining the prior agreement of the employer beyond ten days per year56, unless specific clauses of the ESR concluded under the last paragraph of article L. 4221-4 of this code provide otherwise;**

4) in the event of the occurrence, on all or part of the national territory, of a major crisis whose magnitude jeopardizes the continuity of the action of the State, the security of the population or the capacity for survival of the Nation, the recall of all reservists (RO1 and RO2) can be decided *via* the decree of the Prime Minister activating the national security reserve system, for a period which cannot exceed thirty consecutive days, renewable once in the event of persistence of the conditions that necessitated recourse to the system, subject to one clear day's notice from the date of the summons57 ;

5) in the cases mentioned in Article L. 1111-2 of the Defense Code (general mobilization, warning or threat relating in particular to a part of the territory, to a sector of national life or to a fraction of the population), the recall of all reservists (RO1 and RO2) can be decided by decree in the Council of Ministers, without notice or defined duration58 .

In the latter case, a decree in the Council of Ministers may also give rise to requisitions by civilians for the general needs of the Nation, in accordance with the provisions of Articles L. 2211-1 and L. 2212-1 of the Defense Code , it being specified that the requisitions in question are not intended to apply to the military.

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[54] ***See* third paragraph of Article L. 4221-4 of the Defense Code.**

[55] ***See* 1° and 2° of Article L. 4221-4-1 of the Defense Code.**

[56] ***See* 1° and 3° of Article L. 4221-4-1 of the Defense Code.**

[57] ***See* Articles L. 2171-1, L. 2171-2, R. 2171-1 and R. 2171-2 (3°) of the Defense Code.**

[58] ***See* article L. 4231-4 of the defense code.**

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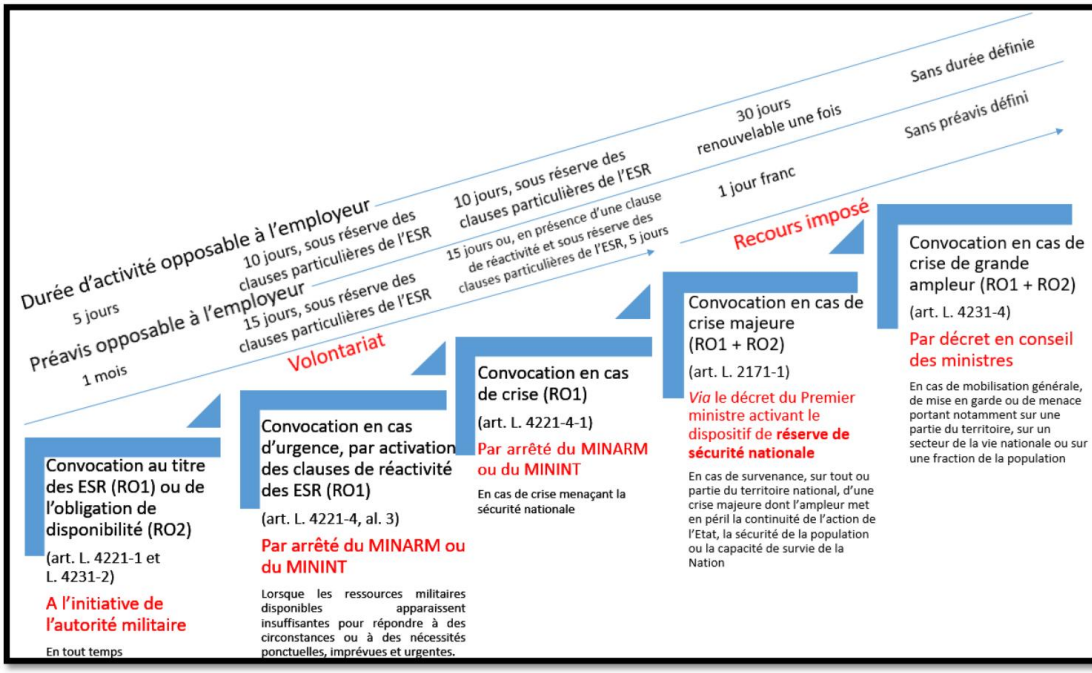

Diagram of situations of recourse to the military operational reserve, as the law stands

In the light of this overview of the law in force, it appears that the cases of calling up or keeping military reservists in service are not linked to each other, partially overlapping, and that they introduce competing powers between different authorities.
Beyond that, these hypotheses do not make it possible to respond satisfactorily to the evolution of the strategic context, which supposes extending the potential perimeter of situations of recourse to the military operational reserve, while relaxing the conditions for its implementation. effective.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTIONS ENVISAGED

3.2. SELECTED OPTION

3.2.1. Increase in the maximum age of service for reservists

The measure pushes back the maximum age of service for operational reservists.

It harmonizes at seventy years this maximum age for non-commissioned soldiers, non-commissioned officers, and officers of all the armed forces and related formations, including the gendarmerie

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national reserve, with the exception of practicing reservists in the army health service and specialist reservists, whose maximum age for service in the reserve remains set at seventy-two years.

3.2.2. Opening of the option to subscribe to a commitment to serve in the reserve to active military personnel in a greater number of non-active positions

This faculty was until now only open to soldiers placed on leave for personal reasons to raise a child under the age of twelve. In view of the results obtained, which are positive but still insufficient, the measure proposed by this bill allows active military personnel to subscribe to a commitment to serve in the operational reserve in all statutory situations of non-activity, except those motivated by medical incapacity.

3.2.3. Promotion and retention of specialist reservists

The reservist specialist may be offered a course characterized by the exercise of several functions and at varying levels of responsibility in his field of expertise, sanctioned by possible advancements and without breach of the initial contract.

This possibility of advancement now open to specialist reservists will materialize the recognition of military professional experience, the level of responsibilities exercised, will encourage the development of skills within the armed forces and attached formations and will promote this type of commitment. In addition, it will ensure homogeneity of treatment within the population of operational reservists.

3.2.4. Simplification of the procedures for mobilizing reservists

3.2.4.1. *Extension of the grounds for summons by the military authority and increase in their duration (article L. 4231-2)*

Broadening of the subject of summonses, restriction to certain former soldiers

This provision aims, by modifying Article L. 4231-2 of the Defense Code, to extend the option for the military authority to summon former military reservists subject to the obligation of availability and who have not not subscribed to a commitment in the operational reserve, apart from periods of crisis and in other hypotheses than for the simple control of their aptitude.

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This extension of the ability to summon will ensure the maintenance of the skills of these untrained soldiers59. The limited duration of this recall period (ten days over five years) is explained by the fact that these former soldiers who have recently left the service have the experience and the main achievements and skills that guarantee their employability. It also protects the interests of employers, for whose benefit notice of the meeting and an obligation to inform are provided.

At the same time, it should be noted that a similar mechanism is already applicable for the reservists of the operational reserve of the national police, article L. 411-8 of the internal security code provides that: "Retirees of the active *corps of the national police, within the limit of five years from the end of their link with the service, […] may be summoned to training or training sessions, the content and terms of which are defined by order of the Minister of inside.* »

As the principle of a summons for the sole purpose of verifying suitability is not currently implemented, it is not retained. However, this will not prevent a skills check from being organized as part of the recall.

Introduction of guarantees for the employer

Insofar as this recall constitutes a major constraint for the former soldier and his civilian employer, likely to harm their personal and economic interests, guarantees should be put in place (compliance with notice, capping the number of possible call days, to a certain number of days during the availability period). The flexibility introduced on the reference period guarantees greater efficiency of the periods worked, by grouping them together which will reduce their frequency. The adaptations made make it possible to create the best possible balance between the interests of the three stakeholders (former soldiers, civilian employers and military authorities), while increasing the number of days during which these reservists are called up.

The obligation to inform the employer, which will be subject to former military personnel subject to the obligation of availability, provided for in Article L. 4231-2 of the Defense Code, is inspired by that to which are subject French nationals registered up to the age of twenty-five (article L. 113-7 of the national service code), required " *to inform the military authorities of any change of domicile or residence as well as of family situation and professional* ".

3.2.4.2. *Introduction of clarifications on the implementation of recalls and continued service in exceptional circumstances*

[59] **Former soldiers subject to the obligation of availability, but who have subscribed to a commitment to serve in the reserve, are excluded from this right of recall. Their knowledge is indeed upgraded during the reserve periods. This exemption concerns 34% of volunteers from the operational reserve within the scope of the Ministries of the Armed Forces and of the Interior (source: Single social report of the Ministry of the Armed F**

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Furthermore, Article L. 4231-3 of the Defense Code is clarified by a new paragraph. This refers to the regulatory power (decree in the Council of State) to set the practical terms for implementing the call-up mechanism or maintaining the activity of reservists subject to the obligation of availability.

A second amending provision extends the obligation to comply with the obligations set out in the new Article L. 4231-5 of the Defense Code (calling up of voluntary reservists or keeping them active in the event of an emergency, when safeguarding the interests of national defense justifies it).

Failure to comply with these obligations is subject to the criminal penalties provided for in Articles L. 4271-1 to L. 4271-5 of the Defense Code, in accordance with the modifications made to these articles.

3.2.4.3. ***Modification and consistency of the current system for activating the operational reserve with the cases of activation of the national security reserve system and adaptation of the recall or maintenance in service of the operational reserve in these circumstances (articles L. 2171-1 , L. 2171-2-1 new, L. 4221-1, L. 4221-4, L. 4221-4-1, L. 4231-4 to L. 4231-6 new and L. 4271-1 to L 4271-5 of the Defense Code and Articles L. 3142-89 and L. 3142-90 of the Labor Code)***

In order to give a fully operational character to the military reserve, it is necessary to identify intermediate call-up cases, before the occurrence of a major crisis (and, a fortiori, before mobilization) .

Specifically, these intermediate callback cases:

- ÿ **cannot be at the sole discretion of the military authority to provide back-up resources to the armed forces outside of any emergency or threat context;**
- ÿ **must be graduated, depending on whether the reservist has voluntarily enlisted or is subject, as a former soldier, to the obligation of availability. It is a question of imposing a recall to the former soldier subjected to the obligation of availability (RO2) under more tightened conditions than for the volunteers engaged in the reserve (RO1);**
- ÿ **must allow time to maintain a closer relationship than at present with the military establishment.**

Consequently, the proposed article retains the following device:

1/ it transforms the current regime applicable to former soldiers subject to the obligation of availability of the verification of aptitude (essentially medical), at the rate of ten days per five-year period, for:

- o **on the one hand, broaden its scope to verification or maintenance of skills and to Training ;**
- o **on the other hand, increase the duration to ten days per period of five years;**

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2/ it opens up the possibility of recalling all or part of the military operational reserve in the cases provided for by the article of the bill relating to requisitions and justifying the use of the requisitions of persons, on the principle that the requisition must not -even to be able to intervene only if the means offered by the military operational reserve are not sufficient or appropriate. Thus, it will be possible to recall a reservist soldier:

a) in the event of an emergency (new art. L. 4231-5 of the Defense Code), when safeguarding the interests of national defense justifies it, by order of the Minister of Defense or, for volunteers from the gendarmerie national, of the Minister of the Interior. This case will only apply to volunteers in the reserve; the duration of the recall could be up to fifteen days (this duration being deducted from the maximum annual number of reserve days for which the employer's agreement is not required). It may be specified that this system is only intended to apply when the reservists are not summoned under Articles L. 2171-1 and L. 4231-4, in the circumstances detailed below.

In addition, to avoid any redundancy and to guarantee a gradation with the particular hypotheses of recall of the voluntary reservists having subscribed to an ESR including a reactivity clause, it seems necessary to remove the condition of urgency appearing in the third paragraph of article L. 4221-4 of the defense code. Indeed, while these last provisions allow the summoning of the interested parties, under a fortnight's notice, " *when the available military resources appear insufficient to respond to specific, unforeseen and urgent circumstances or needs* ", it seems consistent to limit henceforth these implementation criteria to " *one-off and unforeseen* " needs, thus refocusing the application of the responsiveness clauses on cases where it appears necessary to provide the armies with one-off reinforcement. Beyond simple coordination, this change also makes it possible to end the hiatus resulting from the provisions in force, which require compliance with a fifteen-day notice period despite the urgency required by the situation;

b) in the event of a threat (art. L. 2171-1 of the Defense Code), current or foreseeable, to activities essential to the life of the Nation, the protection of the population, the integrity of the territory, the permanence institutions of the Republic or of such a nature as to justify the implementation of the State's international defense commitments. This recall will take place within the framework of the activation of the national security reserve by decree of the President of the Republic (and no longer by decree of the Prime Minister), like the triggering of requisitions in the same circumstances, as provided for Article L. 2212-2 amended by the article relating to requisiti This case will apply to both RO1 and RO2, the duration of the recall having to be strictly proportionate to the threat. In accordance with article L. 2171-2, the duration of employment of reservists may not exceed thirty consecutive days, this duration of activity being able to be increased under the conditions and according to the methods fixed by decree in Council of State. When recourse to the military operational reserve appears sufficient to respond to the threat, a decree in council of ministers a

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may, if necessary, limit itself to empowering the Minister of Defense or the Minister of the Interior, for soldiers of the national gendarmerie, to recall the military operational reserve (without the other reserves that make up the RSN being called upon), as provided for in the new article L. 2171-2-1;

c) in the event of general mobilization or warning (art. L. 4231-4 of the Defense Code). This recall, decided by decree in the Council of Ministers without notice or duration predefined by law, will concern all reservists (RO1 and RO2), in major crisis situations.

