



MINISTÈRE DE LA JUSTICE

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Survey
on the prevention of local
government corruption

Analysis – November 2018

Foreword

Under the terms of the Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016, the French Anti-Corruption Agency is tasked with advising and auditing local public services.

In its guidelines published in the Official Journal on 22 December 2017, the Agency defined the corruption prevention and detection policies that now apply in France, including policies for public sector players.

Local public services are very diverse, with a large number of entities of various sizes and differing powers, a large number of employees in a wide range of occupations, responsible for running communities and organisations in a variety of territories.

Consequently, immediately after its inauguration, the French Anti-Corruption Agency started broad-based consultations with representatives of local elected officials and civil servants to address their needs for support in taking ownership of the new policies.

The online survey conducted between February and May 2018 reveals the state of play in prevention of local government corruption. The survey will enable the French Anti-Corruption Agency to understand local public services in all their diversity in order to refine the advice and support it provides.

I would like to thank the associations of local elected officials and professionals, along with the National Local Civil Service Centre (CNFPT) for transmitting our online questionnaire to their members and affiliates.

This report provides a detailed analysis of the survey findings.



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Introduction

Presentation of the French Anti-Corruption Agency

The French Anti-Corruption Agency (AFA) is an agency with national jurisdiction established by the Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016 (Sapin II Act). The Agency operates under the authority of the Minister of Justice and the Minister for the Budget. It is directed by a magistrate who is independent of the judicial hierarchy and appointed by a decree from the President of the Republic for a non-renewable six-year term.

The Agency's task¹ is to help the competent authorities and the persons dealing with them prevent and detect bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism (see **Appendix 1 for the definition of corruption taken from the French Anti-Corruption Agency Guidelines of 22 December 2017**²).

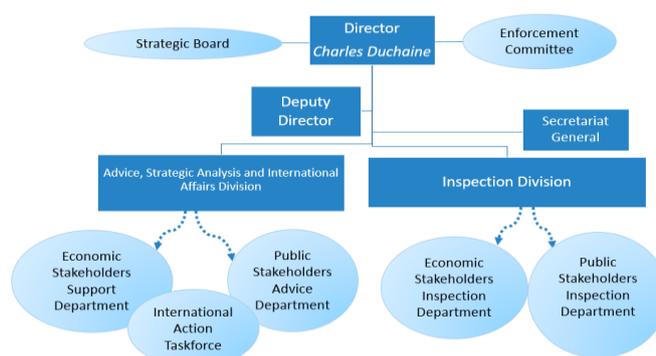
For this purpose, the Agency provides support for central government administrations, local governments and all natural persons or legal entities.³

It is responsible for providing advice on preventing and detecting corruption,⁴ and auditing the implementation and effectiveness of anti-corruption compliance policies, particularly in the case of private-sector entities, central government departments and local governments (see **Appendix 2 on AFA's audits**). In addition, the Agency is involved in administrative coordination. It acts as a clearinghouse for helpful information for the prevention and detection of bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.

Why conduct a survey now?

In March 2017, AFA replaced the Central Unit for the Prevention of Corruption (SCPC).⁵ The SCPC had conducted a survey on the prevention of local government corruption in 2013. However, the

AFA organisation chart



¹ Article 1 of the Act of 9 December 2016.

² AFA Guidelines published in the Official Journal No. 0298 of 22 December 2017 (text No. 176).

³ Article 3 of the Act of 9 December 2016.

⁴ For the purposes of this report, risks and cases of corruption shall be taken to mean all offences including bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.

⁵ AFA replaced the SCPC with the entry into force of the Decree of 17 March 2017 appointing the AFA Director.

survey sample was restricted to local governments and groups of local governments serving populations of more than 50,000, which represented 514 entities at the time.⁶

As part of its remit to advise local public services, the Agency wished to conduct a fresh survey covering all local public sector players and incorporating all of the changes made to laws and regulations since 2014. Using the findings of this survey, AFA will be able to adapt its guidelines⁷ to the specific features of the different local public service players and tailor its awareness-raising efforts, training, advice and support to their needs.

Potential audience and target audience for the questionnaire

There are 49,935 local government entities, which break down as shown below.⁸ In contrast to the SCPC survey, which was set to each entity concerned individually, AFA was unable to distribute its questionnaire for lack of a database containing the entities' e-mail addresses.

Therefore the questionnaire was distributed through some twenty national associations of elected officials (including the Association of French Mayors and Inter-Municipal

French local government entities

35,443 municipalities	22 metropolitan areas	New Caledonia
101 départements	11,585 syndicats de communes	French Polynesia
18 regions	1,009 district communities	Wallis and Futuna
	11 urban communities	St Pierre and Miquelon
	1,260 local publicly-owned companies	St Barthélemy
	246 public housing boards	St Martin
	97 management centres	

Chairs) and local civil service professionals, along with the National Local Civil Service Centre, in charge of training at local government level (see **Appendix 3. Associations and organisations that distributed the AFA questionnaire**).

These bodies agreed to distribute the questionnaire to their members and contacts in their own name and in that of AFA. Consequently, the questionnaire was given to local elected officials, local government employees from the municipalities, "départements", regions and their establishments, including public-funded inter-municipal cooperation institutions (EPCIs) and public housing boards (OPHs). Local publicly-owned companies (EPLs), including semi-public companies, local government funded companies and semi-public companies created for a single project, also received the questionnaire from

Responses by type of entity

Type of entity	No. of respondents
Municipalities	2,793
Départements	48
Regions	13
EPCIs	303
EPLs	20
OPHs	68
Management centres	32
n/a	-
Total	3,277

⁶ "La prévention de la corruption dans les collectivités territoriales," Central Unit for the Prevention of Corruption, 2013 Report, p. 200.

⁷ Under the terms of Article 3(2°) of the Transparency, Anti-Corruption and Economic Modernisation Act No. 2016-1691 of 9 December 2016, the French Anti-Corruption Agency (AFA) "shall draft guidelines to help private and public sector entities prevent and detect bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism. These guidelines shall be adapted to the size of the entities concerned and the nature of the risks identified. The guidelines shall be updated periodically in consideration of changing practices and shall be published in the Official Journal." The Agency published its first guidelines in the Official Journal No. 0298 of 22 December 2017 (text No. 176).

⁸ Sources: i) "Les collectivités locales en chiffres 2018," Directorate General for Local Government; ii) Fédération nationale des offices publics de l'habitat; iii) Fédération des entreprises publiques locales; iv) Fédération nationale des centres de gestion de la fonction publique territoriale.

their respective federations. Using the data provided by the bodies distributing the questionnaire, the number of targeted entities and individuals receiving the online questionnaire may be estimated at 110,000.

This distribution method led to some specialisation of the respondents: the questionnaire went to “supervisory” staff mostly, even though such staff accounts for less than 10% of local civil servants.⁹ The message containing the link to the questionnaire was opened by 38,000 recipients and, of those, 3,368 responded to the survey. After making the adjustments described below, the findings presented in this report are based on 3,277 responses.

Disclaimer

Consistency of responses and statistical bias. The survey characteristics, nature and distribution method have an impact on the quality of the data, which is also affected by bias arising from the statistical analysis itself.

More specifically, the anonymity of respondents, along with fear of being identified, may have given rise to inconsistent answers, particularly with regard to the first questions about the respondent’s local government or institution. Similarly, the distribution method used for the questionnaire did not make it possible to detect obviously wrong answers, which were eliminated manually.

These shortcomings are the trade-off for attempting the most exhaustive survey possible, for the reasons mentioned at the beginning of this report.

Ultimately, 91 of the 3,368 responses received were deemed to be inconsistent and were eliminated. The analyses are based on a net 3,277 responses.

Questionnaire features

The name of the survey is “*Prevention of local government corruption*”. It was a deliberate choice to make the online questionnaire (see **Appendix 4, Questionnaire on prevention of local government corruption**) anonymous. Respondents are not asked for their names, or for the names of their local government or their institution. Respondents are asked to draw on their individual experiences, perceptions and knowledge of corruption risk management in their local governments or institutions.

Consequently, in this report, we refer to “*survey respondents*” rather than “*local governments responding to the survey*”.

The online questionnaire was accessible for three months, between 15 February and 15 May 2018. It had between 30 and 53 close-ended questions in three sections:

- ✓ 5 questions about the profiles of the local government entities. The size and resources of local government entities need to be considered, particularly in the case of municipalities, in order to obtain a detailed picture of how corruption risks are addressed.
- ✓ 14 questions about perceptions of corruption risk. These questions introduce the issue: they deal with knowledge of offences per se and of the risk areas in local government management. The purpose is to shed light on the respondents’ own perceptions of areas that warrant greater scrutiny and the outcomes of any corruption cases that they know about in their organisation.
- ✓ 34 questions about preventing corruption. More than half these questions deal with preventive actions undertaken in their local government entities. Once again, these questions focus on the respondents’ personal knowledge. One question deals with the compliance officer,

⁹ “*Les collectivités locales en chiffres 2018*”, Directorate General for Local Government.

a function required under the Act of 20 April 2016.¹⁰ The compliance officers are not part of the anti-corruption programme per se, but they contribute through their advisory function on ethical requirements, including obligations of probity and integrity.¹¹

Eight questions deal with anti-corruption policies, as set out by AFA in its guidelines. The policies include several components that are jointly deployed under an anti-corruption programme:¹²

- i)* risk mapping to identify, assess and prioritise corruption risks;
- ii)* a code of conduct that makes anti-corruption procedures mandatory;
- iii)* third-party due diligence to ensure the integrity of the external parties the entities deal with;
- iv)* a whistleblowing system that reports disclosures and protects whistleblowers¹³ ;
- v)* accounting control and internal audit functions ensuring that procedures are followed and remain relevant;
- vi)* training for managers and employees to ensure ownership of the notions and policies for preventing and detecting corruption.

* *

*

¹⁰ Article 28 *bis* of French Act No. 83-634 of 13 July 1983 on the rights and obligations of civil servants (created by Article 11 of French Act No. 2016-483 of 20 April 2016 on ethics and the rights and obligations of civil servants).

¹¹ As stipulated in Article 25 of French Act No. 83-634 of 13 July 1983 on the rights and obligations of civil servants (as amended by Article 11 of French Act No. 2016-483 of 20 April 2016 on ethics and the rights and obligations of civil servants).

¹² When this report refers to an anti-corruption plan or programme, it refers to a structured corruption risk management policy, as defined in the Sapin II Act. This is distinct from preventive measures that are not part of a coherent overall policy.

¹³ The AFA guidelines published on 22 December 2017 explain that, “*The internal whistleblowing system should be distinct from the procedures implemented to ensure protection of whistleblowers under the terms of Articles 6 to 16 of the Transparency, Anti-Corruption and Economic Modernisation Act No. 2016-1691 of 9 December 2016 [...]. Insofar as the internal whistleblowing system includes disclosures of risks covered by the abovementioned legislation, a single technical system for receiving such disclosures could be established in compliance with these provisions.*”

Corruption prevention provisions

Local governments have to apply increasingly diverse and complex regulations. Some of these provisions are not part of the anti-corruption system per se, as defined by the Sapin II Act, but they help ensure lawful management practices. The following regulatory requirements can be cited:

Compliance requirements

- ✓ Compliance officers: these officers are responsible for advising employees.
- ✓ The Civil Service Ethics Commission: the role of this commission is to supervise former civil servants and certain employees of private-law entities planning to work in the private sector or the competitive public sector. It examines their planned private-sector activities for conflicts with their previous functions.

Conflict of interest prevention

- ✓ Declarations of interest: declarations of interest under the terms of Act 2013-907 of 11 October 2013 on transparency in public life enable the High Authority for Transparency in Public Life to supervise the persons required to produce them.
- ✓ Regulations on employing family members (Art. 110 of Act 84-53 of 26 January 1984, as amended) prohibit or regulate employment of family members as staff by elected officials or civil servants.
- ✓ Recusal requirements for elected officials: these require certain elected officials to recuse themselves from a decision-making process (Decree 2014-90 of 31 January 2014 for the implementation of Act 2013-907 of 11 October 2013).
- ✓ Recusal requirements for civil servants: these require all civil servants to end their conflicts of interest (Article 25 *bis* of Act 83-634 of 13 July 1983, as amended).