Given this new gradation in the hypotheses of recourse to the military operational reserve, the retention of the provisions of article L. 4221-4-1 of the defense code no longer appears necessary, for several reasons.

Firstly, the hypothesis of a " *crisis threatening national security* " is covered, in the bill, by the new conditions for implementing the national security reserve system provided for in article L. 2171- 1, which notably allows the Minister of the Armed Forces or the Minister of the Interior to summon the reservists of RO1 and RO260 by decree , respecting a minimum notice of one clear day from the date of the summons61. The provisions of 1° and 3° of article L. 4221-4-1 thus appear useless according to this new legal framework, insofar as they are more restrictive.

Secondly, the duration of activity enforceable against the employer in normal times, set out in the second paragraph of Article L. 4221-4, is raised from five to ten days, which consequently makes the provisions of 2° of article L. 4221-4-1, which provide for an identical duration. In addition, if it appears necessary to summon the reservist for a longer period, the provisions of the bill allow this recall to be extended up to fifteen days, in the event of an emergency62, or up to thirty days, renewable once , in the event of a current or foreseeable threat .

Thirdly and lastly, the provisions of the last paragraph of Article L. 4221-4-1 are retained, allowing reservists who are employed by operators of vital importance to be exempted from their call-up obligations, if necessary. inherent in the continued production of goods or services or the continuity of public service. They are simply transferred to the new article L. 4231-6, which provides for their application in the event of an emergency64 and a major crisis65. In this respect, it is also specified that such guarantees are already satisfied for cases of threat66

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[60] ***See*** **article L. 2171-2 of the defense code.**

[61] ***See*** **article R. 2171-2, 3°, of the defense code.**

[62] ***See*** **new article L. 4231-5 of the Defense Code.**

[63] ***See*** **Articles L. 2171-1 and R. 2171-1 of the Defense Code.**

[64] ***See*** **new article L. 4231-5 of the Defense Code.**

[65] ***See*** **article L. 4231-4 of the defense code.**

[66] ***See*** **Article L. 2171-6, second paragraph, of the Defense Code.**

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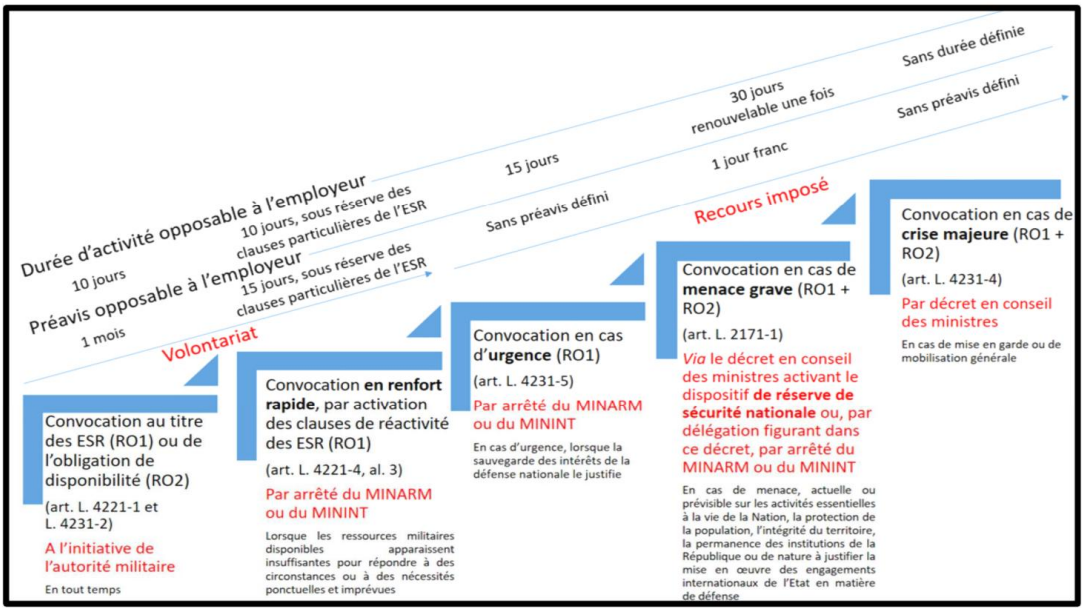

Diagram of the situations of recourse to the military operational reserve, as the bill stands

As the bill stands, cases of recourse to the military operational reserve to respond to exceptional situations are aligned with the new conditions for implementing the requisition regime set out in Articles L. 2212-1 (situations of threat) and L. 2212-2 (emergency situations) of the Defense Code, it being recalled that the provisions of Article L. 2141-3 of this code already confer on the Government the right to require persons, goods and services in the event of a general mobilization or warning.

With regard to the articulation between the two systems, it is necessary to distinguish between different concrete implementation situations.

Firstly, when it appears that a need can be satisfied either by summoning reservists or by requisitioning people, goods or services, the new article L. 2212-3 specifies that requisitions "cannot be *ordered only in the absence of any other adequate means available within a useful period* ". In such a case, the implementation of the right of requisition remains subsidiary to the mobilization of the military reserve and can only intervene if the latter proves to be insufficient. This will be the case, for example, if it is a question of mobilizing labor to accomplish tasks that do not require any particular skill or, on the contrary, if it is precisely a question of mobilizing skills likely to be satisfied by the pool of military reservists.

Secondly, the use of reservists and the issuance of a requisition may appear complementary in responding to a given situation. For example, during the health crisis, military reservists were able to be mobilized to carry out logistical missions, such as the delivery of protective equipment (masks, gloves, bottles of hydrogel

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alcoholic…) to dispatching hospitals, while carers have been requisitioned, in particular to carry out reinforcement missions overseas.

Thirdly and lastly, only one of the two devices may appear relevant to respond to a critical situation. By way of example, it may prove necessary to urgently require the assistance of maritime and private submarine resources to ensure the recovery of a military aircraft damaged at sea, whereas, if necessary, the recall of reservists would be useless. *Conversely,* the use of military reservists may appear to be the only conceivable hypothesis when it comes to implementing prerogatives of public power or specific to the armed forces.

3.2.5. Relaxation of the rules for determining the suitability of operational reservists

This article clarifies the conditions for determining the aptitudes of soldiers in the operational reserve, article L. 4211-2 of the defense code being supplemented by a 5° specifying that all reservists must "possess the aptitudes required for the *job that he occupies in the operational reserve* ", instead of the requirement that he " *must possess all the skills required to serve in the operational reserve* ", appearing today in article L. 4221- 2 of this code.

3.2.6. Exempt the military authority from obtaining the agreement of the reservist's employer before summoning him for a period of less than ten days per year and fifteen days in the event of a major crisis

This duration is thus aligned with that applicable to operational reservists of the national police, since January 24, 202267 .

3.2.7. Increase employment assumptions for operational reservists

This article modifies the provisions of 5° and the last paragraph of article L. 4221-1 of the Defense Code in order to allow the assignment of voluntary reservists to non-permanent jobs not falling under the Ministers of Defense or from inside within:

- **any company or organization governed by private law, subject, on the one hand, to the interests of defense or national security justifying it and, on the other hand, to the signing of an agreement with the entity in question (art. L. 4221-8 of the Defense Code, also amended accordingly);**
- **any administration, public establishment or public body (for example, within public industrial and commercial establishments or groupings**

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[67] ***See*** **Article L. 411-13 of the Internal Security Code, as amended by Law No. 2022-52 of January 24, 2022 relating to criminal liability and internal security.**

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health cooperation, as was the case during the health crisis resulting from the covid-19 epidemic) or independent public authority;

- **any international organization.**

It is left to a Conseil d'Etat decree to specify the conditions of such an assignment within a public entity or an international organization, like the provisions applicable to active military personnel68 .

Given the changes made to Article L. 4221-1 of the Defense Code, it also appears that Article L. 4221-7 of this code, which specifies that voluntary reservists may serve "in *the 'interest of defence, with a company that participates in the support of the armed forces and related formations or accompanies export operations in the field of defence* ' is now useless because it is redundant with article L. 4221-1, and, in this sense, that it can be repealed.

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

As part of this measure, articles L. 2171-2-1, L.4231-5 and L.4231-6.

In the same code, articles L. 4221-4-1 and L. 4221-7 are repealed.

Articles L. 2171-1, L. 4138-14, L. 4138-16, L. 4138-17, L. 4139-9, L. 4211-1, L.4211-1-1, L.4211-2, L.4221-1, L.4221-2, L.4221-3, L.4221-4, L.4221-6, L.4221-8, L.4231-1, L.4231-2, L.4231-3, L.4231-4, L.4271-1, L.4271-2, L.4271-3, L.4271-4 and L. 4271-5 of the Defense Code.

Finally, article L. 12 of the Civil and Military Retirement Pensions Code as well as Articles L. 3142-89 and L. 3142-90 of the Labor Code are also amended.

The reasons for these changes are explained below.

4.1.1. Impacts on the internal legal order

4.1.1.1. *Increase in the age limit for reservists*

The age limits of the soldiers of the operational military reserve being defined by the combined reading of articles L. 4221-2 and L. 4139-16 of the defense code, it is advisable to modify the first which fixes the provisions specific to the reservists operational.

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[68] ***See*** **Articles R. 4138-31 to R. 4138-33 of the Defense Code.**

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4.1.1.2. *Opening of the option to subscribe to a commitment to serve in the reserve to active military personnel in a greater number of non-active positions*

The opening of the option to subscribe to a commitment to serve in the operational reserve in a greater number of positions of non-activity leads to modifying articles L. 4138-14 (parental leave), L. 4138-16 (leave for personal reasons), L. 4138-17 (applicable to the two aforementioned leaves) and L. 4139-9 (availability) of the Defense Code.

It also involves modifying *c* of 1° of III of article L. 4211-1, replaced by a reference to new article L. 4211-1-1, which specifies that active military personnel are concerned by these three positions. The reference mentioned in the last paragraph of Article L. 4221-6 is also harmonized.

This measure also presupposes an update of Article L. 12 of the Civil and Military Retirement Pensions Code, which currently refers to leave for personal reasons to raise a child under the age of eight.

4.1.2.3. *Promotion and retention of specialist reservists*

The provisions relating to specialist reservists being governed by Article L. 4221-3 of the Defense Code, the addition of a provision aimed at promoting and retaining this population leads to its modification.

4.1.2.4. *Simplification of the procedures for mobilizing reservists*

The new gradation of the hypotheses of recourse to the military operational reserve also supposes, by way of coordination, the modification of the references or the corresponding provisions appearing in articles L. 4221-1 and L. 4271-1 to L. 4271-5 of the code defense as well as articles L. 3142-89 and L. 3142-90 of the labor code.

4.1.2.5. *Relaxation of the rules for determining the suitability of operational reservists*

To date, the provisions relating to the aptitude of reservists are provided for in article L. 4221-2 of the Defense Code, applicable only to volunteers who have signed a commitment to serve in the reserve. They are now relaxed and made common to the entire operational reserve by their positioning in article L. 4211-2.

4.1.2.6. *Exempt the military authority from obtaining the agreement of the reservist's employer before summoning him for a period of less than 10 days per year and 15 days in the event of a major crisis*

These provisions imply the modification of article L. 4221-4 of the defense code and article L. 3142-89 of the labor code.

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4.1.2. Articulation with international law and European Union law

None.

4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

None.

4.2.2. Business impacts

The new methods of mobilizing soldiers from the operational reserve, in ordinary times or in exceptional circumstances, do not represent an excessive constraint for employers:

- **the availability time of volunteers from the operational reserve without the employer's agreement is increased to ten days, instead of the current five or eight days, per calendar year, in ordinary times, and accompanied by a placement obligation of this reservist on leave of absence;**
- **the time of availability of volunteers from the operational reserve without the employer's agreement in exceptional circumstances, today increased from five to ten days " *in the event of a crisis threatening national security* ", is increased to fifteen days in the event of emergency and thirty days renewable once in the event of a threat;**
- **former servicemen subject to the obligation of availability see their obligation to summons in ordinary times go from one day per year at most, to ten days over five years at most. The resulting additional constraint is minimal, compensated by a one-month notice requirement and by the reduction in the scope of former military personnel concerned by this obligation (exemption of those among them who have subscribed to an engagement in the operational reserve, at the number of about 13,000 in 202169). Finally, the option introduced by law to combine these days will reduce the frequency of these summonses.**

It should be noted that the number of recruits in the future operational reserve will be 80,000 reservists, for the Ministry of the Armed Forces, and 50,000 reservists, for the National Gendarmerie, not all of whom are engaged in professional activity. This future format concerns a modest quantity compared to the overall population of employees and civil servants.

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[69] **Source: Single social report from the Ministry of the Armed Forces for 2021 (data from the General Secretariat of the National Guard).**

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In addition, some employers benefit from new favorable measures. Organizations of vital importance, employers of former soldiers subject to the obligation of availability, will be able to benefit from the exemption now available to these reservists from being exempted from their obligation to comply with summonses by the military authority in the event of general mobilization or warning.