Detection

- ✓ Whistleblowing system: this is the procedure for receiving whistleblowers' disclosures (Decree 2017-564 of 19 April 2017 on procedures for receiving whistleblowers' disclosures).
- ✓ Article 40 of the Criminal Procedure Code stipulates that "*every constituted authority, every public officer or civil servant who, in the performance of their duties, has gained knowledge of the existence of a felony or of a misdemeanour is obliged to notify forthwith the district prosecutor of the offence.*"

Transparency

- ✓ Declarations of assets and liabilities: these declarations enable the High Authority for Transparency in Public Life to supervise the persons required to produce them at the beginning and end of their functions or their terms of office (Article 8-2 of Act 2013-907 of 11 October 2013, as amended).
- ✓ Access to public data: this is a requirement that public data be accessible by default on an open platform under the terms of the Digital Republic Act 2016-1321 of 7 October 2016. Access to government data enables external scrutiny of local government management by the public.
- ✓ Publication of budget and finance data: there are many regulations dealing with the publication of local government budgets and balance sheets (particularly in the wake of the Local Government Act 92-125 of 6 February 1992).

Survey findings: summary of preventive measures taken

The table below presents the main findings of the survey.

Table 1. Main survey data

	All	Municip.	Départs	Regions	EPCIs	EPLs	OPHs	Management centres
Have an anti-corruption plan or measures	7.3%	4.4%	39.6%	84.6%	12.5%	30.0%	57.4%	9.4%
o/w have a plan	3.2%	1.4%	22.9%	76.9%	4.0%	20.0%	39.7%	3.1%
o/w have measures	4.1%	3.0%	16.7%	7.7%	8.5%	10.0%	17.6%	6.3%
Have a code of conduct	5.9%	3.9%	22.9%	69.2%	8.6%	10.0%	47.1%	18.8%
Practise risk mapping	1.7%	0.5%	8.3%	30.8%	1.7%	10.0%	39.7%	0.0%
Practise third-party due diligence	17.0%	15.1%	29.2%	7.7%	25.1%	40.0%	35.3%	31.3%
Have an internal control function	29.3%	24.7%	66.7%	84.6%	51.5%	55.0%	60.3%	62.5%
Have an audit function	5.2%	2.4%	62.5%	69.2%	10.2%	25.0%	35.3%	18.8%
Have a whistleblowing system	14.3%	8.7%	35.4%	30.8%	5.1%	15.0%	39.7%	40.0%
Have a compliance officer	21.1%	19.9%	58.3%	23.1%	18.8%	10.0%	26.5%	84.4%
Have an awareness-raising plan	18.4%	16.6%	25.0%	46.2%	20.5%	30.0%	58.8%	40.6%
o/w plan for employees	9.5%	7.8%	16.7%	23.1%	12.9%	25.0%	41.2%	31.3%
o/w plan for elected officials	8.9%	8.8%	8.3%	23.1%	7.6%	5.0%	17.6%	9.4%
Have a training plan	3.3%	2.8%	16.7%	30.8%	3.6%	5.0%	8.8%	6.3%
o/w plan for employees	2.0%	1.6%	8.3%	15.4%	2.3%	5.0%	8.8%	6.3%
o/w plan for elected officials	1.3%	1.1%	8.3%	15.4%	1.3%	0.0%	0.0%	0.0%

Anti-corruption plan or measures. This is not a common practice (7.3% of all entities) with the notable exception of regions (84.6%) and, to a lesser extent, public housing boards (OPHs, 57.4%). Even when there is a plan, not all of the components, as defined by the Sapin II Act, have been deployed.

Adopting a code of conduct is not a common practice (5.9% of all entities), except in the case of regions (69.2%) and public housing boards (47.1%).

Overall, entities clearly make little use of **risk mapping** techniques (1.7%), with the exception of public housing boards (39.7%) and regions (30.8%), though the proportions using these techniques are still quite modest.

Third-party due diligence is not a common practice (17.0% of all entities), except for local publicly-owned companies (EPLs), which rely on it more systematically (40.0%).

Internal control functions are more commonly deployed (29.3%) than **internal audit** functions. Such functions are features of large entities only. A mere 1.3% of all respondents report having both internal control and internal audit functions.

Whistleblowing systems are a more recent development and the deployment of such systems is still modest (14.3%). Entities that are not required to have such systems have sometimes complied voluntarily.

Compliance officers are still rarely reported (21.1%), except in the case of management centres (CdGs, 84.4%), which are required to have such an officer. This pooling of compliance functions in a management centre at *département* level obviously benefits municipalities with fewer than 350 employees. These municipalities are automatically members of such management centres.

Awareness-raising and training for corruption prevention are not widespread practices: only 18.4% of all entities provide awareness-raising for employees and elected officials. The exceptions are public housing boards (58.8%) and regions (46.2%).

Survey findings: summary by entities

Municipalities: The responses to the survey reflect the broad diversity of municipalities. As a general rule, few of them have anti-corruption procedures (4.4% of all municipalities and 29.7% of municipalities with populations of 80,000 or more). Few municipalities have codes of conduct (3.9% of all municipalities and 18.9% of municipalities with populations of 80,000 or more) or engage in risk mapping (0.5% of all municipalities and 5.4% of municipalities with populations of 80,000 or more). More of them have internal control functions (24.7% of all municipalities and 75.7% of municipalities with populations of 80,000 or more) and internal audit functions (2.4% of all municipalities and 37.8% of municipalities with populations of 80,000 or more). These functions are primarily a feature of larger municipalities. Not many municipalities have deployed compliance officers (19.9% of all municipalities and 27.0% of municipalities with populations of 80,000 or more) or whistleblowing systems (8.7% of all municipalities and 18.9% of municipalities with populations of 80,000 or more). Municipal respondents' knowledge of offences (83.9%) is lower on average than that observed in other entities. Corruption issues are addressed in the working environment (23.0%), but to a lesser extent than in other types of entities. Few survey respondents from municipalities have come across cases of corruption (10.1%), which may be because there are fewer such cases or because their detection capabilities are weaker, or else there is less publicity about corruption offences. When corruption is detected, disciplinary sanctions (25.3%) or criminal proceedings (27.0%) seem to be less frequent than in other types of entities.

Départements: Overall, *départements* have instituted anti-corruption procedures (39.6%), but have been less systematic about adopting codes of conduct (22.9%) and risk-mapping (8.3%). Most of them have internal control functions (66.7%) and internal audit functions (62.5%). Deployment of compliance officers (58.3%) and whistleblowing systems (35.4%) is incomplete. Knowledge of offences (91.4%) seems to be strong and corruption issues are addressed in the working environment (47.9%). *Département* administrations seem to have encountered few corruption cases (31.3%), or else, as in the case of municipalities, they are not equipped to detect such cases. Disciplinary sanctions (73.3%) are more common than criminal proceedings (53.3%).

Régions: Régions are the entities with the highest proportion of prevention plans (84.6%) and codes of conduct (69.2%) in place. On the other hand, few of them use risk-mapping (30.8%). Regions generally do have internal control functions (84.6%) and internal audit functions (69.2%). Few of them have appointed or have a known compliance officer (23.1%) or deployed a whistleblowing systems (30.8%). Knowledge of offences seems to be high (94.1%). Corruption issues are addressed in the working environment (69.2%). More survey respondents from regions know of corruption cases (61.5%) than the average for all entities. Disciplinary sanctions (75.0%) and criminal proceedings (87.5%) seem to be fairly widespread.

Government-funded inter-municipal cooperation institutions (EPCIs): Few of these institutions have anti-corruption plans or measures in place (12.5%, compared to 4.4% of municipalities) or have codes of conduct (8.6%). Very few of them use risk-mapping (1.7%). Half of these establishments have an internal control function (51.5%), but not many have an internal audit function (10.2%). Not many of them have compliance officers (18.8%), and even fewer have a whistleblowing system (5.1%). Knowledge of offences is more widespread (88.2%) than in municipalities (83.9%), but less widespread than in *départements* (91.4%) or in regions (94.1%). Corruption issues are more commonly addressed in the working environment (42.6%) than is the case for municipalities (23.0%). Respondents from EPCIs are more likely to have knowledge of corruption offences (23.1%) and, in the cases they know of, disciplinary sanctions are slightly more common (34.3%) than criminal proceedings (30.0% of such cases were referred to the public prosecutor).

Local publicly-owned companies (EPLs): The largest of these firms may be subject to the anti-corruption requirements stipulated in Article 17(2°) of the Act of 9 December 2016, even though only one of them actually seems to fulfil the criteria (turnover of more than €100m and 500+ employees). Only 30.0% have anti-corruption plans or measures, and 10.0% have both codes of conduct and risk-mapping. Fully 55% deploy internal control measures and 25% have an internal audit function. Only 10% mention a compliance officer and 15% mention a whistleblowing system. Knowledge of offences (83.8%) is slightly less prevalent than in the other local government entities surveyed. Corruption issues are addressed in the working environment (40%). There are 15% of respondents with knowledge of corruption cases and, in these cases, disciplinary sanctions (66.7%) are more common than criminal proceedings (33.3%).

Public housing boards (OPHs): These boards are relatively well-equipped with anti-corruption plans (57.4%) and codes of conduct (47.1%). This type of entity makes the most use of risk mapping (39.7%). OPHs are well-equipped with internal control functions (60.3%), but less so with internal audit functions (35.3%). Compliance officers have yet to be fully deployed (26.5%), but more boards have whistleblowing systems (39.7%). Knowledge of offences is more widespread (88.8%) than in municipalities (83.9%), but less widespread than in *départements* (91.4%) or in regions (94.1%). The boards are also the entities that are most likely to have addressed corruption issues in the previous six months (76.5%). Of these respondents, 25.0% have recent knowledge of a corruption case resulting in disciplinary sanctions in 70.6% of the cases and criminal proceedings in 58.8% of the cases.

Département management centres (CdGs): These centres rarely have anti-corruption plans or measures (9.4%), even though 18.8% of them have instituted codes of conduct. Not one of the centres has reported a risk-mapping exercise. Internal control functions have been fairly widely deployed (62.5%), in contrast to internal audit functions (18.8%). These centres are the entities with the best results in three areas: i) compliance officers (84.4%); ii) whistleblowing systems (40%); and iii) knowledge of offences (94.9%). Corruption issues are addressed in the working environment (43.8%). Few centres report cases of corruption (6.3%).

Part 1 – Questions about the respondents’ entities

Before addressing the actual topic of the survey, respondents are asked to answer five questions about themselves and about the characteristics of the local government entities that they work for. The purpose of these questions is to gather data about the entities’ size and resources, as well as the respondents’ functions. This data is used to identify the respondents’ profiles and determine potential correlations between the type or level of the entity and the degree of ownership of anti-corruption policies.

1-1. Profiles of the respondents’ entities

As indicated in Table 2, most of the responses received come from municipalities (85.2%).

Table 2. Questionnaire participation rate by type of entity

Entity	No. of responses received	Proportion of total responses (1)	Participation rate (2)
Municipalities	2,793	85.2%	7.9%
Départements	48	1.5%	47.5%
Regions	13	0.4%	72.2%
EPCIs	303	9.2%	2.3%
EPLs	20	0.6%	1.6%
OPHs	68	2.1%	27.6%
Management centres	32	1.0%	33.0%
Other	-	-	-
Total	3,277	100%	

(1) The number of responses from this type of entity as a proportion of all survey responses received.

(2) The participation rate is the number of responses received from a type of entity as a proportion of all entities that belong to that category.

 *Départements made up 1.5% of all responses received.*

 *47.5% of départements answered the online questionnaire.*

This is the result of the preponderance of this type of entity in the local government sector: 35,443 municipalities out of a total of 49,798 entities, or 71.2% of local government entities. Taken together, municipalities and public-funded inter-municipal cooperation institutions account for 94.4% of all of the responses received (85.2% from municipalities and 9.2% from government-funded inter-municipal cooperation institutions), as shown in column 2 of the table above. This has an impact on the averages calculated for all entities, which are heavily influenced by the responses from municipalities and local-funded inter-municipal cooperation institutions. The shares of responses from *départements* (1.5%) and regions (0.4%) seem to be small.

A second figure was computed to measure the response rates of each category of entities (municipalities, *départements*, etc.) to the survey. These rates, shown in column 3 of the table above, give a different ranking than that shown in the “shares of responses” column of the table. It seems that the response rate from France’s regions was high, with 13 of the 18 regions responding, for a response rate of 72.2%.

Similarly, nearly one out of every two *départements* responded to the survey (47.5%). However, the response rate from local publicly-owned companies was very low at 1.6% (20 respondents out of 1,260 companies).

1-2. Respondents' functions

One question asked about the respondents' functions: 39.5% of the 3,277 respondents reported that they were *municipal clerks*, 29.2% reported that they were *elected officials*, 24.2% reported that they were *managers* and 5.8% reported that they were *employees*. Most of the responses from municipalities were provided by municipal clerks¹⁴ (46.2%), followed by elected officials (33.6%), which is understandable given the size of the municipalities responding (see below). In the other categories of entities, more than 75% of the responses were provided by respondents identifying themselves as *managers*. Compliance officers seem to be less present, even though they are the most directly concerned by this type of questionnaire. The response collection technique described at the beginning of this report may explain this small share of responses.