The increase in the availability of reservists is entirely financed by the State. Indeed, the private employer of the operational reserve volunteer does not finance the latter when he is called up for a reserve period. The public employer is required to maintain his salary for the reservist civil servant during his reserve periods until the 30th day. Consequently, the increments to ten days and fifteen days being included in this limit, they have no impact on the employers of these reservists.

4.2.3. Budgetary impacts

The objective is to recruit and employ 25,000 additional reservists over the LPM period, which represents new salary expenditure of €502 million between 2024 and 2030.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

None.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

None.

4.5. IMPACTS ON THE ARMIES

The increase in the age limit for reservists makes it possible to increase the duration of employability in the operational reserve of volunteers who are already serving there, and opens up to a very large number of potential reservists the option of subscribing to a commitment or new commitment. to serve in the reserve at an age when, still engaged in active life, they are still likely to render many services which are very useful to the armies if they are deemed suitable. The increase in the age limit for operational military reservists gives access to the reserve to a considerable pool of potential reservists (approximately 17 million people for non-commissioned members). It will thus contribute directly to the increase in the numbers of the military reserve announced by the President of the Republic.

It creates new opportunities for commitment in favor of national defense for citizens whose professional life may have excluded them from the military reserve and whose experience can be useful to all ranks of the military hierarchy, within a more diverse pool of job profiles (skills, experience and age).

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Similarly, the adaptation and relaxation of the conditions of aptitude for volunteers in the operational reserve will facilitate the implementation of employment plans for the armies and will allow potential volunteers to concretize a desire for reservist commitment, which is currently thwarted. by excessively strict conditions of aptitude.

Finally, the increase in the assumptions of employment of operational reservists outside the ministries of the armed forces and of the interior increases the attractiveness of the operational reserve. It also increases its complementarity with the active army, by authorizing the assignment of volunteers from the operational military reserve in the same range of jobs available to active military personnel.

4.6. SOCIAL IMPACTS

4.6.1. Impacts on society

All of the proposed measures will enable a large number of French civilians to take part in the defense of the Nation throughout their active lives. They will greatly strengthen the Nation's resilience and its state of preparedness in a context of growing geostrategic uncertainty.

4.6.2. Impacts on people with disabilities

Given the relaxation of the rules for determining the aptitude of operational reservists, people with disabilities will be able to apply for certain jobs in the operational reserve, compatible with their state of health.

4.6.3. Impacts on equality between women and men

The proposed measures reinforce equality between women and men, insofar as both have access, under the same conditions, to jobs in the operational reserve.

4.6.4. Impacts on youth

The doubling of the operational reserve aims in particular to offer young people opportunities to materialize their desire for civic engagement in the service of the Nation's military defence.

4.6.5. Impacts on regulated professions

None.

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4.7. IMPACTS ON INDIVIDUALS

Within the framework of the statutory provisions allowing the soldier on leave for personal reasons for the education of a child to engage in the reserve, the modification brought to the code of the civil pensions and retired soldiers consolidates the faculty recently given to the soldiers placed in this situation statutory to engage in the reserve during all the period of education of child. It thus gives full effect to this route of access to the operational reserve, by restoring the ability to carry out reserve activities throughout the period of leave taken for raising a child (between three and twelve years of age)70 .

The opening of the faculty of advancement to specialist reservists will allow them to enroll in a long-term professional career, to capitalize on their high professional qualifications, their experience and to help them progress in their field of expertise.

4.8. ENVIRONMENTAL IMPACTS

None.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

Pursuant to Article L. 4124-1 and 2° of Article R. 4124-1 of the Defense Code, the measure received a favorable opinion from the Superior Council for the Military Service, dated March 9 2023.

This provision has also been submitted to the National Commission for Collective Bargaining, Employment and Vocational Training.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

The provisions of this article enter into force the day after the day of its publication in the *Official Journal* of the French Republic, subject to those which require the adoption of a decree in Council of State to produce their full effect, as it is specified below,

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[70] Created by the aforementioned military programming law 2019-2025, the possibility of joining the reserve during leave for personal reasons taken for the education of a child was offered to the soldier for the entire period of validity of this leave. A discrepancy arose in the regulations when the child's age was raised allowing placement on leave for personal reasons for the education of a child, in 2019 (law no. 2019-828 of 6 August 2019 on the transformation of the public function).

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within item 5.2.3 *below.* The latter will only come into force after the publication of the said decree.

5.2.2. Application in space

This article is applicable throughout the territory of the French Republic. Indeed, the provisions created and modified correspond to statutory measures applicable as of right throughout the territory, including in the overseas communities.

5.2.3. Application texts

Will be fixed by decree in Council of State:

- **the terms under which active military personnel placed on parental leave, on leave for personal reasons or on standby may request to serve in the military operational reserve;**
- **the conditions under which a voluntary reservist can be assigned within an administration, a public institution or public body, an independent public authority or an international organization;**
- **the methods of advancement of specialist reservists;**
- **the conditions for calling up or keeping in service reservists subject to the obligation of availability;**
- **the conditions under which operators of vital importance can be released from the obligations of recalling their employees within the military operational reserve in the event of an emergency, general mobilization or warning.**

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Article 15: Strengthen the capacity of the armies to have human resources in line with the need in terms of numbers and quality and improve the conditions for re-engagement

1. STATE OF PLAY

1.1. ARRANGEMENTS FOR MILITARY RECRUITMENT

1.1.1. Recruitment of career soldiers

Pursuant to Article L. 4132-3 of the Defense Code, career officers may be recruited:

- ÿ **through the military schools for cadets who recruit by competitive examination71 ;**
- ÿ **by competition, by examination or on qualifications among active military personnel, or among other categories of non-military candidates listed in the specific statutes72 ;**
- ÿ **chosen from among the officers under contract and the non-commissioned officers who request it or for a duly noted brilliant action73**

At the same time, article L. 4132-4 of the same code provides that career non-commissioned officers are recruited from among enlisted soldiers (non-commissioned soldiers and non-commissioned officers) who have completed at least four years of military service, part of which in a rank of non-commissioned officer or petty officer74

In their current wording, the aforementioned provisions do not allow the recruitment of former career soldiers as officers, non-commissioned officers and career petty officers.

1.1.2. Recruitment of members serving under contract

Article L. 4132-6 of the Defense Code, which lays down the procedures for recruiting soldiers serving under a contract75, on the other hand, expressly provides for the case of interruption of service. It allows the soldier serving under a contract to be admitted to subscribe to a new one in the continuity of the previous one, or after interruption of his services. In this last situation, the former serviceman under contract may be admitted to serve with the rank he acquired or with a lower rank, without resumption of step or seniority in step.

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[71] **473 in 2021.**

[72] **387 in 2021.**

[73] **822 in 2021.**

[74] **2636 in 2021.**

[75] **139,694 in 2021.**

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1.2. CASE OF EXTENSION OF SERVICES BEYOND THE AGE OR DURATION LIMIT ON DUTY

Article L. 4139-16 of the Defense Code sets the statutory age limits by corps and by rank for career soldiers and the length of service limits for soldiers serving under a contract (contracted officers, commissioned soldiers76, enlisted soldiers and volunteers in the armies).

Military status ceases automatically for a soldier who has reached the age limit of his rank or who has reached the limit of the duration of service, in accordance with 1° of article L. 4139-14 of the code of the defense.

These age or length of service limits make it possible to guarantee the compatibility with the age or seniority of the soldiers of the constraints imposed in general by the military status and imposed in particular by the nature of the jobs of each rank.

Five waivers currently allow members to serve beyond their age limit or service limit:

- ÿ **officers of the army health service with the rank of head of services may be admitted to serve for a fixed period up to the age of 67 years maximum (2° of I of article L. 4139-16 of the code of the defense) ;**
- ÿ **the conductors of the orchestras, the deputy conductor of the orchestras and the musicians of the Republican Guard may, upon approved request, be maintained in service beyond the age limit or the limit of length of service for periods of two years renewable (2° of I of Article L. 4139-16 of the Defense Code);**
- ÿ **officers under contract and commissioned soldiers may, at their request, be kept in service for a maximum period of ten quarters and within the limit of the insurance period necessary to obtain the percentage of the pension mentioned in Article L 13 of the Civil and Military Retirement Pensions Code (II of Article L. 4139-16 of the Defense Code)77 ;**
- ÿ **volunteers within the national gendarmerie, may, upon their approved request, be maintained in service beyond the limit of service duration for a period of one year (II of article L. 4139-16 of the defense code)78 ;**
- ÿ **any soldier who has acquired the right to liquidate his retirement pension may, by decision of the Government formalized by decree, when the circumstances so require, be kept in service for a limited period (Article L. 4139-13 of the Defense Code).**

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[76] The commissioned is the soldier serving under a contract, recruited to perform specific functions of a scientific, technical or educational nature corresponding to the diplomas he holds or his professional experience (Article L. 4132-10 of the Defense Code).

[77] 890 in 2022.

[78] 86 in 2022.

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Separate from these permanent derogations, a specific temporary regime, implemented in the context of the health crisis linked to Covid-19, in 2020 and 2021.

1.3. SPECIFIC REGIME IMPLEMENTED AS PART OF THE STATE OF EMERGENCY SANITARY

This scheme differed from the maintenance in service provided for by the aforementioned article L. 4139-13 by its voluntary nature for the soldier, but also by the fact that this option of maintenance in service was open only to career soldiers or serving under contract. reached the limit of age or length of service and not to all soldiers entitled to leave the service

Law n° 2020-734 of June 17, 2020 relating to various provisions related to the health crisis, to other urgent measures as well as to the withdrawal of the United Kingdom from the European Union, thus allowed soldiers who had reached their age limit or their length of service to be kept temporarily in service for a period not exceeding one year (I of Article 47) or for the completion of their retraining (III of Article 48).

It also temporarily created for career soldiers who left the service before reaching the age limit of their rank, the option of being able to be rehired (II of Article 47), once they had left the service for less than three years.

These measures were extended for six months by Ordinance No. 2021-112 of February 3, 2021 restoring and adapting various provisions aimed at preserving the numbers and skills of military personnel to deal with the Covid-19 epidemic. .

2. PURSUED OBJECTIVES AND NEED FOR LEGISLATION

2.1. OBJECTIVES PURSUED

2.1.1. With regard to former career soldiers and soldiers capable and willing to continue their activity

The armed forces and attached formations are currently facing difficulties in

recruitment or retention[79] in different specialties, professions or families

[79] **In the intelligence sector, the positions of signal operator technicians are honored only up to 59%. Also, the French Navy notes tensions on the preparation of the future and the armament of modern platforms: nuclear engineers, electricians, specialists in tactical data links. Furthermore, the positions of naval propulsion atomics officers are honored only up to 52% for the rank of corvette captain and those of atomics officers experts in nuclear armaments at 50% for the rank of captain. Finally, the occupation of petroleum equipment mechanic reveals a staffing rate of positions of only 25%.**

Departures are linked to national tension: recovery of the nuclear sector in France with increased recruitment by national companies, development of cybersecurity and digital professions in the public and the

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professionals80 in strong competition with civilian employers, particularly in the private sector (cyber defence, intelligence, network design, implementation and support, maintenance of equipment, particularly aeronautical equipment, interpretation in rare languages, energy and infrastructure, the nuclear sector). As a result, they experience difficulties in replacing the unexpected departures of soldiers who do not renew their contract or exercise their right to retire before reaching their age limit.

During the Covid-19 pandemic, the aforementioned temporary derogations have demonstrated their full effectiveness. They had enabled the armed forces and attached formations to preserve the skills essential to the conduct of their activities in a tense context linked to the challenges of the health crisis and in a period marked by the interruption of recruitment for several consecutive months in 2020.

The armed forces and related formations draw up a very positive assessment of this option that has been offered to them. In total, 38 former career soldiers were thus able to be recruited with the same status as that which they held before their removal from the ranks, while 454 career soldiers or highly qualified contract soldiers were allowed to extend their service for a period maximum of twelve months.

2.1.1.1. *Establishing a new career military recruitment path*

The purpose of this article is therefore to enable former career soldiers who have ceased their duties for less than five years, and who wish to resume a military career, to be reinstated under attractive conditions of resumption: under career status, at the rank and seniority in rank held when they were struck off the staff. A decree in Council of State will specify that these re-engaged soldiers are reinstated in the level and with the seniority that they held when they were struck off the executives. This condition of attractiveness of the device had been included in the aforementioned law n° 2020-734.

It perpetuates by adapting it, the exceptional device and of limited application in time put in place during the state of health emergency. This recruitment route exempts candidates from certain rules usually applied for ***ab initio*** **recruitment (competition, holding a military, school or university title, quotas for the different recruitment routes).**

This statutory innovation enables the armed forces and related formations to broaden their recruitment pool and benefit from an already trained human resource, wishing to return to serve in the armed forces after experience in civilian life, in particular when this former soldier has maintained or increased his skills and experience there.

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private. In the nuclear infrastructure professions, future competition from major employers outside MINARM (about 3,000 engineers to be recruited in the nuclear sector), combined with limited resources, will generate strong competition in the long term and strong tension on recruitment and loyalty.

[80] 25,335 admissions in 2019 compared to 21,348 in 2021.