Table 3. Respondents' functions

	Elected officials	Managers	Municipal secretaries	Employees	Compliance officers	n/a (1)	
Municipalities	33.6%	14.5%	46.2%	4.8%	0.1%	0.9%	100%
Départements		85.4%		4.2%	10.4%		100%
Regions		76.9%		23.1%			100%
EPCLs	5.6%	76.9%	2.0%	14.2%	0.7%	0.7%	100%
EPLs	15.0%	85.0%					100%
OPHs		82.4%		11.8%	4.4%	1.5%	100%
Mgmt centres		96.9%			3.1%		100%
	29.2%	24.2%	39.5%	5.8%	0.4%	0.8%	100%

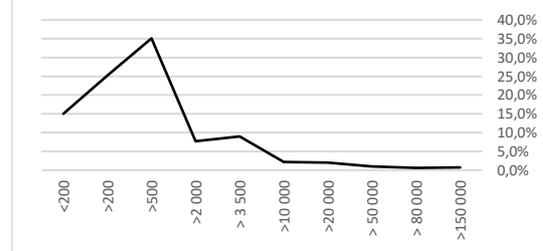
(1) n/a: not available

 33.6% of respondents from municipalities are elected officials.

1-3. Size of the entities

Three questions ask about the size of the entities in terms of populations, human resources and financial resources. The purpose of these questions is to determine whether there is a link between an entity's resources and its implementation of internal anti-corruption measures. These data will shed light on the findings in Part 3. The answers proposed refer to the population thresholds usually found in anti-corruption regulations (see **Appendix 5 Corruption prevention provisions applying to local governments**). These thresholds apply only to municipalities and local-funded inter-municipal cooperation institutions where the notion of population is relevant. The thresholds do not apply to *départements* or regions, all of which exceed the highest population threshold of 150,000 or more.¹⁵ The notion of local population is not relevant for local publicly-owned companies, public housing boards and management centres, and is therefore not taken into account.

Figure 1. Municipality respondents by population bracket



 More than 30% of municipalities that responded to the survey have a population between 500 and 2,000 inhabitants.

¹⁴ Municipalities with populations under 3,500 may hire a municipal clerk.

¹⁵ One French *département* has a population of slightly more than 75,000 and four *départements* are just below the 150,000 threshold. France's most sparsely populated region has a population of 337,796. Source: Institut national d'études démographiques - 1 January 2018.

1-3a. Breakdown by population. The statistical breakdown clearly shows that the vast majority of municipalities responding to the survey (83.0%) have populations of under 3,500. This figure is consistent with the data published by the Directorate General for Local Government in its report “*Les collectivités locales en chiffres, 2018*”. These data show that municipalities with populations under 3,500 account for 91.5% of France’s municipalities. These municipalities are under the thresholds for applying various anti-corruption policies (see **Appendix 4 Questionnaire on the prevention of local government corruption**) and are only partially subject to the relevant regulations. Corruption prevention in these municipalities relies primarily on elected officials’ and employees’ knowledge of offences, hence the questions about their knowledge, and practices implemented spontaneously by the municipality, its elected officials or its municipal employees.

1-3b. Breakdown of respondents by number of local government employees. The value of this question is that it defines the entities’ human resources and determines whether there is a link between government entities’ human resources and implementation of corruption risk prevention policies. It is accepted that a lack of human resources is an obstacle to deploying comprehensive anti-corruption programmes in the entities concerned. The table below shows the breakdown of the respondents’ local government entities by number of employees.

Table 4. Breakdown of respondents by number of local government employees

Number of employees	>1,000	>350	>100	>50	>20	>5	>2	<2	n/d	
Aggregate	5.3%	3.8%	8.5%	6.1%	9.6%	31.3%	26.2%	8.7%	0.5%	100%
Municipalities	2.9%	2.4%	5.2%	4.8%	9.0%	34.8%	30.3%	10.2%	0.5%	100%
Départements	93.8%	6.3%								100%
Regions	100.0%									100%
EPCIs	11.6%	12.5%	26.7%	16.5%	14.5%	14.9%	2.6%	0.7%		100%
EPLs	5.0%	10.0%	10.0%	15.0%	20.0%	30.0%	10.0%			100%
OPHs		22.1%	64.7%	8.8%	2.9%				1.5%	100%
Management Center	3.1%		21.9%	21.9%	40.6%	12.5%				100%

 *At least 94.3% of the respondents are employed by municipalities with fewer than 350 employees. These municipalities are required to join département management centres.*

Remarks. With the exception of *départements* and regions, local government entities’ headcounts cover the full range. However, it is noteworthy that the vast majority of municipalities (more than 66%) have fewer than 20 employees, which raises questions about their ability to adopt formal anti-corruption procedures. The anti-corruption policies designed for these entities need to be appropriate and proportionate to their resources. This is one of the French Anti-Corruption Agency’s legally mandated tasks.

1-3c. Breakdown of respondents by operating expenditure. The purpose of this question is to determine whether there is any relationship between financial resources and implementation of a corruption prevention programme.

Table 5. Breakdown of respondents by operating expenditure

€ millions	>1,000	>100	>50	>5	>2	>0.5	<0.5	n/a	
Aggregate	0.9%	3.0%	2.9%	11.4%	8.5%	23.6%	47.8%	1.9%	100%
Municipalities	0.3%	0.9%	1.6%	7.0%	7.6%	25.9%	55.6%	1.1%	100%
Départements	29.2%	62.5%						8.3%	100%
Regions	30.8%	46.2%						23.0%	100%
EPCIs	1.7%	9.2%	11.2%	43.6%	15.8%	11.6%	4.6%	2.3%	100%
EPLs		5.0%		10.0%	35.0%	30.0%	10.0%	10.0%	100%
OPHs		14.7%	23.5%	45.6%	2.9%	4.4%		8.9%	100%
Management centres				43.8%	37.5%	18.7%			100%

 11.2% of the public-funded inter-municipal cooperation institutions responding to the survey have operating budgets ranging from €50m to €100m.

Remarks. The table above reveals a particular truth about municipalities: more than 32% of them have operating budgets of less than €2m. For this reason, the French Anti-Corruption Agency recommends implementation of procedures that are suitable and proportionate to entities' financial capacities, as well as sharing best practices and pooling their efforts with similar municipalities.

Part 2 – Questions about corruption risks

The 14 questions in the second part of the questionnaire measure how well respondents know the various corruption offences and their perceptions of corruption risks according to the specific powers exercised by their entities. In this way, respondents assess their own knowledge and report their own perceptions.

The question about criminal proceedings does not consider offenders' ignorance of the law, their motives or the absence of personal enrichment of offenders. Therefore, this question does not provide information about these aspects of the problem; it deals solely with the respondents' awareness and publicity about corruption cases.

2-1. Knowledge of corruption offences

France's criminal code defines six corruption offences (see **Appendix 1, Definitions of corruption offences**). Questions about the six offences are simple yes/no questions ("Can you define..." or "Can you give an example of..."), and are not actually designed to check the respondents' specific knowledge.

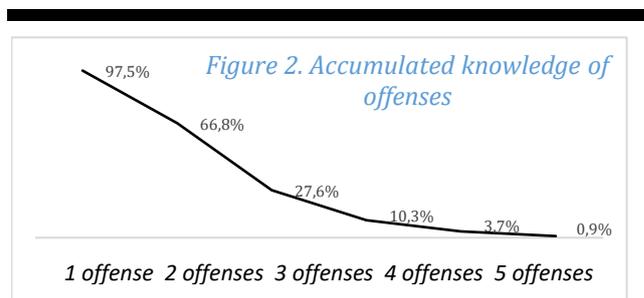
Table 6. Knowledge of offences by respondents' functions

	All	Elected official	Manager	Municipal clerk	Employee	Compliance Officer
Bribery	90.9%	90.6%	97.1%	87.7%	88.4%	100%
Influence peddling	75.9%	83.4%	86.3%	65.6%	65.6%	100%
Extortion by public Officials	35.4%	35.7%	54.0%	23.7%	32.3%	92.3%
Unlawful taking of interest	90.0%	91.1%	95.2%	87.1%	82.5%	84.6%
Misappropriation of public funds	92.7%	92.7%	95.3%	91.7%	89.9%	92.3%
Favouritism	90.8%	90.1%	97.2%	87.7%	90.5%	92.3%
Average (1)	84.5%	85.7%	90.3%	81.7%	80.7%	93.9

(1) average weighted by the number of responses received

 32.3% of employees responding know the definition of extortion by public officials.

Remarks. Generally speaking, respondents state that they know what the different offences refer to when the names of the offences are meaningful, such as bribery or misappropriation of public funds. They also know what favouritism and unlawful taking of interest are: more than 90% know what these offences are. These figures can be compared to the list of most commonly prosecuted offences in 2016 published by the Criminal Affairs and Pardons Directorate of the Ministry of Justice. At the top of the list are bribery (134 prosecutions), misappropriation of public funds (91 prosecutions) and unlawful taking of interest (64 prosecutions). Respondents are less knowledgeable about extortion by public officials, but this is the offence that concerns the fewest persons. It concerns only the persons who assess or collect taxes and fees, i.e. accountants and managers. Table 6 also reveals significant differences in respondents' knowledge of offences depending on their reported functions. More than 90% of compliance officers and managers report knowledge of the offences. In the case of elected officials, with the majority coming from municipalities with populations of under 3,500 (see Figure 1), 85.7% report knowledge of corruption offences, which is close to the aggregate average of 84.5%. Furthermore, Figure 2 reveals that very few respondents know all of the offences: only 0.9% think they can define all six corruption offences and only 27.6% think they can define three or more offences.



27,6% of the respondents can define 3 offenses.

Table 7 below presents respondents' knowledge of offences by entity. It is only logical that their knowledge is fundamentally unchanged from Table 6: generally speaking, relatively few respondents know the offence of extortion by public officials (35.4% of respondents from all entities).

The table also reflects the fact that the majority of respondents from regions, *départements* and management centres are managers, whose knowledge of offences seems to be greater than the average for all respondents.

Table 7. Knowledge of offences by entity

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Bribery	90.9%	90.0%	100%	100%	95.4%	90.0%	98.5%	96.9%
Influence peddling	75.9%	74.2%	85.4%	85.0%	84.2%	80.0%	88.2%	100%
Extortion by public officials	35.4%	32.5%	52.1%	85.0%	46.9%	50.0%	60.3%	78.1%
Unlawful taking of interest	90.0%	89.5%	95.8%	100%	91.1%	85.0%	92.6%	100%
Misappropriation of public funds	92.7%	92.7%	95.8%	100%	93.4%	80.0%	89.7%	93.8%
Favouritism	90.8%	89.8%	100%	92.0%	97.0%	100%	92.6%	96.9%
Weighted average (1)	84.5%	83.9%	91.4%	94.1%	88.2%	83.8%	88.8%	94.9%

(1) Weighted according to the number of responses received for each offence.

92.6% of respondents from public housing boards know how to define unlawful taking of interest.

2-2. Corruption as a recent topic of discussion

The purpose of the next question is to assess whether corruption issues have been addressed recently: “Has corruption been a topic of discussion in your working environment in the last six months?” The answers to this question can then be used to determine whether there is a relationship with either implementation of anti-corruption plans or with reported corruption cases.

Table 8. Discussion of corruption in the last six months

Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres	All
23.0%	47.9%	69.2%	42.6%	40.0%	76.5%	43.8%	26.8%

 26.8% of respondents from all entities report that corruption has been discussed in the last six months.

Remarks. The percentage of all respondents reporting that corruption was discussed in the last six months was 26.8%. Therefore, corruption is not an anecdotal topic of discussion. It was discussed by a majority of public housing boards (76.5%) and regions (69.2%). In these cases, compliance officers are the ones who discuss this topic (69.2%), followed by managers (47.0%), employees (31.7%), elected officials (25.4%) and municipal clerks (14.4%). Compliance officers are responsible for explaining obligations of probity to local civil servants: their functions entail knowledge of these issues. Managers are also chiefly concerned with the smooth operation of their units and the professional conduct of their staff. In contrast to compliance officers, who have no hierarchical authority, managers are responsible for ensuring that their staff members comply with the principles of “dignity, impartiality, integrity and probity [...]” that staff must follow in the performance of their duties (Article 25 of Act No. 83-634 of 13 July 1983 on the rights and obligations of civil servants).