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It makes it possible to optimize the employment of former career soldiers who, until now, could only return to exercise their skills at the Ministry of the Armed Forces under civilian status.

The system does not in any way create a right to re-enlistment, but offers the armed forces and attached formations the option of accepting requests for re-enlistment likely to meet their needs.

The creation of a specific recruitment path for career military officers removed from the executives introduces a differentiation with the rules in force in the civil service. A tenured civil servant who has resigned cannot rejoin the civil service as a tenured civil servant. This differentiation is justified by the fact that the civil servant has statutory options which facilitate his mobility without breaking his statutory link and, in the event of resignation, can serve again in the civil service as a staff member under contract, including in higher jobs.

2.1.1.2. *…under conditions that fully respect the consistency of the armed forces human resources model*

As for the grade of re-engagement

This article provides for the re-enlistment of the former career soldier in the rank he previously held.

As for the re-engagement corps

The measure does not provide for the possibility for the former career soldier to request a commitment under another corps, which would constitute a circumvention of the rules of the general statute of the soldiers governing the changes of armies81. The reintegration of soldiers whose original corps has been dissolved or terminated is therefore not possible, unless this corps has been merged with one or more other corps.

A Conseil d'Etat decree will set the conditions for the reinstatement of career soldiers. These provisions will be similar to those provided for in Article 1 of Decree No. 2020-997 relating to the reintegration of former soldiers and retraining leave taken for the application of II of Article 47 and II of article 48 of law no. 2020-734 of June 17, 202082 .

As for the status of re-engagement

The re-engagement conditions provided for former career soldiers provide for their re-engagement under the sole status of career soldier.

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81 Articles L. 4133-1 and R. 4133-1 to 9 of the Defense Code.

82 Decree No. 2020-997 of August 7, 2020 relating to the reintegration of former military personnel and retraining leave taken for the application of Article 47 II and Article 48 II of Law No. 2020- 734 of June 17, 2020 relating to various provisions related to the health crisis, other urgent measures as well as the withdrawal of the United Kingdom from the European Union.

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It is not only a question of seeking a parallelism with the mechanism for the re-engagement of soldiers serving under a contract, which only authorizes re-engagement under contractual status.

The objective is to guarantee the military institution the longest possible period of employability consistent with the potential recognized in this soldier before his removal from the ranks, which had led to his admission to the status of career soldier.

Indeed, unlike civil servants who resigned (see *above),* it is not deemed appropriate to authorize the re-enlistment of a former career soldier under the status of soldier serving under a contract. The military are indeed admitted to the status of career military to accomplish a long period of employment and receive long training. The ability to benefit, after having been allowed to resign, from the advantages linked to the conditions of retirement83 and access to unemployment compensation specific to military personnel serving under contract would constitute a paradox and would not correspond to any objective HR logic. . These benefits are in fact intended to compensate for the precariousness and the shorter duration of service inherent in the quality of military serving under contract. The system for the re-engagement of former career soldiers reproduces the temporary derogatory regime put in place during the state of health emergency.

Consistent with the objective of attracting and retaining the skills of former career soldiers over the long term, the statutory formula for re-enlistment established in their favor makes it possible to retain them in the service by placing them back in the statutory and index situation which was theirs. when they are removed from the executives. It does not create any windfall effect in their favour, nor any preferential regime in relation to soldiers with uninterrupted serv

In this respect, it should be noted that any advancement obtained in the operational reserve during the interruption of service is not taken into account when the former career soldier is re-engaged, who cannot benefit from an advancement. active duty for service rendered in the operational reserve. This option was retained by article 47 of the aforementioned law n° 2020-734 of June 17, 2020.

2.1.2. With respect to re-enlisted servicemen serving under contract

Article L. 4132-6 of the Defense Code authorizes the recruitment of former soldiers serving under a contract, without attaching attractive conditions. Indeed, while the procedures for taking up a step and seniority in step come under the regulations, the legislator did not authorize the regulatory power to take measures for the application of this article with regard to the step index of re-engaged servicemen under contract.

Former soldiers who served under a contract may be re-admitted to serve, either in a lower grade than that acquired before being removed from the checks, or in the grade

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[83] **Possibility, for officers under contract, of liquidating a retirement pension earlier than career officers.**

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detained at the time of this radiation. In both cases, they are reinstated without resumption of echelon or seniority of echelon; or at the first step of the grade of the new recruitment. They therefore always undergo an index regression on re-engagement.

The new wording of article L. 4132-6 makes it possible to make the conditions for the re-engagement of contractual soldiers more attractive, by referring to a Conseil d'Etat decree the task of setting the terms of their re-engagement. This is to provide for the possibility of re-enlistment of these soldiers in the rank with resumption of the step and the seniority of the step that they held when striking off the activity checks.

It should be noted that the provisions of the aforementioned law n° 2020-734 of June 17, 2020 concerning, on the one hand, the postponement of the obligation to strike off executives and continued service for completion of retraining, and on the other hand, the option of renouncing retraining, are not made permanent according to methods similar to those implemented in 2020 and 2021. This military programming bill makes permanent in a separate article an equivalent system which, combined with the option of maintaining service provided for in this article, will make it possible to secure the retraining of soldiers in the circum

2.1.3. With regard to soldiers reaching the age limit of their rank or the limit of their service

The proposed legislative measure consists of making the service retention measure developed and implemented in the context of the state of health emergency permanent by adapting it and codifying it in the general status of the military. However, in its wording currently in force, Article L. 4139-16 of the Defense Code does not provide for a general derogation allowing all soldiers to remain in service. Only the five cases of specific derogation developed *above* make it possible to derogate from the age limit or the limit on the duration o The parameters of these derogations are also different from those characterizing the new system envisaged by the armies.

These respond to the need to create a general derogation for all military personnel.

As age limits and service duration limits constitute fundamental guarantees granted to the military, a derogation from the latter can only be introduced by law; which justifies this modification.

2.2. NEED TO LEGISLATE

2.2.1. Recruitment of former career soldiers

Articles L. 4132-3 and L. 4132-4 of the Defense Code mentioned *above* and setting the admission conditions for career soldiers, do not provide for the recruitment of former career soldiers.

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As these provisions stand, it is therefore not permitted to recruit former soldiers who have left active service and wish to rejoin the armed forces.

Under these conditions, the purpose of this article is to introduce, within the defense code, a provision derogating from the aforementioned articles L. 4132-3 and L. 4132-4.

The conditions of recruitment being fixed by law, a derogation from these conditions can only be initiated by the legislator.

2.2.2. Recruitment of ex-members who served under contract

Former military personnel serving under contract can already be re-enlisted today.
However, the provisions currently in force do not always allow the person concerned to be restored to the grade formerly held. Furthermore, they never allow the pay index formerly held to be attributed to him.

The index regression accompanying rehiring, which is particularly noticeable in the event of recruitment to a lower grade, is a brake on the effectiveness of this method of recruitment. The modification of article L. 4132-6 is therefore necessary to remedy this discouraging situation, by referring to a decree in Council of State the task of setting the procedures for the recruitments carried out.

Other conditions of re-enlistment of members serving under contract remain unchanged.

2.2.3. Retention in service by derogation from statutory age limits and limits length of service

The proposed legislative measure consists of making the measure taken during the state of health emergency permanent, by adapting it and codifying it in the general status of the military. It is necessary to legislate insofar as the achievement by the soldier of his age limit or the limit of duration of service, as defined in article L. 4139-16 of the defense code entails, except special cases mentioned in the same article, the automatic termination of the military status (article L. 413-14 of the defense code). The identified need to give the option to the armed forces and attached formations to derogate from this rule in certain situations implies having recourse to the law.

This measure aims to adapt the general status of the military to the constraints weighing on the armed forces and attached formations, this in a context of great unpredictability and increasing threats. In addition, it makes it possible to meet needs for which the use of reservists does not provide an adequate solution because the duration of the services that can be performed in this context is capped (Article L. 4221-6 of the Defense Code).

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Intended to make up for shortfalls in permanent jobs, this system makes it possible to maintain in activity, on approved request, for a maximum period of three years, career soldiers or military personnel serving under a contract.

Furthermore, this amendment is part of the family plan aimed at improving the lives of soldiers and their families by taking into account the specificities of their profession. It allows, for example, directorates and managing services to maintain in the service military personnel reached, during the year, their age limit or length of service limit until the annual transfer plan for the following summer. It thus avoids disturbing the family balance of the soldiers, who, called upon to replace the soldier reached by his age limit or his limit of duration of service, must rejoin their assignment during the year.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. POSSIBLE OPTIONS

3.1.1. Re-enlistment of former career military personnel and serving under a CONTRACT

An option that was not retained would have consisted in providing for a right of reinstatement of former soldiers, like the rule applicable to soldiers on secondment[84]. However, this system is not considered sufficiently selective because it gives precedence to the interests of the former soldier, without guarantee that he is still employable and his re-engagement meets a need of the institution.

3.1.2. Retention in service of soldiers who have reached the age limit of their rank or their limit of service

An option that was not retained would have consisted of authorizing continued service beyond the age limit or the service duration limit either automatically or without any time limit. However, this approach was not deemed appropriate.

The institution of a right to remain in service, centered on considerations of the personal convenience of the soldier, does not provide sufficient guarantees to the military institution on the employability of the person concerned. Furthermore, this weakens the special regime for military retirement pensions, the consistency of which is based in particular on the automaticity of the cessation of military status on reaching the age limit or the length of service (except in special cases provided for in Article L. 4139-16 of the Defense Code).

[84] Article L. 4138-9 of the Defense Code: "The seconded soldier is reinstated at the end of his secondment, at the first vacancy that comes to open in the body to which he belongs or in excess in the cases determined by decree in the Council of State".

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Furthermore, maintaining service without a time limit has the double disadvantage of not guaranteeing the employability of the soldier in the medium/long term, due to the occurrence of physical incapacity for example, and of slowing down the process of renewal of generations within the military corps, at the risk of occasionally creating HR capacity deficits.

3.2. OPTIONS RETAINED

As the objectives set out *above* require reconciling the attractiveness of formulas for re-enlistment and retention in service, fair treatment between members of the military corps and preservation of the essential characteristics of the human resources model of the armed forces, the option was chosen to renew the measures put in place implemented in 2020-2021 during the state of health emergency, while adapting them to improve them in certain aspects. It is thus proposed to perpetuate the system introduced by the aforementioned law n° 2020-734 of June 17, 2020, by codification in the defense code and to change the conditions for taking back seniority with a view to rehiring.

It is also proposed to perpetuate the derogation from the age limits and service duration limits introduced by the aforementioned law by providing for the continued service of these soldiers, under conditions adapted to the needs of the armies.

This is the subject of this article.

3.2.1 Adaptations made to the re-enlistment scheme for former career soldiers

3.2.1.1. *With regard to the duration of interruption of services*

The requirement that the re-engagement take place within five years of the removal of executives is new compared to the system introduced by law no. 2020-734 of June 17, 2020. Limited to three years during the state of emergency of 2020-2021, this deadline is now aligned and made consistent with that of the obligation of availability imposed on all former soldiers[85]

This period is also that during which the military and professional qualifications acquired before the removal of the executives remain valid and can therefore be immediately implemented upon re-enlistment, without the need for long and costly refresher training. The soldier will be able to maintain these qualifications thanks to activities carried out under his obligation of availability, as provided for in the provisions of this bill relating to the military reserve.

[85] **Article L. 4231-1 of the Defense Code.**

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Thus this faculty of re-engagement of former career soldiers can constitute a bridge between the operational reserve and the active army.

3.2.1.2. *With regard to former career soldiers authorized to re-enlist*

Like the system put in place during the state of health emergency, the project excludes the possibility of re-engagement when the former soldier has previously benefited from a departure assistance system. The list of devices incompatible with a re-engagement is, however, extended to be completely exhaustive.

In addition to former soldiers who have benefited from a pension relating to the higher rank, from a functional promotion86 or from a flexible departure incentive allowance provided for in Articles 36, 37 and 38 of Law No. 2013-1168 of 18 December 201387, will in the future also be excluded from the possibility of re-enlistment former career soldiers who have benefited from the allowance provided for in article L. 4139-8 of the defense code (14 in 2022).

Also excluded are military personnel removed from the executives or controls at the end of retraining leave or additional retraining leave (articles L. 4139-5 and L. 4139-5-1 of the Defense Code), insofar as this removal is in these cases pronounced "on a definitive basis" (see III of Article L. 4139-5 and sixth paragraph of Article L. 4139-5- 1)88 .

3.2.1.3. *With regard to the conditions for the new deregistration of executives*

The system put in place during the state of health emergency by law n ° 2020-734 of June 17, 2020 provided that the re-engagement suspended the obligation of availability to which the former career soldier was subject. The time worked during this first period of availability was thus deducted from the future duration of the obligation of availability. This provision, planned for 2020-2021 for the purpose of attractiveness, is not included in this project.

This choice aims on the one hand to harmonize the impact of a re-enlistment between former career soldiers and former soldiers serving under a contract, the latter being subject to a new period of legal obligation of availability every time they interrupt their services. Freeing former career soldiers from their obligation of availability at the end of their new engagement would create an obvious and inopportune breach of equality to the detriment of soldiers serving under a contract.