2-3. Corruption cases within the entity

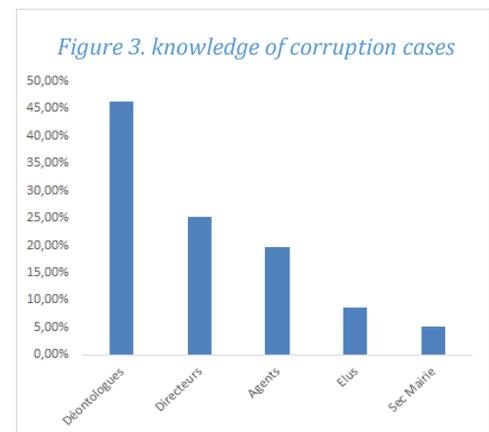
The first question asks whether respondents have known of a corruption case within their entities in the last five years: “Has your entity encountered one or more corruption cases in the last five years?” The purpose of this question is to elucidate the previous question.

Table 9. Corruption cases within the entity

Municipalities	Dépts	Regions	EPCIs	EPLs	OPHs	Mgmt centres	All
10.1%	31.3%	61.5%	23.1%	15.0%	25.0%	6.3%	12.1%

 12.1% of all respondents report that their entity has encountered at least one corruption case in the last five years.

Remarks. A little more than one in ten respondents (12.1%) report that they have knowledge of such cases. Even though it is possible that respondents were not informed of all corruption cases, the standard respondent profile shown in Table 10 with regard to the respondents’ functions suggests that they belong to the group of people most likely to be informed. More respondents from regions and départements report that they know about corruption cases. There are two possible statistical explanations for this:



 46.2% of compliance officers responding to the questionnaire reported that they knew of a corruption case.

- ✓ Regions and *départements* have more financial and human resources, greater economic impact at local level, and a larger number of partners. This means that these respondents' working environments are more extensive than those of respondents in other entities, which would explain why they report knowledge of corruption cases more frequently.
- ✓ The corruption detection resources deployed by regions and *départements* mean that more corruption cases are brought to light. Regions are the entities most likely to have internal control functions (84.6% in Table 19) and internal audit functions (69.2% in Table 20). Regions are also the entities that have encountered the most corruption cases (61.5% in Table 9). Given the circumstances, it is impossible to presume that regions constitute a level of local government with heightened corruption risk.
- ✓ On the other hand, respondents from municipalities seem to have knowledge of relatively few corruption cases (10.1% in Table 9). Perhaps this figure should be considered in light of the fact that municipalities are less likely to have internal control functions (Table 19) and internal audit functions (Table 20). However, these data do not necessarily indicate a lower risk level in municipalities.

2-4. Outcomes of corruption cases

Enforcement of real sanctions is a key element of an effective and credible anti-corruption plan. Local governments have a choice of penalties to enforce policies sanctioning transgressions. These penalties range from warnings to dismissal for government employees (both civil servants and contract public employees)¹⁶. These administrative sanctions are distinct from any criminal penalties handed down by the courts. The applicable penalties, evidence rules and procedures are not the same. Only the judiciary authority can impose a criminal penalty. Nonetheless, local civil servants and elected officials are required to comply with the provisions of Article 40 of the French Criminal Procedure Code. This article stipulates that any constituted authority, public officer or civil servant who, in the performance of their duties, has gained knowledge of a felony or of a misdemeanour, which includes corruption offences, is required to notify the public prosecutor of the offence. This is a personal obligation for local government employees and elected officials. If the government entity suffers direct and personal damages as a result of a corruption offence committed by an employee or an elected official, it may apply to join the criminal proceedings initiated by the prosecutor as a civil party in order to obtain compensation for damages. However, the principle of prosecutorial discretion means that the public prosecutor may decide not to prosecute the offence for lack of evidence or because there appears to be no case to answer. In this case, the entity may still lodge a civil action for damages with the examining magistrate.

Table 10. Outcomes of corruption cases

	All	Municip.	Départs	Regions	EPCIs	EPLs	OPHs	Mgmt centres (1)
Disciplinary action	32.1%	25.3%	73.3%	75.0%	34.3%	66.7%	70.6%	
Disciplinary sanctions	26.8%	20.3%	73.3%	75.0%	27.1%	66.7%	58.8%	
Referred to the public prosecutor (2)	31.1%	27.0%	53.3%	87.5%	30.0%	33.3%	58.8%	
Criminal conviction	13.1%	10.7%	33.3%	75.0%	10.0%	-	23.5%	

(1) Statistically insufficient data

(2) Referral under the provisions of Article 40 of the French Criminal Code or following a complaint.

 66.7% of local publicly-owned companies (EPLs) initiated disciplinary procedures in corruption cases. Half of these cases were also referred to the public prosecutor.

¹⁶ <https://www.fonction-publique.gouv.fr/la-discipline>

Remarks. The table above reveals that municipalities and government-funded inter-municipal cooperation institutions (EPCIs) take a different approach to disciplinary sanctions than the other entities, with 25.3% of municipalities and 34.3% of EPCIs applying disciplinary sanctions, compared to more than 66% of other entities. The same holds true for criminal proceedings, with 27.0% of municipalities and 30.0% of EPCIs referring cases to the public prosecutor, compared to 87.5% of regions, 53.3% of *départements* and 58.8% of public housing boards. The data seem to show that it is primarily large municipalities that refer cases to the public prosecutor.

2-5. Sectors and entities perceived as “high-risk”

There are not many surveys of public perceptions of corruption. The few surveys that exist include the European Union’s Eurobarometer survey that endeavours to measure public perceptions of corruption in the 28 Member States. This survey is published periodically and uses precise criteria:¹⁷ acceptability of corruption, prevalence of corruption in activity sectors, everyday corruption, changes over time, etc. The AFA questionnaire also aims to reveal respondents’ perceptions of sectors that are prone to corruption and uses two questions for this purpose.

2-5a. Perceptions by activity sector. Respondents are asked if they perceive corruption risks in the sectors listed in the table below. The list was presented in alphabetical order and respondents could make more than one choice.

Table 11. Perceptions of corruption risks (1)

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Management centres
Construction/infrastructure/public buildings	8.3%	8.4%	6.6%	7.7%	8.3%	7.8%	8.3%	6.6%
Urban planning/land use	6.9%	7.5%	3.5%	2.1%	5.6%	4.3%	6.6%	3.8%
Attribution of subsidies	6.4%	6.8%	5.5%	6.3%	5.7%	5.2%	4.0%	3.8%
Use of public property	5.5%	6.0%	4.2%	4.2%	4.4%	4.3%	3.0%	3.3%
Roads	5.3%	5.5%	5.3%	2.8%	4.9%	4.3%	3.5%	3.8%
Housing	5.2%	5.4%	3.9%	2.8%	3.7%	3.4%	8.6%	2.7%
Human resources	4.7%	4.7%	4.2%	3.5%	4.6%	4.3%	5.8%	8.2%
Management of private property	4.7%	4.9%	4.7%	4.2%	4.3%	4.3%	3.4%	2.7%
Economic development	4.4%	4.4%	3.1%	4.2%	5.3%	6.0%	2.9%	3.3%
Water/sanitation	4.3%	4.1%	3.2%	2.8%	6.1%	3.4%	2.6%	3.8%
Partnerships/patronage/sponsorships	4.0%	4.1%	4.0%	2.8%	3.5%	6.0%	4.0%	5.5%
Communication	3.5%	3.2%	4.2%	5.6%	4.5%	4.3%	3.8%	6.0%
Energy/district heating-cooling systems	3.5%	3.2%	2.7%	4.2%	4.4%	6.0%	4.8%	3.8%
Fiscal management	3.4%	3.3%	3.2%	2.1%	2.9%	4.3%	5.3%	5.5%
Waste/household waste	3.3%	3.0%	2.1%	1.4%	5.4%	3.4%	2.7%	2.7%
Social policy	3.2%	3.3%	4.3%	2.8%	2.4%	1.7%	4.2%	3.3%
Bank loan consultation	2.6%	2.5%	2.3%	1.4%	2.5%	2.6%	4.0%	3.8%
Tourism	2.3%	2.2%	3.5%	3.5%	3.0%	1.7%	0.8%	2.2%
International cooperation	2.0%	2.0%	2.3%	3.5%	2.4%	1.7%	0.8%	2.2%
Vocational training	2.0%	1.8%	2.3%	5.6%	2.0%	3.4%	4.3%	3.8%
European funds	1.9%	2.0%	1.9%	4.2%	1.2%	2.6%	1.6%	1.1%

(1) The following conventions are used: i) the sectors are listed according to their ranking in the “all” column; ii) the six greatest risks are highlighted (some sectors have the same “score”).

 8.4% of respondents from municipalities reported that “construction/infrastructure/public buildings” is a high-risk sector.

¹⁷ https://data.europa.eu/euodp/fr/data/dataset/S2176_88_2_470_ENG

Remarks.

1. No sector is considered to be risk-free, even though some sectors have relatively low scores.
2. Respondents, regardless of their entities, seem to consider certain sectors as vulnerable, such as “construction/infrastructure/public buildings”, “urban planning”, “subsidies”, “housing”, “roads”, etc.
3. The respondents’ entities strongly influence their answers:
 - ✓ respondents from regions perceive “European funds” as vulnerable, as regions are responsible for managing these funds¹⁸; respondents from management centres, which do not deal with European funds in their everyday business, consider the sector to be “low-risk”
 - ✓ respondents from management centres, which are primarily concerned with human resources management, consider human resources to be a vulnerable sector
 - ✓ Respondents from government-funded inter-municipal cooperation institutions (EPCIs) rate the “water/sanitation” and “energy/district heating-cooling systems” as vulnerable. The responsibilities of these institutions include these sectors
 - ✓ respondents from public housing boards rate housing as the most vulnerable sector

2-5b. By entities associated with local government. The same question was also asked about perceptions of corruption risks incurred by entities associated with local government, such as local publicly-owned companies (EPLs), public housing boards (OPHs) and management centres. The respondents from these three types of entities provided answers for their own entities.

Table 12. Corruption risks in entities associated with local government (1)

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Other	3.5%	3.3%	4.7%	5.6%	3.6%	3.4%	3.4%	4.9%
Local publicly-owned companies	2.4%	2.0%	5.2%	6.3%	3.2%	4.3%	2.9%	3.3%
Public housing boards	1.8%	1.6%	4.3%	2.8%	1.7%	0.9%	4.0%	2.7%
Social services centres	1.3%	1.4%	0.8%	0.7%	1.1%	2.6%	1.3%	1.1%
Property management units	1.1%	1.1%	1.1%	1.4%	0.9%	0.0%	1.3%	2.2%
Social welfare and medicine institutions	0.9%	0.7%	3.5%	2.1%	0.9%	0.9%	1.1%	1.1%
Education funds	0.9%	1.0%	0.3%	1.4%	0.6%	0.9%	0.3%	1.1%
Département fire and rescue services	0.9%	0.8%	3.1%	2.1%	0.7%	1.7%	0.8%	1.1%

(1) The following conventions are used: i) the sectors are listed according to their ranking in the “all” column; ii) the three greatest risks are highlighted.

 5.2% of respondents from départements deem that “local publicly-owned companies” are a high-risk sector.

Remarks. The dispersion of risk perceptions shows that no sector is considered risk-free. It is also noteworthy that respondents from local publicly-owned companies consider their own sector as high-risk (4.3%) and that respondents from public housing boards consider their sector as high-risk (4.0%).

¹⁸ Management of these funds was transferred from central government to the regions under Act No. 2014-58 of 27 January 2014 on modernisation of local public policy and strengthening metropolitan areas.

Part 3 – Questions about preventing corruption risks

The purpose of the questions in this part is to measure local government entities' ownership of corruption prevention measures. Respondents indicate whether, to their knowledge, their entities have adopted nine types of measures. The auxiliary questions provide details about answers to the main questions. These data will be studied at a later date. A copy of the questionnaire can be found in **Appendix 4**.

3-1. Anti-corruption plan or measures – Detailed analysis of each measure adopted

3-1a. Specific anti-corruption policy. Corruption offences are a threat for local governments and their institutions. Implementation of a consistent anti-corruption plan maximises their chances of success in preventing such offences. Alternatively, when implementation of a plan is not being considered for lack of resources, ad hoc measures can be taken. Respondents are asked to answer two questions: i) *“Does your entity have an anti-corruption plan in place?”* and ii) *“Does your entity have anti-corruption measures in place?”*

The lack of a structured anti-corruption plan will not lead to sanctions for administrations under the Act of 9 December 2016, except in the case of government-funded inter-municipal cooperation institutions that meet the thresholds set out in Article 17 of the Act. Nevertheless, Article 3(3°) of the Act stipulates that AFA *“shall act on its own initiative to audit the quality and effectiveness of the procedures implemented within central government departments, local governments and their associated government-funded institutions and semi-public companies, as well as public interest foundations and non-profit organisations [...]”*. To help public-sector entities prepare for potential audits, AFA explains that just as there are legal requirements for private-sector entities, public-sector entities and public-interest associations and foundations are expected to implement anti-corruption policies that include:

- ✓ corruption risk mapping
- ✓ codes of conduct that define and illustrate various types of improper conduct
- ✓ corruption risk training programmes
- ✓ third-party due diligence procedures for suppliers, partners, etc.
- ✓ whistleblowing systems

In its 2017 annual report published in May 2018¹⁹, AFA also mentions corruption risk management in local government in these terms: “[...] AFA’s strategy for fighting bribery and corruption includes a section devoted to local government organisations. The purpose of this strategy is to familiarise local governments of all sizes with French anti-corruption guidelines²⁰ and to help them implement them in the performance of all of their duties. The strategy is to be deployed with due consideration of the issues at stake and be proportionate to the entities’ human and material resources. Table 13 below shows the percentage of respondents from each category of entities who mention that there is an anti-corruption plan or measures in place in their entity.