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[86] **obtained both under article 37 of law no. 2013-1168 of December 18, 2013 relating to military programming for the years 2014 to 2019 and containing various provisions concerning defense and national security, and article 18 of this bill, which codifies this device in the Defense Code.**

[87] **Law No. 2013-1168 of December 18, 2013 relating to military programming for the years 2014 to 2019 and containing various provisions concerning defense and national security.**

[88] **In 2021, 3,092 retraining leaves and 674 additional retraining leaves were granted.**

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It is also desirable that the soldier who left the institution before returning to it accepts the increase in the duration of this legal obligation which results therefrom, in return for the option of return trips in the civilian sector which he will have benefited from. .

Finally, within the framework of the reinforcement of the military reserve carried by this bill, it seems desirable to broaden the base of the operational reserve, taking into account the desire to make former soldiers subject to the obligation of availability more easily recallable.

3.2.2 Adaptations made to the re-enlistment regime for former career military personnel serving under contract

3.2.2.1. *With respect to the effect of the re-engagement on the obligations of connection to the service whose performance was interrupted during the removal of the executives*

The law does not provide for the reactivation of the obligation of connection to the service to which the former soldier was possibly bound before his removal from the executives and which, because of the resignation or the termination of the contract of the person concerned, imposed on the latter the reimbursement of a recruitment or retention bonus or the remuneration received during specialized training89. Consequently, the re-enlisted former soldier is free to subscribe or not to a new service link obligation. He is again eligible for a recruitment or retention bonus. The State, for its part, is not required to pay back the sums reimbursed by the soldier during his previous dismissal from the executives for the total or partial non-performance of a commitment to serve.

This re-enlistment regime is identical to that of soldiers serving under a contract, to whom Article L. 4132-6 of the Defense Code does not offer, during their re-enlistment, the possibility of claiming the reactivation of their service. a former commitment to serve and the reimbursement of the sums paid on the occasion of the interruption of its execution.

3.2.2.2. *With regard to the access of the re-enlisted former soldier to a new retraining*

The provision provided for in IV of article 47 of the aforementioned law no. defence, is perpetuated.

It is a matter of specifying that the duration of the services rendered before removal from the executives or controls will be taken into account for the assessment of eligibility for retraining at the end of the new services rendered.

This provision is not incompatible with the objective of long-term employment within the armed forces and related formations. Indeed, the military's access to the retraining system is not by right, but at the behest of the administration (admission on approved request).

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89 Article L. 4139-13 of the Defense Code.

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On the other hand, **the benefit or a new benefit of leave to set up and take over a business, provided for in Article L. 4139-5-1 of the Defense Code, is not provided for the former serviceman under contract. rehired. This leave from the position of activity potentially lasts one year, renewable once (from a second year to half-pay). Access to this type of retraining is not retained because of its incompatibility with the objective of the re-enlistment measure, which consists of recruiting former soldiers with rare skills with a view to employment, which the leave creating or taking over a busir**

For this reason, the legislation relating to the state of health emergency did not retain the option of access to the creation or takeover of a business by the re-engaged former career soldier. This choice, which did not create any difficulty, is maintained within the framework of this mechanism. The re-enlisted soldier may nevertheless set up a business as part of retraining leave, provided he takes this leave within the two years preceding reaching his age limit. This option results from the provisions of Article L. 4139-6-1 of the Defense Code. By its duration and its positioning at the end of the career, it is compatible with the objective of rehiring.

3.2.3 Adaptations made to the temporary maintenance scheme

This provision codifies the system of temporary maintenance in service in a new article L. 4139-17. This mechanism remains subject to the agreement of the manager. It in no way creates the right to extend service beyond the legal limits and does not modify the parameters for establishing pension rights: the rules relating to the bonus of one-fifth remain applicable to soldiers authorized to extend their service. It nevertheless includes adaptations compared to the regime implemented during the state of health emergency.

3.2.3.1. ***Regarding the duration of the extension***

An adaptation has been made, as regards the duration of the extension of services, to the provisions of law n° 2020-734 of June 17, 2020 mentioned above. This provided for an extension of service beyond the age limit and the length of service limit limited to one year. In order to offer broader possibilities to the directorates and managing departments with a view to meeting a greater variety of HR needs, the measure provides for a period of extension of services that can extend up to three years.

3.2.3.2. ***Regarding eligible military***

The categories of military personnel eligible for this system are designated more precisely than in law no. volunteers in the armed forces who have reached their age limit or their service limit (representing approximately 4,000 soldiers per year). This enumeration calls for the following comments.

Voluntary military service (SMV) and adapted military service volunteers

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These soldiers are not eligible for the above measure. Indeed, their status is characterized by an extremely short period of military service since their commitment is aimed exclusively at following professional training. As such, they are not subject to the length of service limit defined in Article L. 4139-16 of the Defense Code. Their maximum service life stems from specific provisions that limit the number of contracts that may be signed and the maximum duration of these contracts:

- The duration of the services of volunteers of the adapted military service is set by law (article L. 4132-12 of the defense code); it is for a minimum period of six months, renewed for minimum periods of two to twelve months, and cannot exceed twenty-four months;
- The minimum duration of SMV volunteers is set out in Article 32 of Law No. 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and containing various provisions relating to defence. It provides that the SMV volunteer intern contract "is taken out for a period of six to twelve months, renewable for a period of two to six months within the limit of a total duration of twelve months".

Volunteers in the armies

Volunteers in the armies are eligible for the above scheme.

This article makes it possible to standardize the system applicable to all volunteers in the armed forces, by repealing the system applicable specifically to volunteer assistant gendarmes appearing in II of article L. 4139-16 of the defense code.

Military apprentices

Military apprentices, established in Article L. 4121-5-1 of the Defense Code by this law, are eligible for the service retention system. Indeed, these soldiers are recruited under the status of engaged soldiers.

General officers

General officers are excluded from the system. Their statutory scheme provides for the possibility of keeping them in or recalling them to the 1st section until an age above the legal age limit. These provisions, which offer equal flexibility for the retention and recall to service of general officers, make the measure of temporary retention in service useless with regard to them90 .

Other members benefiting from another retention plan

Article L. 4139-16 of the Defense Code already authorizes certain corps to serve beyond the age limit or the length of service. Are concerned :

90 Cf. I of article L. 4139-16 of the defense code.

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- ÿ **army doctors, who are already eligible for a five-year extension (up to age 67). Staying active until the age of 70 would be detrimental to the refocusing of the armed forces' health service on supporting operational commitments and to the objective of rejuvenating deployable practitioners;**
- ÿ **the conductors and deputy conductors of the orchestras of the Republican Guard, whose maintenance service can be renewed without time limit;**
- ÿ **contract officers and commissioned servicemen, who are allowed to remain in the service beyond their length of service limit to bring their retirement pension up to its maximum rate. Their maintenance is granted by right.**

For these soldiers, the temporary service retention system is less attractive. They therefore have no interest in seeing it applied.

Insofar as these various devices are not intended to be combined either, the new article L. 4139-17 of the Defense Code explicitly provides that they are exclusive of each other.
others.

3.2.3.3. ***With regard to the effect of retention in service on step advancement***

I of article 47 of the aforementioned law no. 2020-734 of June 17, 2020 provided for the right to advancement in step while still in service; it is not included in the new article L. 4139-17 of the defense code. This provision, which comes under the regulatory power, is referred to the Conseil d'Etat decree provided for the application of the new article.

3.2.3.4. ***With regard to the effect of continued service on promotion, in the case of commissioned soldiers***

The clarification that the retention in service pronounced pursuant to Article L. 4139-17 of the Defense Code, cannot benefit commissioned soldiers, is not taken from I of Article 47 of the aforementioned Law No. 2020-734 of June 17, 2020. The provisions relating to the attribution of ranks to commissioned soldiers come under a decree in Council of State, by virtue of article L. 4132-10 of the defense code.

3.2.3.5. ***With regard to the effect of retention in service on eligibility for departure incentive schemes***

No extension of the eligibility period for departure incentive schemes is attached to the service retention scheme provided for by the new article L. 4139-17. This device is intended to keep in the service of soldiers who are particularly useful to the armed forces and attached formations which, consequently, are not concerned by the devices of incentive to leave. No adaptation of these systems is therefore necessary for the benefit of soldiers kept in service.

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3.2.3.6. *With regard to the obligation of availability when striking off executives*

Like the service maintenance regime provided for I in article 47 of law no. 2020-734 of June 17, 2020, this article does not provide for any exemption from the obligation of availability in proportion to the services beyond the age limit or the length of service limit.

Ultimately, **the adaptation and codification of the most successful provisions of the service extension measure, whose relevance and usefulness have been demonstrated, perpetuates a resilience instrument that will no longer need to be included in a emergency legislation in the event of exceptional circumstances, which may result both from a health crisis and from developments in the international situation.**

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

This provision creates, within the Defense Code, an article L. 4132-4-1 establishing a new access route to the status of career soldier.

Article L. 4132-6 is also amended to allow reference to a Conseil d'Etat decree for the application of the 3rd paragraph.

An article L. 4139-17 is created within the defense code, allowing derogation from the provisions of article L. 4139-16.

The introduction of this new article also leads to modifying article L. 4139-14 to introduce the new case of automatic removal, at the end of the period of continued service provided for in article L. 4139- 17.

Finally, the present draft deletes the penultimate paragraph of article L. 4139-16 which provides for an exemption for volunteers in service within the national gendarmerie for a period of one year. The introduction of a new article L. 4139-17 creating a three-year common law service maintenance regime no longer justifies the existence of a specific regime for volunteers in the gendarmerie, who will now be able to benefit from the aforementioned new device.

4.1.2. Articulation with international law and European Union law

None.

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4.2. ECONOMIC AND FINANCIAL IMPACTS

This modification has no financial impact. Military personnel subject to re-enlistment or retained in service will continue to be included in the workforce under the ministerial ceiling for authorized jobs (PMEA). These measures are not intended to allow overstaffing, so that it will not generate any additional cost. They do not entail any reimbursement charge for the State with regard to re-employees, just as they do not include any case in which the re-employed person will have to make a reimbursement to the State. In addition, the rules governing the promotion of soldiers kept in service remain identical to those in force, so that their allocation during this period has no financial consequences for the Ministry of the Armed Forces.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

None.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

None.

4.5. IMPACTS ON THE ARMIES

Beyond the period linked to the health crisis, the establishment on a permanent basis of a faculty for the re-engagement of former career soldiers constitutes a significant response to the challenges that the armed forces and attached formations are currently facing, attraction and retention of highly qualified personnel with a view to occupying permanent jobs with a high operational impact. It constitutes an additional management lever allowing the armed forces and attached formations to cope with the substantial flows of departures, in particular in rare professions and specialties in shortage.

More generally, the measures for the re-engagement of former career soldiers serving under contract will enable the armies to guarantee the continuity of missions and increase their resilience in ordinary times and in times of crisis.

4.6. SOCIAL IMPACTS

4.6.1. Impacts on society

None.

4.6.2. Impacts on people with disabilities

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None.

4.6.3. Impacts on equality between women and men

None.

4.6.4. Impacts on youth

None.

4.6.5. Impacts on regulated professions

None.

4.7. IMPACTS ON INDIVIDUALS

The conditions of re-engagement provided for former career soldiers have no impact on the requirement of youth since the interruption of services does not affect the age limit applicable to them in view of their service corps. membership and their rank.

The modification of article L. 4132-6 also makes it possible to make the existing re-enlistment conditions for former soldiers serving under contract more attractive for those concerned.

4.8. ENVIRONMENTAL IMPACTS

None.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

Pursuant to Article L. 4124-1 and 2° of Article R. 4124-1 of the Defense Code, the measure received a favorable opinion from the Superior Council for the Military Service, during the session of 9 March 2023.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

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This article comes into force the day after its publication in the *Official Journal* of the French Republic.

5.2.2. Application in space

This article is applicable throughout the territory of the French Republic. Indeed, the provisions created and modified are part of the general military statute applicable automatically throughout the territory, including in the overseas departments and regions as well as in the overseas communities.

5.2.3. Application texts

As expressly provided for in the new articles L. 4132-4-1 and L. 4139-17 of the Defense Code, a Conseil d'Etat decree will set the conditions for the application of this article. It will set the rules for resumption of step and seniority in step, the methods of classification of career soldiers reintegrated into the corps after a break in service.

Article L. 4132-6 is amended to allow reference to a Conseil d'Etat decree, with a view to improving the conditions for the re-engagement of servicemen under contract. The decree will make it possible to set appropriate conditions for resumption of echelon and seniority in echelon, such as to restore the attractiveness necessary for this path of new access to the military state and to harmonize the conditions for re-engagement with those now provided for former career soldiers. More specifically, in the event of re-employment in the former grade held, it is a question of allowing the resumption of the step and the seniority in step held when the activity checks were removed.

A simple decree will modify decree n° 91-606 of June 27, 1991 relating to the severance pay allocated to certain non-officer soldiers, to provide for the reimbursement of the severance pay for non-officer personnel (IDPNO) by - re-engaged career officers. It will also amend Decree No. 2008-1113 of October 29, 2008 relating to the allowance for specific military activities allocated in the event of departure before fifteen years of service, to specify the conditions for repayment of this allowance by the beneficiaries admitted to re-enlist. .