¹⁹ 2017 AFA Annual Report – available on the AFA website.

²⁰ AFA Guidelines published in the Official Journal No. 0298 of 22 December 2017 (text No. 176).

Table 13. Implementation of anti-corruption plans or measures

	Aggregate	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Have an anti-corruption plan	3.2%	1.4%	22.9%	76.9%	4.0%	20.0%	39.7%	3.1%
Have taken anti-corruption measures	4.1%	3.0%	16.7%	7.7%	8.5%	10.0%	17.6%	6.3%
	7.3%	4.4%	39.6%	84.6%	12.5%	30.0%	57.4%	9.4%

7.3% of survey respondents report that their entities have implemented an anti-corruption plan (3.2%) or anti-corruption measures (4.1%).

Remarks.

1. Some 105 answers out of 3,277, or 3.2% of all answers, mention implementation of an anti-corruption policy. The Act defines such a policy as “a coherent set of measures, including at least one risk mapping exercise, a code of conduct, an internal control/audit function and a dedicated training plan.” Table 13 reveals disparities between municipalities, with an overall average of 1.4% of municipalities with a plan (although 29.7% of municipalities with populations of more than 80,000 have a plan), and regions, where the percentage with a plan is 76.9%. Furthermore, a closer look at the affirmative responses shows that the policy is incomplete in many cases. Of the 105 responses, only four entities reporting that they have a plan have actually deployed all plan components, as defined by the Act of 9 December 2016. In 135 other cases (i.e. 4.1% of the panel), the entities have taken prevention measures, but not implemented a plan. It should be noted that respondents are not asked for a description of the relevant measures at this point. Table 14 on implementation of measures in public-sector entities can be used to estimate the number of measures implemented. In aggregate, 7.3% of the respondents’ entities implement either an anti-corruption plan or anti-corruption measures.

Breakdown of municipalities implementing anti-corruption plans or measures

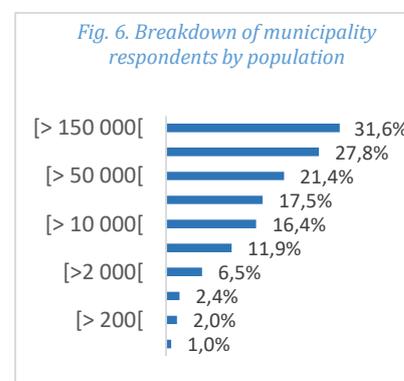
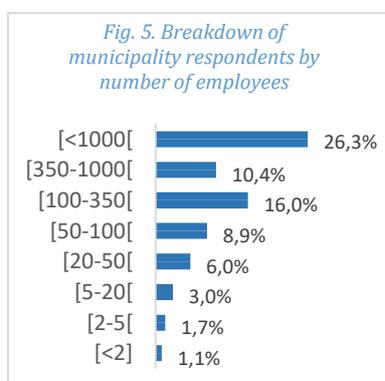
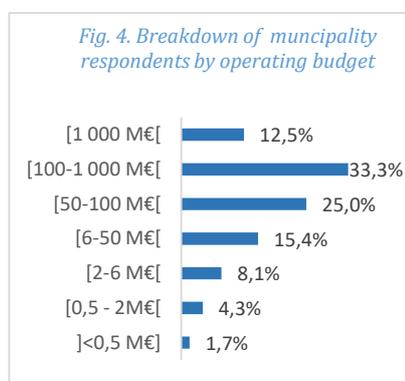


Fig. 4: 12.5% of the respondents from municipalities with operating budgets of more than €1 billion have anti-corruption plans or measures in place.

Fig. 5: 26.3% of the respondents from municipalities with more than 1,000 employees have anti-corruption plans or measures in place.

Fig. 6: 31.6% of the respondents from municipalities with populations of more than 150,000 have anti-corruption plans or measures in place.

2. A relation can be seen between implementation of anti-corruption plans or measures and the data in Table 9. These data show that 61.5% of the regions, 31.3% of the départements and 25.0% of the public housing boards have encountered a corruption case in the recent past: implementation of an anti-corruption plan does enable entities to detect and prosecute corruption offences.

3. The relatively good ranking of regions may be related to the fact that the regions manage the European Social Fund and the European Regional Development Fund, which makes them subject

to fraud prevention requirements in the management of appropriations from these funds²¹. Under the terms of Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013, which is directly and immediately applicable in all Member States, allocations of European funds entail extremely precise and rigorous probity requirements, including putting “*in place effective and proportionate anti-fraud measures taking into account the risks identified,*” as discussed in **Appendix 6**. The European Union also provides an open-access tool free of charge for management of anti-fraud data (see **Appendix 7. Arachne, the European Commission’s risk scoring tool**).

4. The figures shown confirm the finding that implementation of anti-corruption plans depends on the size of the entities. This can be deduced from the implementation of anti-corruption plans and measures by regions (84.6%) and by *départements* (39.6%). Nonetheless, several respondents from medium-sized municipalities reported that plans or measures were in place.

3-1b. Number of anti-corruption measures implemented. The following table shows how well prepared the entities are by focusing on how many of the following six measures they have adopted: *i)* risk mapping; *ii)* code of conduct; *iii)* internal control function; *iv)* internal audit or supervision function; *v)* compliance officer; and *vi)* whistleblowing system. An entity that has adopted several of these measures is deemed to be better prepared to prevent corruption, for the purposes of this survey.

Table 14. Number of anti-corruption measures implemented

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
No measures implemented	55.0%	59.4%	14.5%	0.0%	37.6%	40.0%	14.7%	6.3%
One measure implemented	30.2%	30.0%	6.3%	7.6%	39.7%	30.0%	22.1%	18.7%
Two measures implemented	9.8%	8.4%	25.0%	15.4%	14.5%	15.0%	19.1%	37.4%
Three measures implemented	2.9%	1.5%	25.0%	46.2%	6.6%	5.0%	13.2%	21.9%
Four measures implemented	1.3%	0.5%	22.9%	23.1%	0.3%	5.0%	16.2%	9.4%
Five measures implemented	0.5%	0.1%	6.3%	7.7%	1.3%	0.0%	4.4%	6.3%
Six measures implemented	0.3%	0.1%	0.0%	0.0%	0.0%	5.0%	10.3%	0.0%

 59.4% of municipalities reported that they had implemented none of the six measures.

Remarks.

1. A comparison of Tables 13 and 14 shows that municipalities and government-funded inter-municipal cooperation institutions (EPCIs) are under-represented among entities where respondents report that anti-corruption plans and measures are in place (although EPCIs are more likely to have such plans and measures).

2. Therefore, municipalities and EPCIs seem to contrast with the other types of entities: 59.4% of municipalities, represented by 1,660 responses to the questionnaire, have no plan or measures in place. This implies that these entities have not implemented measures, such as appointing a compliance officer, which have been mandatory since 1 January 2018, or if they have done so, it is not very well known. The vast majority of these entities are municipalities with limited financial resources: 1,075 of the 1,660 municipalities have operating budgets of less than €500,000, an additional 399 have operating budgets of less than €2m. And yet, their membership of *département* management centres should at least give them the benefit of a compliance officer. It is also noteworthy that four municipalities with operating revenues in

²¹ *Départements* are not managing authorities, but they can still receive these funds and must comply with the requirements of Regulation No. 1303/2013 in this capacity.

excess of €100m (including two municipalities with operating budgets in excess of €1bn) have not implemented any of the six measures.

3. Even at the arbitrary threshold of three measures, only regions (46.2%) are anywhere near the 50% mark.

3-1c. Reasons for not having anti-corruption plans or measures. Respondents from entities that have not implemented anti-corruption plans or measures were asked to explain the reasons for this deficiency.

In 71.2% of the responses, corruption risk is deemed to be low or under control. This reason, given by respondents from 16 *départements*, for example, may seem paradoxical coming from entities that have not conducted a risk mapping exercise. Yet Tables 11 and 12, which reveal corruption perceptions within these entities, show that the respondents are aware of corruption risks, at least in general terms.

In 49% of the responses, lack of resources is cited as the reason for not taking action. Taken together, Table 13 and Figures 4, 5 and 6 show that there is actually a statistical correlation between implementation of a plan or measures and the municipalities' human and financial resources. Nevertheless, the same data show that municipalities with modest resources have acted in accordance with their resources. In contrast, two *départements* and three municipalities with operating budgets in excess of €1bn have not implemented any plans or measures.

In 21.8% of the responses, the lack of any legal obligation is given as the reason for not implementing anti-corruption plans or measures. Indeed, the lack of a structured anti-corruption plan alone does not lead to sanctions under the Act of 9 December 2016 as it currently stands.

3-1d. Monitoring plans and measures. Implementation of measures adopted as part of an anti-corruption plan of any type must be effective and genuine. These measures must be monitored by a person who is functionally independent and who reports directly to the executive body.

This is the reason for the inclusion of a question about the functional status of this person in the questionnaire: *“The plan or measures are monitored by: i) an elected official; ii) a manager; iii) a compliance officer; iv) a municipal clerk; v) an inspection department; vi) a local employee; or vii) a special body.”*

Table 15. Who monitors anti-corruption plans and measures in the entities?

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres (1)
An employee	3.8%	4.0%	5.3%		5.3%	16.7%		
A compliance officer	8.3%	3.2%	36.8%	9.1%	7.9%		12.8%	
A manager	44.6%	39.5%	15.8%	9.1%	57.9%	83.3%	66.7%	
An elected official	19.6%	33.9%			13.2%			
A collegial body	3.3%	3.2%	5.3%	9.1%	2.6%			
A municipal clerk	5.4%	10.5%						
An inspection department	12.9%	4.0%	36.8%	72.7%	10.5%		15.4%	
	100.0%							

(1) The data on *département* management centres do not make it possible to draw any statistical conclusions.

 5.3% of the respondents from government-funded inter-municipal cooperation institutions (ECPs) reported that the monitoring of anti-corruption plans or measures was the responsibility of an employee.

Remarks. In practice, employees are rarely responsible for monitoring anti-corruption plans. Managers seem to be responsible for monitoring plans and measures in most entities, with the exception of regions, where the inspection department is the preferred choice. Point 3-5 below on internal control will show that many regions have such departments. Compliance officers, who could be presumed to be very knowledgeable about corruption issues, as borne out by the

data in Table 6 on knowledge of offences, do not seem to be especially more likely to be responsible for this type of monitoring. There may be two reasons for this:

- ✓ Their presence in entities is too infrequent or not known well enough, as shown in Table 23 on the deployment of compliance officers in entities.
- ✓ Compliance officers often work at *département* management centres (Table 23 shows that when compliance officers are in place, this function is provided by the management centres in the majority of the cases), which means that they are unable to monitor other entities' anti-corruption plans and measures.

It should be noted that 39.5% of the respondents from municipalities report that the mayor is responsible for monitoring an anti-corruption plan: this is the case for virtually all small municipalities.

3-2. Risk mapping

3-2a. Developing a risk map. Prior analysis of risks is fundamental for an effective corruption prevention plan. This is the purpose of risk mapping, making it a necessary tool for any serious anti-corruption policy. It explains why the Act of 9 December 2016, known as the Sapin II Act, mentions risk mapping as one of the components of an anti-corruption plan. The AFA Guidelines²² set out the objectives of risk mapping. Corruption risk mapping has two series of overlapping objectives: first, identifying, assessing, prioritising and managing corruption risks to ensure that the anti-corruption compliance programme is effective and appropriate for the business models of the organisations concerned; second, informing top management and providing those responsible for compliance with the clear vision they need to implement prevention and detection measures that are proportionate to risks identified in the risk mapping exercise. Risk maps need to be updated periodically to keep pace with evolving risks: new functions or new business relationships make it necessary to update the risk map. After the risks have been identified, the entity should consider the resources it intends to allocate to prevention of each risk, according to their importance.

Table 16. Risk mapping

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Have conducted a risk mapping exercise	1.7%	0.5%	8.3%	30.8%	1.7%	10.0%	39.7%	0.0%
The risk map is updated periodically	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Considers the "elected official" risk	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

(1) The statistical sample is not suitable for valid findings.