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Article 16: Raising the irreversibility threshold for retraining leave

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

The armed forces' human resources model is based on massive employment (68%) of military personnel under contract to hold permanent jobs, on low age limits, as well as on a maximum duration of employment for military personnel serving under of a contract capped at 27 years91. It makes it possible to implement a flow policy guaranteeing the youth of the workforce (32.6 years in 202192), required by the constraints and constraints of the military state. The sustainability of this policy is guaranteed by various mechanisms, including the retraining of soldiers.

The retraining scheme aims to facilitate the professional transition and the return to civilian life of soldiers who are entitled to or are forced to leave the service. It constitutes a lever of attractiveness for the armed forces and related formations.

The retraining system provided for in Articles L. 4139-5 and L. 4139-5-1, supplemented by Articles R. 4138-28, R. 4138-29, R. 4139-29-1, R. 4139-29 -2 and R. 4139-29-3 of the Defense Code, allows the eligible soldier to benefit, on approved request, on the one hand, from evaluation and professional orientation systems and, on the other hand, from vocational training or support for employment, intended to prepare him for the exercise of a civilian profession. During the vocational training or employment support phase, the soldier is placed on retraining leave, following which he may possibly obtain additional retraining leave. At the end of the first or second of these leaves, the soldier is permanently removed from the frameworks or activity checks.

Retraining leave lasts a maximum of 120 working days, which can be used in installments for a maximum of two years after reaching the 40th day of training.
Before reaching this threshold of the 40th day of training, the soldier remains free to give up his retraining. Beyond this, the soldier will automatically be removed from the executives or controls either at the end of the two-year period following the 40th day of training if he has not completed his training, or, when he reaches the end of either of these leaves less than two years after reaching the 40th day of retraining leave, at the end of the last day of his retraining leave or of the additional retraining leave.

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91 See Article L. 4139-16 of the Defense Code.

92 Average age of military personnel under the authorized employment ceiling of the Ministry of the Armed Forces in December 2021 (source: Single social report for 2021 of the Ministry of the Armed Forces, p. 71)

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A soldier who is granted retraining leave for a period of less than 40 days is free to waive his retraining up to and including the 39th day of leave.

The divisible nature of the retraining leave gives it useful flexibility, which makes it possible to adapt the process to the constraints of the training followed or the support towards employment. The soldier remains employable by the armed forces and attached formations during the periods not devoted to his retraining.

The armed forces and attached formations would gain even more flexibility and HR efficiency by combining the advantages of splitting with those of raising the irreversibility threshold for retraining leave. Indeed, the 40th day threshold seems too early for soldiers who are granted leave of between 40 and 80 days.

The importance of the threshold of irreversibility of retraining is all the greater since reaching it automatically results in the short or medium term in the removal of executives or controls on a permanent basis, which implies the impossibility of a re-engagement. sul

In 2021, within the scope of the Ministry of the Armed Forces alone, 3,092 soldiers benefited from retraining leave, 674 soldiers having benefited from additional retraining leave.

The average length of retraining leave was 71 days, while that of additional leave was 93 days. The average duration of a retraining process was 155 days. Thus, the duration of retraining leave is very generally greater than 40 days. There are therefore approximately 3,000 soldiers who, annually, are likely to have to irrevocably leave the service without the right to re-enlist, by reaching the legal threshold of the 40th day.

In the Army, 310 soldiers interrupted their retraining over the decade 2011-2021, most of them before the irreversibility threshold of the reconversion.

1.2. CONSTITUTIONAL FRAMEWORK

None.

1.3. CONVENTIONAL FRAME

None.

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93 Cf. first paragraph of III of article L. 4139-5 of the defense code.

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1.4. ELEMENTS OF COMPARATIVE LAW

None.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

Retraining leave is governed by Article L. 4139-5 of the Defense Code. A change in the conditions under which this leave takes place therefore implies an amending legislative measure.

2.2. OBJECTIVES PURSUED

The objective of the measure is to relax the conditions under which a soldier can engage in a retraining process, to meet both the needs of soldiers and those of the armed forces and attached formations.

2.2.1. Accompany with more reactivity the evolution of the needs of the armed forces and related formations

A non-adjustable threshold does not allow the system to be adapted to changes in the human resources policy of the armed forces and related formations.

In times of workforce deflation, a lower threshold will make permanent departures more quickly inevitable. On the contrary, in a period of staff retention, a higher threshold than that of the 40th day will give more time to the 3,000 soldiers who come annually on retraining leave to give them the possibility of abandoning their plan to leave the institution. . Raising the irreversibility threshold then constitutes a significant lever in human resources for the armed forces and related formations. This development allows soldiers to benefit from the option of waiving later retraining to take into account any contingencies occurring during the process (obtaining an assignment, a promotion increasing the age limit of the candidate for retraining, rehiring, change in the family situation, the professional situation of the spouse, wish to reorient the retraining initiated, disruption of the retraining due to operational commitments). In addition, it gives the armed forces and attached formations the ability to retain in service qualified soldiers who, in other circumstances, would have left the institution definitively without possible subsequent re-enlistment.

2.2.2. Promote the reconciliation between this reconversion and the requirements of the activity position

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Facilitating the adjustment of the threshold of irreversibility of retraining also meets the objective of improving the consideration of the difficulties that some soldiers in retraining may encounter.

This is a long process that can last more than two years, during which the personal project, employment prospects within the armed forces, the job market situation and the felt need to break with the military constraints may evolve. Making a retraining irreversible at a stage close to its beginning (currently the 40th day of leave) penalizes both the soldier and his armed force or attached formation to which he belongs. Sometimes subjected during their retraining leave to operational constraints that are not conducive to its successful outcome, it seems appropriate that soldiers be able to benefit from a longer withdrawal period, in order to more objectively assess the chances of success of their approach and decide , if necessary, to continue their service within the armed forces94 .

2.2.3. Improving the resilience of the retraining system in the face of crises

Introducing a possibility of modulating the threshold of irreversibility of the reconversion finally meets a requirement of resilience. It is important to capitalize on the feedback from the health crisis resulting from the covid-19 epidemic, by including in the general status of the military a tool that was lacking when the state of health emergency was declared. .

In March 2020, military personnel undergoing retraining who had crossed the 40th day threshold risked being struck off the staff or activity checks without having benefited from training professional, interrupted by sanitary measures. To remedy this, law no. 2020-734 of 17 June 202095 , in its article 48, secures the completion of the retraining periods for soldiers who have undergone an interruption of their retraining training due to the crisis, by authorizing their continued service until effective completion of training actions.

In addition to this suspension of the automaticity of the radiation of executives or controls, the same law, taking into account the significant deficits in manpower and skills caused by the crisis, also authorized the soldiers on retraining leave to give up and resume their service without losing their right to subsequently benefit from new access to the retraining scheme.

Having in the future the ability to push back the threshold of irreversibility of the removal of executives or controls until the 119th day of leave would meet the HR imperatives of a crisis having

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94 By way of comparison, a soldier who is moving towards integration into the public service via the integration route provided for by Article L. 4139-2 of the Defense Code may, at the end of a secondment of one year, not to ask for his integration into the corps or employment framework to which he has been seconded. The reversibility of his retraining process is guaranteed to him until the end of his retraining period.

95 Law n° 2020-734 of 17 June 2020 relating to various provisions linked to the health crisis, to other urgent measures as well as to the withdrawal of the United Kingdom from the European Union, article 48 .

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the effect of brutally affecting the numbers and skills of the armed forces, or of suppressing access to retraining training for a long period96 .

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTIONS ENVISAGED

The option consisting of removing the definitive nature of the removal of executives or controls pronounced after benefiting from one of the retraining leaves was not retained.
The improvement sought does not consist in eliminating the irreversible nature of retraining leave, a lever for the transformation of armies. It is only a question of better reconciling the interests of the soldiers who plan to leave the service and those of the armed forces and formations attached, by facilitating the modulation of the threshold of irreversibility.

Abolition of this threshold would have offered the soldier full freedom to renounce, at the time of its completion, a professional training requested and obtained by him in favor of a commitment to leave the service. This option, which is not very sustainable from a budgetary point of view, would have favored on the part of certain soldiers an insufficiently thought out commitment to the professional transition process and harmed soldiers who were unable to obtain leave to support a professional project. serious.

It was also considered to include in the law a threshold of irreversibility at the 60th day of the retraining leave. This option does not meet the need for agility in positioning the threshold, which alone gives this tool its effectiveness as a management lever, in ordinary times as well as in times of crisis.

3.2. SELECTED OPTION

This measure refers to a regulatory provision setting the threshold from which the military beneficiary of retraining leave must irrevocably leave the service, and which determines the date of his permanent removal from the framework or controls.

However, the fortieth day threshold is maintained in the law as a minimum threshold, beyond which only the irreversibility threshold may change.

3.2.1. Legal validity of the chosen option

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[96] The ability to keep in service soldiers who reach their age limit or their length of service limit within the limit of three years, established by article 15 of this law, also strengthens the resilience of the retraining mechanism in a situation of crisis. It will indeed allow the extension of services for the duration necessary for the completion of their retraining, soldiers having to be struck off by reaching their age limit or length of service.

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The existence of an irreversibility threshold for retraining leave constitutes a fundamental guarantee within the meaning of Article 34 of the Constitution. On the other hand, the translation of this irreversibility threshold into a number of days falls within the competence of the regulatory power. This threshold is in fact a simple parameter making it possible, according to the requirements of the moment, to preserve the balance of the reciprocal commitments made by the ministry and the soldier on retraining leave. The maintenance of a legislative minimum threshold provides a sufficient framework for the exercise of regulatory power.

The system of leave to create or take over a business provided for in Article L. 4139-5-1 of the Defense Code confirms this legal analysis. It imposes the radiation of executives or controls on the last day of the leave " *unless it is terminated under conditions defined by a decree in the Council of State* ". This reference to an action of the regulatory power materializes without any possible doubt that the legislator did not intend to make the number of days taken into account in the irreversibility of the leave a fundamental guarantee.

3.2.2. Future device

The referral of the determination of this threshold to a decree in Council of State establishes modular , the character beyond the 40th day of the retraining leave, of the number of days retained to fix the threshold of irreversibility. It guarantees the reconciliation of the interests of the administration and the military in the organization of the retraining process.

A transitional measure allows soldiers on retraining leave and who have not yet used the 40th day of this leave on the date of publication of the decree setting the irreversibility threshold, to benefit from the new threshold if it is more favorable to them than the threshold currently set by law.

The intention of the Ministry of the Armed Forces is to raise by decree, in application of this article, the irreversibility threshold to the 60th day of retraining leave, on a permanent basis. However, this system will make it possible, if circumstances so require, to temporarily raise this threshold, potentially up to the 119th day, thus allowing soldiers in the process of retraining to interrupt it and not to be automatically struck off from the executives or final checks.

On the other hand, a derogatory legislative measure would be necessary to extend this derogation to soldiers who, on the date of occurrence of these particular circumstances, had already exceeded the threshold of the 60th day of retraining leave.

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

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This measure entails the modification of article L. 4139-5 of the defense code.

4.1.2. Articulation with international law and European Union law

None.

4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

None.

4.2.2. Business impacts

None.

4.2.3. Budgetary impacts

The average cost of a day of retraining leave is €95, paid to training organizations after service has been completed. Consequently, pushing back the threshold to the 60th day of this leave represents an additional cost of up to €1,900 per soldier renouncing his retraining. Given the number of waivers observed in recent years, it can be estimated that the measure will generate around fifty additional waivers.

On the other hand, keeping this soldier in the service avoids or delays the recruitment and training costs that would have been the consequence of his striking off the staff or activity checks. The overall budgetary impact of this measure will therefore be almost nil.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

None.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

None.

4.5. IMPACTS ON THE ARMIES

In ordinary times, the measure will allow the armies to adjust the sequencing of the retraining processes according to the objectives of their human resources policy. She them

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will also make it possible to offer soldiers in retraining an increased ability to reconcile military activities and professional transition.

In times of crisis brutally affecting the workforce and skills of the armies, it will give them a tool for reactive response to the HR imperatives dictated by the circumstances. It will then make it possible both to guarantee the completion of the conversions and to grant a wider margin of appreciation to give it up, to the benefit of the armies.

4.6. SOCIAL IMPACTS

None.

4.6.1. Impacts on society

None.

4.6.2. Impacts on people with disabilities

None.

4.6.3. Impacts on equality between women and men

None.

4.6.4. Impacts on youth

None.

4.6.5. Impacts on regulated professions

None.

4.7. IMPACTS ON INDIVIDUALS

The measure will respond to the need to give soldiers committing to retraining a longer period of time to assess the chances of success of this process, which commits them to irrevocably leaving the service. Before reaching the irreversibility threshold, it will also allow them to have more flexibility to reconcile their military activity and their professional transition.

Overall, the proposed measure makes it easier for soldiers to conduct their professional transition, increasing their chances of success.

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In times of crisis, the measure will make it possible to guarantee soldiers in retraining the full benefit of the training that the State has undertaken to provide them with to promote their transition to civilian life.

4.8. ENVIRONMENTAL IMPACTS

None.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

In accordance with Article L. 4124-1 and 2° of Article R. l4124-1 of the Defense Code, the measure received a favorable opinion from the Superior Council for the Military Function, dated March 9, 2023 .