 Not one of the respondents from management centres reported that their centre conducted a risk mapping exercise.

Remarks. The survey data clearly show that not enough local government entities use risk mapping. Only regions and public housing boards (OPHs) seem to use it. It should be pointed out that regions are required to identify their fraud risks in their management of European funds and that the public housing boards are aware of anti-corruption policies since a number of them are required to implement anti-corruption plans under the terms of Article 17(2) of the Sapin II Act. The survey data were used to estimate that 15% of the public housing boards responding to the questionnaire are subject to this requirement.

²² AFA Guidelines published in the Official Journal No. 0298 of 22 December 2017 (text No. 176).

3-2b. Measures taken following risk mapping exercises. Respondents were asked to indicate whether entities that conducted corruption risk mapping exercises adopted any subsequent measures. It is interesting to see that entities took internal measures following the risk mapping exercises (more than one choice possible):

- 58.2%** strengthened their internal control function
- 40.0%** strengthened supervision of procurement
- 30.9%** implemented an access control policy for their information systems
- 25.5%** acted to improve their third-party due diligence
- 20.0%** strengthened supervision of subsidiaries
- 9.1%** reassigned staff and
- 1.8%** implemented mandatory staff rotations

Other best practices are in place, such as randomised assignment of cases to investigative staff, separation of investigative and decision-making functions, and access to government data to promote scrutiny of public sector management by the public.

3-3. Codes of conduct

Adopting a code of conduct enables an entity to formalise its internal rules and make them binding on its employees, setting out recommended (and prohibited) actions in order to prevent corruption. Failure to comply with the code could lead to disciplinary sanctions, as well as possible criminal prosecution. This distinguishes a code of conduct from a non-binding aspirational charter, for example. Respondents were asked about the adoption of codes of conduct and their content (instructions on handling gifts and invitations, and managing conflicts of interest).

Table 17. Implementation and contents of codes of conduct

	All	Municipalities	Départements	Regions	EPCIs	EPLs(1)	OPHs	Mgmt centres
The entity has adopted a code of conduct	5.9%	3.9%	22.9%	69.2%	8.6%	-	47.1%	18.8%
If it has a code, the code:								
- defines prohibited actions	80.9%	77.8%	81.8%	77.8%	76.9%	-	96.9%	83.3%
- includes sanctions for non-compliance	51.5%	47.2%	54.5%	22.2%	42.3%	-	81.3%	50.0%
- deals with "gifts and invitations"	44.8%	33.3%	72.7%	66.7%	34.6%	-	78.1%	16.7%
- deals with conflicts of interest	57.2%	50.0%	81.8%	77.8%	46.2%	-	75.0%	50.0%
- provides examples of conflicts of interest	36.6%	26.9%	72.7%	55.6%	26.9%	-	56.3%	50%

(1) The data on local publicly-owned companies are not suitable for statistically valid findings.

 5.9% of the respondents reported that their entity has adopted a code of conduct. In 80.9% of such entities, the code of conduct defined prohibited actions.

Remarks. Not many of the respondent entities have anti-corruption codes of conduct, with the notable exception of regions (69.2%) and, to a lesser extent, public housing boards (OPHs) (47.1%). As a rule, there are no sanctions for failure to comply with conduct codes, with the exception of public housing boards, where sanctions are applied by 81.3% of the boards. Only 22.2% of regions impose sanctions for failure to comply with codes of conduct, which means that the other regions' codes are actually aspirational charters or ethics guides, whereas 81.3% of public housing boards apply sanctions for non-compliance. The overall data should be seen in light of the adoption of anti-corruption plans and measures. A code of conduct can only contain rules that have been thought out and adopted. Table 13 on the implementation of anti-corruption plans and measures shows that regions (84.6%) and public housing boards (57.4%) are the local government entities most likely to implement anti-corruption practices.

3-4. Third-party due diligence

Internal procedures to prevent corruption risks on their own are insufficient, if entities do not also take parallel measures to protect themselves from the risks incurred in their dealings with third parties. For this purpose, AFA recommends that entities implement due diligence procedures to assess the risk of initiating or continuing relations with third parties. Due diligence consists of assessing the integrity of natural persons and legal entities, and identifying the potential risks that dealings with them may entail.

After conducting due diligence, the entities shall make the appropriate operational decisions on a case-by-case basis and may step up their scrutiny of these dealings. For example, dealings with a natural person or legal entity known to have been convicted of fraud or corruption in the past could cause an entity to enhance its vigilance. Third-party due diligence is an integral part of any anti-corruption plan and the subject of a specific AFA guideline.

Granularity of third-party due diligence

Risk mapping highlights areas of concern and therefore the third parties that should be subject to due diligence.

Certain third parties can be assessed using a simplified procedure, whereas others will require greater scrutiny (e.g. to determine the identity of the benefit owner of a legal entity).

In the specific case of local government entities, it should be noted that they have no choice but to exclude third parties with convictions for corruption (in particular) from public procurement contracts, under the terms of Ordinance 2015-899 of 23 July 2015 on public procurement. Article 45 of the Ordinance lists the relevant convictions.

Table 18. Third-party due diligence

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Has a third-party due diligence procedure	17.0%	15.1%	29.2%	7.7%	25.1%	40.0%	35.3%	31.3%
Also covers sub-contractors	13.7%	12.2%	18.8%		20.8%	35.0%	30.9%	21.9%
Requires anti-corruption clauses in contracts	10.6%	10.6%	4.2%	7.7%	7.9%	5.0%	22.1%	28.1%

 40.0% of respondents from local publicly-owned companies report that they conduct third-party due diligence.

Remarks. The concept of third-party due diligence and the information-gathering technique used for this purpose seem to be largely unfamiliar to local government entities, which make very little use of it. It is noteworthy that local publicly-owned companies and public housing boards are more likely to borrow tools from the private sector. Some of these entities also have to implement the requirements of Article 17(2) of the Act of 9 December 2016.

3-5. Internal control function

An anti-corruption plan must include an internal control function. This function ensures that the entity's operational activities comply with its risk management policy.

Hierarchical control is the permanent first level of control that is the necessary counterpart to the autonomy of line staff in the performance of their tasks. In contrast, internal control is the permanent second level of control. The purpose is to ensure that day-to-day operations are properly conducted in compliance with procedures. This distinguishes it from the audit function, which consists of targeted verifications at specific times. Internal control also focuses on accounting operations. It ensures that financial reporting is reliable and that the operations reported comply with the laws and regulations in force. Under anti-corruption policies, internal

control must also include measures to ensure that accounts have not been altered to conceal corruption. Entities that present audited financial statements benefit from implementing this aspect.

The survey questionnaire asked respondents: “Is there an internal function responsible for ensuring that management actions comply with the laws and regulations in force?” The table below shows the percentage of positive responses from each type of entity.

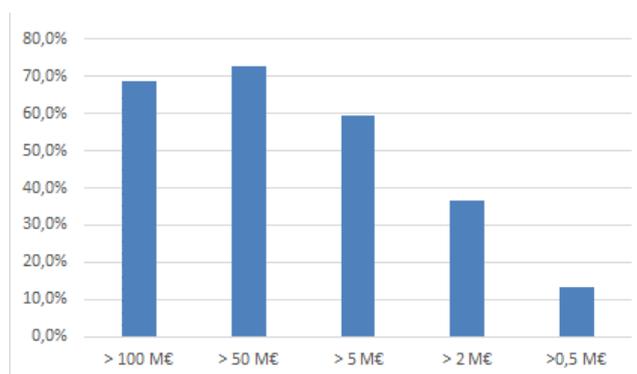
Table 19. Internal control

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Internal control in place	29.3%	24.7%	66.7%	84.6%	51.5%	55.0%	60.3%	62.5%
Internal accounting control in place	37.3%	33.5%	77.1%	84.6%	53.5%	60.0%	69.1%	56.3%
Corruption risk is considered	54.4%	53.7%	43.8%	53.8%	56.8%	65.0%	73.5%	62.5%
Hierarchical levels are aware	48.6%	49.0%	33.3%	38.5%	45.2%	50.0%	57.4%	50.0%

24.7% of municipalities report that they have an internal control function.

Remarks. Internal control is relatively widespread in départements (66.7%) and regions (84.6%), but it is less common in the municipalities category as a whole (24.7%). However, the latter category shows diverse rates of deployment according to size, as shown in the chart opposite. There seems to be a correlation between internal control functions in municipalities and the size of their operating budgets. For example, 13.4% of municipalities with operating budgets between €0.5m and €2m have internal control functions, whereas the figure is 70% for municipalities with operating budgets of €50m or more.

Fig. 7. Percentage of municipalities with an internal control function, by municipality budget



36.5% of municipalities with operating budgets of between €2m and €5m have an internal control function.

3-6. Internal audit function

Audit functions are a form of third level control that is different from day-to-day hierarchical control. Internal audits are intermittent comprehensive verifications to ensure that a division or entity is operating properly and in compliance with procedures. This distinguishes internal audits from permanent internal control. This type of task must be performed by a division that functions independently of the entity’s hierarchy. Audit functions ensure that the entity’s procedures are followed properly. As appropriate, internal audit functions may determine what changes are necessary, when procedures are shown to be deficient or unsuited to new situations. They can make recommendations and provide advice to correct the procedures.

Internal audit functions play a key role in anti-corruption policies. Their responsibilities should include corruption prevention. Consequently, the online survey endeavoured to find out if internal audit functions are in place, how much independence they have and what their tasks are: “Does your entity have an internal audit function? Is corruption prevention one of its explicit tasks?”

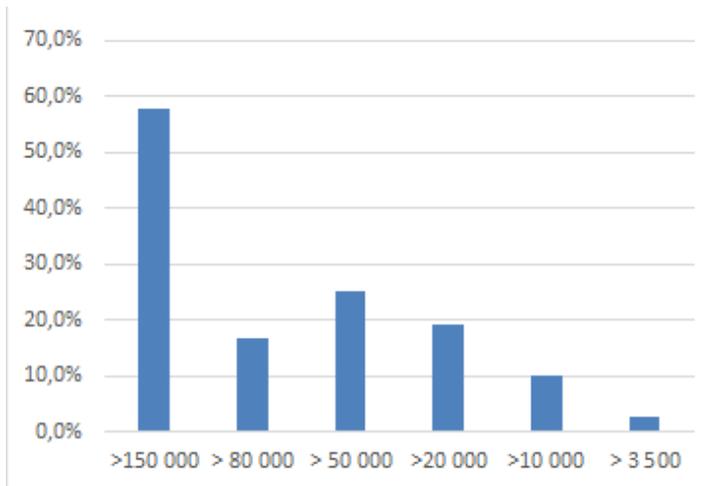
Table 20. Internal audit

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
An internal audit function is in place	5.2%	2.4%	62.5%	69.2%	10.2%	25.0%	35.3%	18.8%
Its tasks include corruption prevention	11.0%	14.9%	6.7%	0.0%	9.7%	20.0%	12.5%	0.0%

2.4% of the respondents' municipalities have an internal audit function. When such functions are in place, their tasks include corruption prevention in 14.9% of the cases.

Remarks. With the exception of *départements* and regions, few of the entities have internal audit functions and, when they do, they are mostly municipalities with large populations. The chart below shows the breakdown of the 2.4% of municipalities that responded to the survey and have an internal audit function: 57.9% of such municipalities have populations of 150,000 or more.

Fig. 8. Percentage of municipalities with an internal audit function, by municipality population



57.9% of municipalities with more than 150,000 inhabitants have an internal audit function.

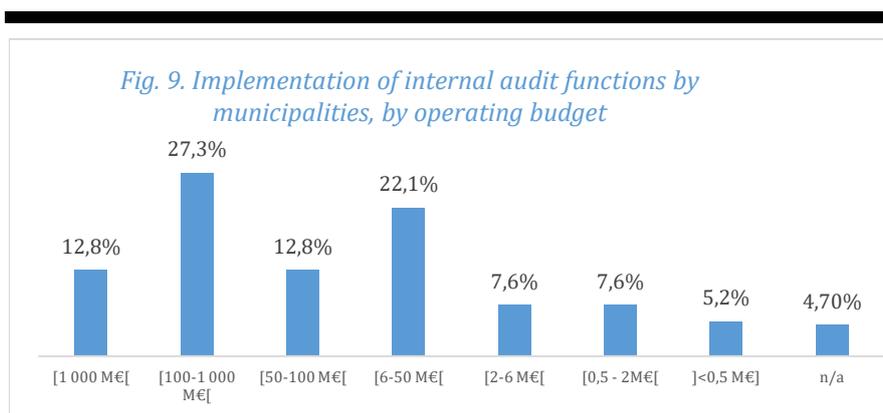
In the case of regions and *départements*, the European requirements regarding management of European funds under the terms of Regulation (EU) 1303/2013 need to be considered. An extract of the Regulation is included in **Appendix 6**.

However, the second line of Table 20 shows that, even when an internal audit function is in place, it is not always explicitly assigned the task of preventing corruption: only 14.9% of the municipalities reporting that they have an internal audit function have given it any tasks related to fighting corruption. The corresponding figures are 6.7% for *départements*, 9.7% for government-funded inter-municipal cooperation institutions (EPCIs), 20% for local publicly-owned companies (EPLs) and 12.5% for public housing boards (OPHs). The respondents'

regions and *département* management centres reporting that they have an internal audit function have not assigned it a specific anti-corruption task. However, this does not necessarily mean that corruption prevention is not one of its tasks, given that internal audit functions are empowered to investigate all matters.

Spotlight on large entities. Large entities are not required to have an internal audit function. A

recent survey by the French association of local inspectors and auditors (CIAT) shows a growing trend for regions, *départements* and large cities to implement internal audit functions between 2015 and 2017, which is the same period covered by this survey. A joint survey by the French internal audit and control institute (IFACI), the French association of local inspectors and auditors



5.2% of municipalities with an operating budget between €0.5m and €2m have an internal audit function.

(CIAT) and the Strasbourg Eurométropole shows that 59% of regions, 60% of *départements* and 100% of municipalities with populations of more than 200,000 have internal audit functions. In municipalities and entities with fewer human and financial resources, corruption risk management cannot always rely on internal control resources. One way forward could be to consider pooling of municipalities' available resources, as well as enhancing the transparency of government data to enable external scrutiny of management practices by the public.

3-7. Whistleblowing systems

Internal whistleblowing systems are set up to receive employees' disclosures about conduct or situations that are not compliant with the code of conduct and likely to constitute corruption²³.

Table 21. Whistleblowing systems (1)

	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Have an internal whistleblowing system	8.7%	35.4%	30.8%	5.1%	15.0%	39.7%	40.0%

(1) Includes only responses from entities that are eligible for whistleblowing systems.

8.7% of respondents from municipalities report that their municipality has a whistleblowing system.

Remarks. Too few entities have deployed this mandatory system, even in the case of the government entities that are most likely to have anti-corruption measures in place. *Département* management centres are not required to provide whistleblowing systems. They may propose such a service to their members as an option. Analysis of detailed data show that a number of municipalities (2.3% of responses), government-funded inter-municipal cooperation institutions (EPCIs) (1.0% of responses) and management centres (25.0% of responses) that fall short of the thresholds where deployment becomes mandatory have nonetheless opted to deploy internal whistleblowing systems.

²³ Decree No. 2017-564 of 19 April 2017 on whistleblowing systems requires municipalities with populations of more than 10,000, *départements* and regions, along with government-funded inter-municipal cooperation institutions with tax-levying powers where at least one member municipality has a population of more than 10,000, to set up internal whistleblowing systems.

3-8. Training for elected officials and employees

An effective and appropriate training system promotes broad dissemination and support for ethical conduct, becoming a vector for probity within an organisation. This makes training an integral part of an anti-corruption plan, as defined by the Act of 9 December 2016.

One of the AFA guidelines also addresses training in detail.

Even though corruption risk training systems are primarily aimed at the most vulnerable employees, it is nonetheless a good idea to make all of the other employees aware of the major notions and risks.

Awareness raising and/or training should also be provided to elected officials because of their exposure to corruption risks in the performance of their functions. Corruption offences carry precisely defined criminal sanctions and elected officials should know about these offences and be able to recognise them. In the broader perspective, training for elected officials addresses the workings of an anti-corruption policy, but also covers all policies likely to foster probity (see Conclusion).

Furthermore, there are 32,251 municipalities with populations under 3,500 that are exempt from the bulk of the applicable regulations dealing with probity. The lowest population threshold for mandatory public access to government data is 3,500 (see Appendix 5 on the thresholds for regulatory enforcement). This underlines the importance of providing appropriate training.

AFA and CNFPT work together to train local government employees

On 28 May 2018, AFA and the National Local Civil Service Centre (CNFPT) signed a partnership agreement to: *i)* share their expertise more extensively; *ii)* develop joint training modules for local government employees; *iii)* carry out awareness-raising initiatives; *iv)* organise joint events; and *v)* carry out studies of local government entities, and disseminate their findings.



MOOC on the prevention of corruption in the local governments

AFA and CNFPT have realized a MOOC relating to the prevention of corruption in the local governments on <https://www.fun-mooc.fr/>.

Table 22. Awareness-raising and training systems

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Management centres
Awareness raising for employees	9.5%	7.8%	16.7%	23.1%	12.9%	25.0%	41.2%	31.3%
Awareness raising for elected officials	8.9%	8.8%	8.3%	23.1%	7.6%	5.0%	17.6%	9.4%
Training for employees	2.0%	1.6%	8.3%	15.4%	2.3%	5.0%	8.8%	6.3%
Training for elected officials	1.3%	1.1%	8.3%	15.4%	1.3%	0.0%	0.0%	0.0%

 7.8% of respondents from municipalities report that their municipality has an anti-corruption awareness-raising policy for its employees.

Remarks. The data show that too little use is made of awareness-raising and training for both employees and elected officials, even though these programmes ensure better understanding of the notions of corruption and help induce the necessary conduct.

It is in the best interest of local government entities to include specific training on corruption prevention in their training plans for the employees identified in risk mapping exercises as most vulnerable to such risks. Awareness-raising should also be provided, for example, when onboarding new employees or when employees are assigned to vulnerable positions. Associations of elected officials, such as the French mayors association (AMF), have a key role to play in providing training sessions and awareness-raising for elected officials. AFA has met with such associations to address these issues and plans to start training sessions in 2019. The online questionnaire for this survey was forwarded to elected officials through these associations.

3-9. Compliance officers

Article 28 *bis* of Act No. 83-634 of 13 July 1983, as amended, established the right for any civil servant to consult a compliance officer responsible for providing all relevant advice on compliance with ethical obligations and principles. This right concerns civil servants and contract public employees. Even though the Sapin II Act does not give compliance officers specific corruption prevention tasks, their functions within local government entities naturally lead them to explain the law and advise employees on the best ways to deal with situations. In theory, elected officials are not able to consult compliance officers. For this reason, some entities have found it helpful to set up “*ethics committees*” or “*good conduct commissions*” for elected officials only. This is a best practice encouraged by AFA.

Compliance officers are key contacts for civil servants dealing with critical situations calling for their expertise. Deployment of these officers to local civil service has been mandatory since 1 January 2018²⁴ and is critical for dealing with probity issues. Compliance officers’ tasks are part of the fundamental duties that *département* management centres are required to perform for their member municipalities and government-funded inter-municipal cooperation institutions (EPCIs).

²⁴ Decree No. 2017-519 of 10 April 2017 implementing Article 28b of Act No. 83-634 of 13 July 1983, as amended by Act No. 2016-483 of 20 April 2016 on ethics and the rights and obligations of civil servants.

Table 23. Compliance officers in local government

	All	Municipalities	Départements	Regions	EPCIs	EPLs	OPHs	Mgmt centres
Do not have a compliance officer (1)	78.9%	80.1%	41.7%	76.9%	81.2%	90.0%	73.5%	15.6%
Have a compliance officer	21.1%	19.9%	58.3%	23.1%	18.8%	10.0%	26.5%	84.4%
of which provided directly by the entity	2.8%	1.1%	45.8%	15.4%	3.3%	5.0%	22.1%	34.4%
of which provided by the management centre	18.3%	18.8%	12.5%	7.7%	15.5%	5.0%	4.4%	50.0%
When a compliance officer is present								
Employees have the contact information	50.1%	45.9%	82.1%	(2)	42.1%	(2)	83.3%	92.6%
Contacts can be anonymous	68.7%	66.4%	78.6%	(2)	77.2%	(2)	72.2%	88.9%

(1) Or did not answer the question

(2) The statistical sample is not suitable for valid findings.

 73.5% of respondents from public housing boards (OPHs) reported that their board did not have a compliance officer. When a compliance officer is present, their contact information was given to all employees in 83.3% of the cases.

Remarks.

1. Out of the 3,277 responses to the survey, 78.9% report that the respondent's entity does not have a compliance officer, with the notable exception of management centres and *départements*. Compliance officers are part of the core mission of management centres and 84.4% of such centres have one. In the case of *départements*, 58.3% have compliance officers.
2. Most *départements* and regions appoint a member of staff to be the compliance officer. In a few cases, the compliance officer works for the management centre: 12.5% of *départements* and 7.7% of regions have opted for this solution.
3. Municipalities and government-funded inter-municipal cooperation institutions (ECPs) seem to benefit from sharing compliance officers through the *département* management centres: of the 19.9% of municipalities reporting that they have compliance officers, 18.8% report that the officer works at the management centre and 1.1% report having a compliance officer on their own staff.

* *

*

Conclusion

Corruption prevention is an integral part of good local public management

Elected officials and local government employees are personally exposed to the risk of criminal prosecution if they fail to take effective action to prevent corruption in the performance of their duties and functions. Corruption prevention is also an integral part of good local public management:

- ✓ ***Public management that upholds republican equality.*** Fighting corruption protects the republican pact: corruption undermines equality between citizens, between businesses in their access to government contracts and between taxpayers.
- ✓ ***Public management that safeguards the “value” of local governments' reputation.*** Prosecution of an elected official or local government employee inevitably harms the reputation and attractiveness of a local community. Furthermore, a loss of reputation causes lasting harm to citizens' confidence in their local government.
- ✓ ***Optimum management of public resources.*** Corruption leads to less than optimum allocation of financial resources. Corruption actually carries a financial cost for the community (overbilling, shrinkage) and results in waste of goods and services (unsuitability, misuse, poor quality). Prices proposed to the community are automatically higher because the corrupt actors offset the added cost of corruption. In every case, the community could either save wasted expenditure or levy lower taxes.
- ✓ ***Sustainable human resources management.*** The risks of disciplinary sanctions are not insignificant for employees implicated in corruption offences, who could see their careers derailed or ended.

An anti-corruption plan could be part of a much broader anti-fraud plan that protects the community from more than just the six offences covered by the Act of 9 December 2016. Work must be done on risk identification, risk mapping, whistleblowing systems, codes of conduct, and internal control and internal audit functions, but it would also be possible for entities to include other offences, such as theft, embezzlement, breach of trust, forgery, issuing fraudulent government documents, abuse of authority, impersonation of public officials, abuse of vulnerable persons, etc.

And yet, corruption prevention plans and measures are still unfamiliar and rarely deployed

AFA's survey findings show that the situations of local government entities are very diverse: many of them, and not necessarily the smallest, have virtually no specific corruption prevention measures in place. Furthermore, the measures they have taken are hardly ever part of a comprehensive anti-corruption policy.

The survey also found that mandatory measures, such as appointing a compliance officer and setting up a whistleblowing system are not always familiar or in place.

Training for employees and elected officials is insufficient for the risks incurred

The level of training and awareness-raising for employees and elected officials leaves much to be desired. Training is critical for promoting best practices, such as transparency and collegial decision-making or for managing conflicts of interest. Corruption prevention regulations do not always apply to small local government entities that fall short of the population and financial

thresholds set by law. And when no thresholds apply, as in the case of appointing a compliance officer, the measures are not always implemented or even familiar to the persons concerned.

Large local government entities and their related bodies seem to be better prepared

The entities with the greatest resources seem to be the most likely to make the greatest efforts. For example, regions, *départements* and large municipalities have implemented some of the anti-corruption measures. At the same time, the entities that are required to have anti-corruption plans, such as local publicly-owned companies (EPLs) and public housing boards (OPHs) of a certain size, have implemented some of the required measures. This may produce the momentum for other, smaller, entities of the same type to follow suit, even though they are not subject to the same requirements as private-sector companies.

This anti-corruption movement, with a few rare exceptions, is imperfect, but it nonetheless shows a general shift to enhanced corruption prevention by major local government entities or by the specialised entities (local publicly-owned companies and public housing boards).

AFA's expectations and its advisory role in helping local government entities take ownership of anti-corruption policies

There is no sanction for government bodies that fail to implement an anti-corruption plan under the terms of the Act of 9 December 2016, except for the bodies subject to the provisions of Article 17(II). However, the procedures subject to AFA's audits of these entities under the terms of the Act are no different from those that the Act defines as components of a comprehensive anti-corruption programme. This explains why AFA specified its expectations of local government entities in April 2018²⁵. These entities are expected to implement an anti-corruption policy with the same components²⁶ as those followed by private-sector undertakings that are especially vulnerable to corruption risks because of their size.