5.2. TERMS OF APPLICATION

5.2.1. Application over time

This article comes into force the day after its publication in the *Official Journal* of the French Republic.

5.2.2. Application in space

This article is applicable throughout the territory of the French Republic. Indeed, the provisions created and modified are part of the general military statute applicable automatically throughout the territory, including in the overseas departments and regions as well as in the overseas communities.

5.2.3. Application texts

The proposed measure will involve setting, by decree in Council of State, the irreversibility period at the end of which the soldier who has benefited from a retraining leave will be irrevocably struck off the executives or activity controls.

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Article 17: Strengthen the attractiveness of military careers by creating a military apprenticeship scheme

1. STATE OF PLAY

1.1. GENERAL FRAMEWORK

The Ministry of the Armed Forces (MINARM) aims to be a leading contributor to government policy in favor of youth employment and vocational training.
In this perspective, it currently employs 2,200 apprentices under a civilian status and wishes to implement an apprenticeship scheme under military status, the corollary of which is a commitment to serve as a soldier under contract.

As a reminder, the purpose of apprenticeship is to give workers, who have satisfied compulsory schooling, general, theoretical and practical training, with a view to obtaining a professional qualification sanctioned by a diploma or title for professional purposes registered in the national directory of professional certifications (article L. 6211-1 of the labor code).

Currently, the military technical and preparatory education establishments (ETPM) of the armed forces and related formations (moss school, for the national navy, technical preparatory military school, for the army and the technical education school of the Air and Space Force) provide 1200 students (2023 forecast) with alternating education. It takes the form of general education and theoretical and practical military training sanctioned by a diploma or a professional title. They are prepared, as part of this education, to occupy a job as a non-commissioned member or non-commissioned officer.
The purposes and organizational principles of these training courses relate ETPM to a form of apprenticeship, without however today having the legal status.

However, the legal specificities of military apprenticeship exist in the defense code, as well as in the legal and conventional framework which is imposed on the armed forces and related formations when they recruit and employ underage soldiers.

Indeed, the status of students in military technical and preparatory schools stems from the specific option of enlistment in the armed forces provided for by law for young people from the age of 16, for the sole purpose of " receive general and professional training as a volunteer in the armed forces or as a member of a military school. (4° of article L. 4132-1 of the defense code).

1.2. CONSTITUTIONAL FRAMEWORK

None.

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1.3. CONVENTIONAL FRAME

Pupils, soldiers in a position of activity, derogate from the legal statutory requirement of availability at any time and in any place, by reason of the provisions of the optional protocol to the convention on the rights of the child, concerning the involvement of children in armed conflicts of May 25, 2000, as well as in European Directive 94/33/EC of June 22, 1994 on the protection of young people at work, texts respectively ratified and transposed by France and applicable to underage soldiers.

The protocol considers children under the age of 18, prohibits their direct participation in hostilities (article 1) and obliges to put safeguards in place in the legislation (article 3).

Directive 94/33/EC of June 22, 199497 provides for exceptions:

- **ÿ the daily and weekly working time of adolescents, respectively limited to eight and forty hours, authorized when objective reasons justify it (article 8, 5.);**
- **ÿ the prohibition of night work, authorized for work carried out within the framework of armed or police forces (Article 9, 2. in fine);**
- **ÿ and derogations from the minimum duration of twelve hours and two days set for the daily and weekly rest periods, authorized for work carried out within the framework of the armed forces or the police (Article 10, 4. b).**

1.4. ELEMENTS OF COMPARATIVE LAW

None.

2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

The general status of soldiers (part 4 of the defense code) does not currently take into account all the specificities and legal limitations applicable to soldiers engaged for the sole purpose of acquiring the qualifications and training necessary for subsequent engagement in the armed forces. and related training (whether or not they are minors).

Furthermore, the nature of the training provided in the technical and military preparatory schools, which provide training for these soldiers, corresponds in fact to a form of apprenticeship, understood as a form of alternating education combining periods of

97 Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work.

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training based on the actual exercise of a professional activity and theoretical lessons, and allowing the acquisition of a qualification (in accordance with article L. 6211-2 of the labor code). However, it differs in several aspects from the legal regime of civil apprenticeship defined by the labor code, in particular because it is designed for recruitment purposes98

It follows from this double observation that the development of a statutory scheme for military apprentices is necessary. Applicable to students of military technical and preparatory schools, it must specify the legal statutory provisions specific to its students which are at the level of the fundamental guarantee, and mark the differences between ETPM and civiliar

Taking into account the international and European framework applicable to underage ETPM students also requires legislative action.

In 2003, France ratified the optional protocol to the convention on the rights of the child, concerning the involvement of children in armed conflicts, adopted by the general assembly of the United Nations on May 25, 2000. The general status of soldiers , in this regard, does not contain any express guarantee. It provides that 16-year-old recruits are engaged solely for the purpose of receiving general and vocational training, without specifying what activities may be carried out by students from these establishments as part of the practical part of this training.

The formalization of the ETPM thus makes it possible to define a legal framework for the activities in which minor pupils of establishments concerned with this education can participate and which can be defined in a restrictive manner: civil defense missions (1st paragraph of the Article L. 1321-2 of the Defense Code) and the training and employment conditioning activities of the armed forces and related formations implemented in the units and organizations to which they are attached. These activities are already mentioned in the general status of the military (in article L. 4221-1, concerning reservists).

Finally, the measure providing, in compliance with Directive 94/33/EC of June 22, 1994, a limitation to the principle of availability at any time and in any place of the military, enshrined in Article L. 4121-5 of the Defense Code, can only be implemented by legislative measure.

2.2. OBJECTIVES PURSUED

Developing technical training in cutting-edge sectors (cyberdefence, nuclear propulsion, aeronautical maintenance, etc.) and retaining the skills acquired are central aspects of the ambition to modernize the armies. To respond to this, the Ministry of the Armed Forces during the 2024-2030 programming period intends to follow the policy

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[98] **Adaptations are necessary in order to guarantee an articulation compatible with the principles of the statute general of the military and the specificities of the organization of MINARM.**

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development of learning for the benefit of youth, while adapting it to military status.

The land, air and space armies, as well as the national navy, train 1,200 military apprentices each year. They wish, during the period 2024-2030, to increase this attractive method of recruitment, of which they note the performance, until doubling the workforce.
The military commitment taken out at the end of the apprenticeship period will concern the category of non-commissioned soldiers as well as non-commissioned officers and officers, depending on the type and level of diploma acquired.

The internalization under military status of academic training, also including a military training component, has demonstrated its relevance for the armies. Attractive for candidates who enter the service young, it contributes to their better loyalty99. It thus responds to the main challenges encountered in the field of human resources. In the context of tension and high competitiveness of work, this efficiency invites to include the use of technical and preparatory education in a dynamic of development to secure recruitment in technical and specialized jobs.

3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. OPTIONS ENVISAGED

The preliminary to the drafting of the proposed measure was the study of the apprenticeship regime as provided for by the labor code, to examine the possibility and the advisability of transposing the main modalities, subject to the adaptations induced by the specificity of the general status of the military and the missions of the armed forces and related formations. Apprenticeship under military status cannot be governed by the labor code, which does not apply to the military. In addition, the general economy of technical and preparatory military education differs in several aspects from civilian apprenticeship, such as age requirements, definition of apprentice training organizations, duration of apprenticeship, and the nature of the degrees awarded. These are diplomas or titles for professional purposes registered in the national register of professional certifications (RNCP) in both cases, but can also include military diplomas in the case of military apprenticeship.

Are required of the military apprentice the aptitude for the military function, the signature of a contract of engagement (instead of an apprenticeship contract) by which he undertakes, to obtain the

[99] 18% of civilian apprentices from the Ministry of the Armed Forces enter state service, while military apprenticeship retains 85% to 100% of apprentices (since the commitment is planned from the outset). The formula is all the more effective as military apprentices receive shorter (and therefore less expensive) training. Finally, younger recruits remain in service longer (according to HRDs, without more precise

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diploma, to sign a contract of engagement under the status of engaged soldier. His admission to the status of military apprentice therefore guarantees him a job.

The main rules applicable to apprenticeship as defined by the labor code do not correspond to the development objectives of military apprenticeship: to internalize in the armed forces and related training courses an education adapted to employment needs, constituting a way of access to public employment.

The constraints inherent in being a soldier can only be taken into account in a specific and autonomous military learning system, backed by existing military structures and training.

Conversely, certain rules applicable to apprenticeship in the private sector are not applicable in the public sector, such as, for certain vocational training courses exhaustively listed by decree, the possibility for the apprentice to carry out all the work that his training, under the responsibility of the employer (article L. 6222-31 of the labor code).

3.2. SELECTED OPTION

The proposed measure, which aims to create a specific military apprenticeship system, combines the principles of civilian apprenticeship governed by the labor code (theoretical and practical professional training within a specialized establishment) and the specificities of the general status the military and the missions of the armed forces and related formations on which the units and organizations in which the military apprentices are trained depend.

Unlike civil apprenticeship, which does not automatically lead to the hiring of the apprentice by the host company at the end of his training, the proposed measure expressly provides that the training provided by the ETPM is with a view to enlistment in the armed forces and related formations. The measure thus promotes both the development of vocational training, like the civil system governed by the labor code, and youth employment.

4. ANALYSIS OF THE IMPACTS OF THE ENVISAGED PROVISIONS

4.1. LEGAL IMPACTS

4.1.1. Impacts on the internal legal order

The proposed measure enshrines the existence of schools and technical and preparatory education centers for all the armed forces and related formations. Currently, only the preparatory schools of the national navy are mentioned by article L. 4121-5-1 of the defense code, about the standards applicable to their former minor students.

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Military apprentices will therefore henceforth be governed by the provisions appearing in the new chapter III of title V of book I of part 4 of the defense code: "Military establishments for preparatory and technical education for the armed forces and related training".

These provisions aim to create a statutory framework integrating an adjustment of the conditions of employment of military apprentices, in particular / minors, strictly in accordance with the stipulations of the convention relating to the rights of the child and the directive relating to the protection of young people at work. : night work, employment in operational units such as regional emergency and rescue operational centres, working hours. Article L. 4121-5-1 will be amended accordingly.

The proposed measure, providing that ETPM students can also participate in civil defense missions provided for by decree in the Council of State, is compatible with the provisions of Article L. 4132-1, 4° of the Code of defense in that these missions, which are necessarily one-off, can be seen as part of a human and professional training in accordance with the nature and objectives of the commitment entered into by the military apprentices. The participation of military apprentices in any other mission, that is to say in any operational commitment, is thus excluded. This provision enshrines in positive law the commitments entered into by France through the ratification, in 2003, of the aforementioned Convention.

The participation of military apprentices in civil defense missions can also be compared to the possibilities provided for in Article L. 120-1 of the National Service Code, opening civic service to persons aged sixteen to twenty-five and authorizing them to contribute to defense and civil security or prevention missions, and by articles L. 724-1 and L. 724-14 of the internal security code establishing municipal civil security reserves and the citizen reserves of the fire and rescue services with similar missions and open to minors aged 16 to 18.

It can also be compared to a combined application of Articles L. 121-1 of the National Service Code and L. 4132-12 and D. 3241-33 of the Defense Code, allowing suitable military service volunteers, from sixteen years, to contribute, if necessary, to defense plans and plans for the protection and relief of populations.

The proposed measure also includes in this bill the article relating to the authorized staff of the ministry, to specify that "civilian and military" apprentices are not counted in the staff of the Ministry of the Armed Forces provided for in the military programming law. (LPM).

4.1.2. Articulation with international law and European Union law

The proposed measure, insofar as it limits the activities in which students of the units and organizations in which they receive their training and civil defense missions may participate, respects the optional protocol to the United Nations Convention on the Rights of the child concerning the involvement of children in armed conflict, including article 1 specifies that States Parties shall take all possible measures in practice to ensure

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that members of their armed forces who have not reached the age of eighteen do not take a direct part in hostilities.

Civil defense missions do not in fact constitute participation in hostilities in the context of an armed conflict but non-military defense measures, for example a general protection plan and or the ORSEC operational system, for which the prefect is responsible, who can, for the exercise of these non-military defense responsibilities, request the assistance of the armed forces or require them (article R* 1311-35 of the defense code).

These missions therefore do not fall within the scope of the prohibition provided for in the optional protocol to the United Nations Convention on the Rights of the Child.

It also complies with the provisions of Directive 94/33/EC of June 22, 1994, in particular with regard to derogations (see 1.3 *above).*

The scope of the derogations granted to the working time of minors will however be defined in such a way as to allow those of them over the age of 16 to carry out night duties, solely within the framework of their training and only when this is essential for the learning provided. The daily service time of minor military apprentices will be limited to eight hours per day, derogations being nevertheless possible by means of a decree in the Council of State, without being able to exceed a ceiling of eleven hours per day.

The derogation from the principle of availability at any time and in any place of soldiers, set out in Article L. 4121-5-1 of the Defense Code, with regard to underage military apprentices, is extended by the same article to other minor soldiers. These are minor soldiers who enlist from the age of 17 (cf. article L. 4132-1 of the defense code). Article L. 4121-5-1 thus ensures compliance of the Defense Code with all of the international commitments entered into by France with regard to military minors.

4.2. ECONOMIC AND FINANCIAL IMPACTS

4.2.1. Macroeconomic impacts

None.

4.2.2. Business impacts

None.

4.2.3. Budgetary impacts

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Like article 6 of the military programming law (LPM) 2019-2025100 which provides that civilian apprentices are not counted in the trajectory of the programmed workforce, it is proposed to include this provision in the next LPM for military apprentices.
This would constitute an incentive for management departments and services to use this training course.

The very limited military employability of military apprentices, the derogation from the principle of availability at any time and in any place of soldiers and their recruitment for the sole purpose of training, even with a view to enlistment at the end of their training, justify This meas

A parallel can be made with the civil apprenticeship provided for by the labor code since article L. 1111-3 of the said code expressly provides that apprentices are excluded from the calculation of the workforce of the company which hosts them, both for public and private companies.

This exclusion of military apprentices, in the same way as that of civilian apprentices, voluntary military service volunteers and personnel possibly necessary for universal national service, retained by the aforementioned military programming law, aims not to burden the recruitment capacities of armed forces and attached formations by considering as personnel of these persons who are in training and cannot, by hypothesis, fulfill all the missions falling within the scope of the armed forces. Maintaining military apprentices in the workforce of the Ministry of the Armed Forces provided for in the military programming law has, on the contrary, the consequence of reducing by the same amount the directly employable workforce of the armed forces.

The annual change in the number of military apprentices and the identification of the related staff credit needs will be determined each year within the framework of the finance bills and will be added to the changes provided for under Article 6. of the LPM 2024-2030.

4.3. IMPACTS ON TERRITORIAL COMMUNITIES

None.

4.4. IMPACTS ON ADMINISTRATIVE SERVICES

None.

[100] **Law n° 2018-607 of July 13, 2018 relating to military programming for the years 2019 to 2025 and containing various provisions relating to defence.**

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4.5. IMPACTS ON THE ARMIES

The proposed measure should allow the armies to broaden the pool and source of their recruitments, in a very wide range of training, potentially in all professional families, but in priority in those particularly in tension. These include maintenance in aeronautical and terrestrial condition, digital (information and communication systems, cyber), infrastructure/ engineering, electricians, intelligence or drones.

The status of military apprentice would also bring greater flexibility to the recruitment system, insofar as it allows better targeting of applications and greater responsiveness to the hiring process in a context of strong competition with the civilian sector.

In addition, for candidates who enter the service young, military apprenticeship guarantees their better loyalty, thus responding to the main challenges currently encountered in the field of human resources by the military institution, which intends to register the use of ETPM in a dynamic of development to secure its recruitments, particularly in the sectors in tension or the fields of complex specialty requiring a high degree of mastery. For example, the French Navy is currently developing its ETPM in the fields of nuclear propulsion (BTS atomicien).

4.6. SOCIAL IMPACTS

4.6.1. Impacts on society

Military apprenticeship is a lever for social diversity and equal opportunities[101], insofar as students, who are defrayed during their studies, have easier access to education, including higher education, and to the associated military status (non-commissioned officers as officers).

4.6.2. Impacts on people with disabilities

None.

4.6.3. Impacts on equality between women and men

None.

4.6.4. Impacts on youth

[101] **It is within the framework of the "equal opportunities" plan that the foam school was re-opened in 2009.**

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By organizing the ETPM by making it a specific form of learning subject to the Defense Code and by providing that this education is provided with a view to engagement in the armed forces and related formations, the proposed measure ensures a certain professional future. and immediate to young people who choose to follow this training and that civilian apprenticeship does not offer them.

By providing for this *continuum* between technical and preparatory training, on the one hand, and engagement in the armed forces and related training on the other, the Ministry of the Armed Forces contributes to the government policy in favor of the employment of young people and vocational training. A guarantee of long-term employment combined with a real career path is thus offered upon successful completion of the training provided.

4.6.5. Impacts on regulated professions

None.

4.7. IMPACTS ON INDIVIDUALS

None.

4.8. ENVIRONMENTAL IMPACTS

None.

5. CONSULTATIONS AND TERMS OF APPLICATION

5.1. CONSULTATIONS CONDUCTED

Pursuant to Article L. 4124-1 and 2° of Article R. 4124-1 of the Defense Code, the measure received a favorable opinion from the Superior Council for Military Service during the session of March 9 2023.

5.2. TERMS OF APPLICATION

5.2.1. Application over time

This article comes into force the day after its publication in the *Official Journal* of the French Republic.

5.2.2. Application in space

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This article is applicable throughout the territory of the French Republic. Indeed, the provisions created and modified are part of the general military statute applicable as of right throughout the territory, including in the overseas departments and regions as well as in the overseas communities.

5.2.3. Application texts

The measure formalizes preparatory and technical education for the armed forces and related formations in the Defense Code, by defining it as a specific form of learning and by referring its organizational methods to a decree in the Council of State.

A Conseil d'Etat decree will also specify the situations in which the working time of military minors who are not apprentices may exceed eight hours per day, within the limit of eleven hours per day.

The same details, with regard to military apprentice minors, will be adapted to the requirements of the training paths specific to each military apprenticeship training course. They will be included in the Conseil d'Etat decrees relating to students in technical and preparatory education in each of the armed forces and related formations using military apprenticeship.

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Article 18: Extend and modernize the allocation of the flexible departure incentive pay and functional promotion

1. STATE OF PLAY

In order to support the adaptation and transformation of the armed forces and give full latitude to managers to steer the flow of staff, short-term measures such as the pension relating to the higher rank (PAGS), functional promotion (PF) and the flexible departure incentive scheme (PMID) have been created. However, the needs to support the constant changes experienced by the armed forces have required renewing these regulatory instruments on the occasion of each military programming law (LPM). These needs continue; it therefore appears necessary to renew or perpetuate by codifying these systems, apart from the PAGS, in order to give potentially eligible soldiers, as well as managers, sufficient visibility on their durability, making it possible to improve the anticipation of maneuvers of human ressources.

Provided for by Articles 36, 37 and 38 of Law No. 2013-1168 of 18 December 2013 as amended relating to military programming for the years 2014 to 2019 and laying down various provisions concerning defense and national security, PAGS, FP and the PMID were extended until December 31, 2025 by Ordinance No. 2019-3 of January 4, 2019 relating to certain procedures for encouraging the departure of military personnel.

The PF allows career officers, non-commissioned officers and petty officers in a position of activity to be promoted to a higher grade than that held, in order to exercise a specific function before their removal from the ranks or their admission to the second section of the general officers. Promotion is therefore conditional on the early departure of the soldier who undertakes to leave his duties before reaching his age limit, under conditions set by decree in Council of State. To benefit from it, the soldier must have completed at least fifteen years of effective military service and make a written request.

The PMID replaces the flexible incentive bonus for a second career which had been instituted by article 149 of the law n° 2008-1425 of December 27, 2008 of finances for 2009, for a period of six years. It allows, in return for the early departure of the career soldier or the enlisted soldier, the payment of an amount between 27 and 48 months of gross pay for officers, between 22 and 36 months of gross pay for non-commissioned officers and petty officers and 17 months gross pay for non-commissioned members. The PMID can be awarded to active career officers accumulating at least 18 years of service, to active career non-commissioned officers and petty officers accumulating at least twenty years of service, to non-commissioned officers, petty officers, non-commissioned members engaged , in activity who, having more than eleven years and less than fifteen years of service, are removed from the controls at the end of their contract. This allowance is paid in one installment at the time of the radiation of the executives or the controls or the admission in second section. The granting of the PMID prohibits public employment for five years, excep

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2. NEED FOR LEGISLATION AND PURSUED OBJECTIVES

2.1. NEED TO LEGISLATE

The functioning of the armies is built on a dynamic human resources management model. Responding to the imperative of youth, it is characterized by a policy of permanent and substantial incoming and outgoing flows.

This operation is justified by a constant need for the armed forces to adapt their human resources to the rapid changes in their professions and to respond to the imperative of youth. They thus seek to facilitate the departure of soldiers occupying jobs in decline and to promote recruitment in priority areas such as the digitization of weapon systems, cyber defence, intelligence or artificial intelligence.

Departure incentive schemes are therefore essential to generate, maintain and regulate these flows and maintain a selective pyramid structure. Both implemented within the framework of a quota, they have a significant impact, as shown in the following table:

	2020		2021		2022	
	PMID	PF	PMID	PF	PMID	PF
Quota	238	47	235	50	223	50
Assigned	203	24	212	26	201	32

In order to preserve the army management model, it is essential for managers to continue to have these two levers at their disposal.

However, law n° 2013-1168 of December 18, 2013 provides that the FP and PMID systems will end on December 31, 2025. The sustainability of these levers of transformation of the armies is therefore necessary and motivates this proposed legislative measure.

The proposed amendments require amending the legislative part of the Defense Code and the aforementioned Law No. 2013-1168, which requires the use of a legislative vector.

2.2. OBJECTIVES PURSUED

The objective pursued by this measure is to renew the PMID during the period of the military programming law 2024-2030, to transform the FP into a permanent management lever through a codification in the statutory part of the defense code, now open to

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National Gendarmerie, which had been excluded from it since its creation, and finally to adapt both of these systems to the specific needs of senior military personnel.

In addition, the revision of this article is an opportunity to develop these two systems with regard to their application to general officers.

Capitalizing on its model of training and permanent selection throughout officer careers, the HR model for general officers is also based on a flow dynamic, which makes it possible to optimize the use of their skills. In particular, it is envisaged that general officers will be appointed younger than at present without all remaining employed by the armed forces until their age limit. From then on, professional transitions would be initiated earlier, in order to enroll general officers in a real third part of their career. Thus the use of FP or PMID should allow certain general officers whose employment within the armed forces is no longer essential to leave the institution in a better programmed and anticipated manner.

For general officers, the PMID will therefore be granted up to one year of the age limit instead of three years for the other categories. The measure aims to support the departure of general officers in the first section designated to apply for the highest positions in the senior military management but ultimately not selected. It also constitutes a starting lever consistent with the concept of the population of general officers leaving the institution earlier and entering a new career useful for the influence of the armies in the private sector.

This measure reinforces the flexibility of the management model for general officers by giving a wider range of use of a departure assistance tool. Such a system could also make it possible to better meet the needs for fine management of entries/exits, by facilitating appointments on dates compatible with the annual transfer plan. Thus, a colonel promoted to general will occupy his post of colonel until the summer and will take the place of a general benefiting from a PMID within three years of his age limit.

With regard to PF, general officers placed in the 1st section and having benefited from PF may be reappointed to a second job under the same conditions. The armies will thus be able to revitalize and secure the management of certain senior military management jobs. The adaptation of functional promotion for general officers aims in fact to promote sufficiently young people to jobs of high responsibility for qualified officers, thus avoiding their departure from the armies during the contracted duration of occupation of the job. This young promotion would lead the person concerned to leave too early, if the general officer is likely to occupy a second job under the same conditions. The use of a second functional promotion then secures both the availability of this resource for the duration of this second job, and the departure before the age limit when no job is no longer possible at the end of the period. functional job. The functional double promotion formula is adapted to a more attractive but time-limited contractual career in sectors requiring a rare profile.

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3. POSSIBLE OPTIONS AND SELECTED MECHANISM

3.1. POSSIBLE OPTION : INTEGRATION INTO THE DEFENSE CODE OF PROVISIONS RELATING TO PMID AND FUNCTIONAL PROMOTION

The purpose of the defense code is to bring together legislative or regulatory standards, which it makes coherent and accessible to meet the objective of constitutional value of accessibility and intelligibility of the rules of law[102] ·

This principle could justify favoring the integration of FP and PMID systems within section 2 of chapter IX of title III of book I of the fourth part of the defense code devoted to departure assistance systems. soldiers. This codification would make it possible to avoid a renewal by legislative means of measures whose need seems to be permanent. A codification is all the more possible since their attribution does not constitute a right, and their regime provides for a quota.

Conversely, it can be judged that these steering tools, which are essential for the management of the human resources of the armed forces and related formations, can be subject to adaptations and improvements each time they are renewed. It could therefore be envisaged to retain the legislative base of articles 37 and 38 of law no. 2013-1168 of 18 December 2013, by periodically extending their validity.

3.2. CHOSEN OPTION : CODING OF THE FUNCTIONAL PROMOTION, EXTENSION OF THE MODULAR DEPARTURE INCENTIVE PENSION, FOR THE YEARS 2024 TO 2030, ADAPTATION OF THESE TOOLS FOR THE MANAGEMENT OF HIGH EXECUTIVES MILITARY.

The option chosen consists in codifying the FP, an inexpensive tool which has the double advantage of retaining certain skills necessary for the exercise of certain jobs, and of guaranteeing departure at the end of this exercise. The use of this management lever is extended to the national gendarmerie.

There are no plans to codify and perpetuate the PMID, a system that is more likely to be periodically updated.

Finally, an adaptation of these tools to the management needs of senior military personnel is provided for by the establishment of greater flexibility in the conditions for granting the PMID, and the creation of a possibility of succession of two functional promotions.

[102] CC, n° 99-421 DC of December 16, 1999 and CC, n° 2007-561 DC of January 17, 2008.