AFA stresses that these anti-corruption measures must be tailored to the specific circumstances of each entity and proportionate to its resources and size. This means that small entities need to act. They can at least focus their efforts on preventing corruption in such critical processes as hiring, procurement, budget management and accounting (expenditure and revenue), and distributing subsidies, as well as authorisation and attribution procedures for land use, roads, and places in day care centres and subsidised housing.

The Act of 9 December 2016 gives the French Anti-Corruption Agency an advisory role towards local government entities. This includes training, awareness raising and sharing best practices. For this purpose, AFA proposes joint projects to the organisations, federations and national associations of local elected officials and civil servants. These projects include practical guides, participation in their networking events, etc. AFA also provides the benefit of its expertise directly to local governments and their institutions by answering their written questions or by participating in working meetings dealing with some or all of their anti-corruption policies.

²⁵ Charter of rights and obligations for supervision stakeholders – government entities, non-profits and public-interest foundations https://www.economie.gouv.fr/files/files/directions_services/afa/Charte-droits-devoirs-acteurs-publics.pdf.

²⁶ Corruption risk mapping, code of conduct, third-party due diligence, internal control function, especially internal accounting control, internal audit function, whistleblowing system and a training programme for the persons most vulnerable to these risks.

Appendices

- Appendix 1. Definitions of corruption offences
- Appendix 2. AFA audits
- Appendix 3. Associations and organisations that distributed the AFA questionnaire
- Appendix 4. Questionnaire
- Appendix 5. Corruption prevention provisions applying to local government
- Appendix 6. Management of European Funds under the terms of Regulation (EU) 1303/2013
- Appendix 7. Arachne, the European Commission's risk scoring tool

Appendix 1. Definitions of corruption offences

“Extortion by public officials” (Art. 432-10 of the French Criminal Code) is:

“The acceptance, request or order to pay as public duties, contributions, taxes or impositions any sum known not to be due, or known to exceed what is due, when done by a person holding public authority or discharging a public service mission” and “[...] the granting by such persons, in any form and for any reason, of any exoneration or exemption from public duties, contributions, taxes or impositions in breach of statutory or regulatory rules”.

“Unlawful taking of interest” (Art. 432-12 of the French Criminal Code) is:

“The taking, receiving or keeping of any interest in a business or business operation, either directly or indirectly, by a person holding public authority, discharging a public service mission or holding a public electoral mandate who at the time in question has the duty of ensuring, in whole or in part, its supervision, management, liquidation or payment”.

Moreover, in cases in which “a local executive officer, a civil servant, a member of the armed forces or a public official, specifically by reason of his/her office, is entrusted with the supervision or control of any private undertaking, or with the conclusion of contracts of any type with a private undertaking or with giving an opinion on such contracts, or with directly informing the relevant authority of decisions taken in relation of the operations of a private undertaking or with giving an opinion on such decisions, the taking or receiving of any interest in such undertaking, whether through work, advice or investment, within three years of leaving such office” is also punishable under the provisions of Article 432-13 of the French Criminal Code.

“Favouritism” (Art. 432-14 of the French Criminal Code) is:

“The act, by a person holding public authority, discharging a public service mission, holding a public electoral mandate or acting as a representative, administrator or agent of government, local government, public establishments, national semi-public companies discharging public service missions and local semi-public companies, or any person acting on behalf of any of the above-mentioned persons, of obtaining or attempting to obtain for others an unjustified advantage by breaching the statutory or regulatory provisions designed to ensure freedom of access and equal treatment for bidders in tenders for public contracts and delegated public services”.

Misappropriation of public funds

“Misappropriation of public funds” (Art. 432-15 of the French Criminal Code) is:

“The destruction, misappropriation or purloining of a document or security, of public or private funds, of papers, documents or securities representing such funds, or of any object entrusted to him/her as part of his/her function or tasks [...]”.

“Negligent misappropriation of public funds” (Art. 432-16 of the French Criminal Code) is:

“Where the destruction, misappropriation or purloining of the objects referred to in Article 432-15 is committed by a third party as a result of negligence by a person holding public authority or discharging a public service mission, a public accountant or a public depository”.

Corruption

“Passive corruption involving French public officials” (Art. 432-11 of the French Criminal Code) is:

“The direct or indirect request or acceptance without right and at any time of offers, promises, donations, gifts or advantages for himself/herself or others, when done by a person holding public authority, discharging a public service mission or holding a public electoral mandate [...] to carry out or abstain from carrying out an act relating to his/her office, duty or mandate, or facilitated by his/her office, duty or mandate”.

“Active corruption involving French public officials” (Art. 433-1 of the French Criminal Code) is:

“The direct or indirect proffering without right and at any time of offers, promises, donations, gifts or advantages for himself/herself or others, to induce a person holding public authority, discharging a public service mission or holding a public electoral mandate [...] to carry out or abstain from carrying out an act relating to his/her office, duty or mandate, or facilitated by his/her office, duty or mandate”.

This offence also encompasses “yielding before any person holding public authority, discharging a public service mission or holding a public electoral mandate who directly or indirectly requests without right and at any time offers, promises, donations, gifts or advantages for himself/herself or others, to carry out or abstain from carrying out any act” relating to his/her office, duty or mandate, or facilitated by his/her office, duty or mandate.

Influence peddling

“Passive influence peddling involving French public officials” (Art. 432-11 of the French Criminal Code) is:

“The direct or indirect request or acceptance without right and at any time of offers, promises, donations, gifts or advantages for himself/herself or others, when done by a person holding public authority, discharging a public service mission or holding a public electoral mandate [...] to abuse his/her real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision”.

“Active influence peddling involving French public officials” (Art. 433-1 of the French Criminal Code) is:

“The direct or indirect proffering without right and at any time of offers, promises, donations, gifts or advantages for himself/herself or others, to induce a person holding public authority, discharging a public service mission or holding a public electoral mandate [...] to abuse his/her real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision”.

This offence also encompasses “yielding before any person holding public authority, discharging a public service mission or holding a public electoral mandate who directly or

indirectly requests without right and at any time offers, promises, donations, gifts or advantages for himself/herself or others” to abuse his/her real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision.

“Passive influence peddling by a private individual” (Art. 433-2 of the French Criminal Code) is:

“The direct or indirect request or acceptance without right and at any time of offers, promises, donations, gifts or advantages for himself/herself or others, to abuse his/her real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision”.

“Active influence peddling by a private individual” (Art. 433-2 of the French Criminal Code) is:

“Yielding to any request defined in the previous paragraph or conferring, directly or indirectly, without right and at any time, offers, promises, gifts or advantages to any person, for himself/herself or others, to abuse his/her real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision”.

Natural or legal persons may be prosecuted as an accomplice to the aforementioned corruption offences. They may also be prosecuted for concealing such offences or laundering the proceeds of corruption.

Appendix 2. AFA audits

A) AFA audits of public-sector entities

[central government departments, local governments and their public establishments and semi-public companies, and public interest non-profit associations and foundations, as stipulated in Article 3-3 of the Sapin II Act]

AFA audit focus	Audit outcomes
Corruption prevention and detection measures The quality and effectiveness of the procedures implemented to prevent and detect corruption	These audits result in reports that are drafted and sent to the authorities initiating the audits and the representatives of the audited entities. The reports contain AFA's findings and recommendations for improving the existing procedures.

(no thresholds)

B) Audits of private-sector entities

[industrial and commercial companies and establishments, as stipulated in Article 17 of the Sapin II Act]

AFA audit focus	Audit outcomes
Corruption and influence peddling prevention and detection measures. Implementation of the provisions of Article 17(2°). 1. code of conduct 2. internal whistleblowing system 3. risk mapping 4. third-party due diligence 5. internal or external accounting control functions 6. training plan 7. disciplinary rules 8. internal monitoring and assessment	AFA drafts a report containing its findings on the quality of the corruption prevention and detection measures and, where appropriate, recommendations for improving the existing procedures. Possible outcomes: <i>i)</i> injunctions to correct internal compliance procedures <i>ii)</i> fines of up to €200,000 for natural persons and €1m for legal entities <i>iii)</i> publication, dissemination or posting of some or all of the injunction or fine ruling

(threshold: 500 employees or more and turnover of €100m)

C) Rules for both types of audit

– Initiative for AFA audits: AFA may conduct audits on its own initiative. Audits may also be conducted at the request of the President of the High Authority for Transparency in Public Life, the Prime Minister, other Ministers, or, in the case of local governments and their public establishments and semi-public companies, the Central Government Representative. Audits may also be triggered by an alert sent to AFA by an accredited association.

– Obstruction of AFA audits is an offence²⁷ liable to a fine of €30,000.

²⁷ Art. 4(5°) of Act 2016-1691 of 9 December 2016.

Appendix 3. Associations and organisations that distributed the AFA survey questionnaire

Associations of elected officials

- ✓ *Assemblée des communautés de France* (French Communities Assembly)
- ✓ *Assemblée des départements de France* (French Départements Assembly)
- ✓ *Association des maires d'Ile-de-France* (Greater Paris Area Mayors Association)
- ✓ *Association des maires de France et des présidents d'intercommunalités* (Association of French Mayors and Inter-Municipal Chairs)
- ✓ *Association des petites villes de France* (French Association of Small Towns)
- ✓ *Association nationale des directeurs d'associations de maires* (National Association of Association of Mayors Directors)
- ✓ *Fédération nationale des collectivités concédantes et Régies* (National Federation of Contracting Authorities and Publicly Managed Enterprises)
- ✓ *Régions de France* (Regions of France)
- ✓ *Villes de France* (Towns and Cities of France)

Professional associations and federations

- ✓ *Association des administrateurs territoriaux de France* (French Association of Local Administrators)
- ✓ *Association des directeurs généraux des communautés de France* (French Association of Community General Managers)
- ✓ *Association des ingénieurs territoriaux de France* (French Association of Local Engineers)
- ✓ *Association dirigeants grandes collectivités* (Association of Large Community Managers)
- ✓ *Association nationale des directeurs d'action sociale et de santé des départements et des métropoles* (National Association of Social and Health Policy Managers of Départements and Metropolitan Areas)
- ✓ *Conférence des inspecteurs et auditeurs territoriaux* (Conference of Local Inspectors and Auditors)
- ✓ *Syndicat national des directeurs généraux des collectivités territoriales* (National Federation of Local Community General Managers)
- ✓ *Syndicat national des secrétaires de mairie* (National Federation of Municipal Clerks)

Other organisations

- ✓ *Centre national de la fonction publique territorial* (National Local Civil Service Centre)
- ✓ *Fédération nationale des centres de gestion de la fonction publique territorial* (National Federation of Local Civil Service Management Centres)
- ✓ *Fédération des entreprises publiques locales* (Federation of Local Publicly-Owned Companies)
- ✓ *Fédération des offices publics de l'habitat* (Federation of Public Housing Boards)

Appendix 4. Questionnaire on the prevention of local government corruption

The online questionnaire contains between 30 and 53 questions. If the respondents answer “no” to certain key questions (highlighted below), they are taken directly to the next module.

The answers to the questionnaire are anonymous. The questionnaire has three parts:

- 5 questions about the characteristics of the local government entity
- 14 questions about perceptions of corruption risk
- 34 questions about corruption prevention

THE QUESTIONNAIRE STARTS HERE

The French Anti-Corruption Agency needs to conduct a diagnosis of the prevention of local government corruption. That is the purpose of this questionnaire. Thank you for taking a few minutes to complete the questionnaire.

If you received several messages with the questionnaire, it is because several organisations agreed to distribute it.

If more than one person in your entity has received the questionnaire, you can each complete it individually.

NB: Privacy protection.

Your answers to the questionnaire are anonymous. The records of your answers to the questionnaire do not contain any information that can be used to identify you, unless one of the questions explicitly asks for it. If you have used a code to access this questionnaire, you can be sure that no information related to the code can be recorded with your answers. The code is managed by a separate database that only indicates whether you have completed the questionnaire. There is no way to connect your code to your answers to the questionnaire.

Part 1 – Your entity

The purpose of this first part is to describe your entity (size, resources)

❖ Your entity is

- a municipality
- a *département*
- a region
- a government-funded inter-municipal cooperation institution
- a semi-public company or a local publicly-owned company
- a public housing board
- a management centre
- other

❖ Please indicate the number of the *département* where your entity is headquartered: []

- ❖ **Your position within the entity**
 - elected official
 - manager/supervisor
 - municipal clerk
 - employee
 - compliance officer

- ❖ **Population of your entity's territory (number of inhabitants)**
 - > 150,000
 - between 50,000 and 79,999
 - between 10,000 and 19,999
 - between 2 000 and 3,499
 - between 200 and 499
 - between 80,000 and 150,000
 - between 20,000 and 49,999
 - between 3,500 and 9,999
 - between 500 and 1,999
 - < 200

- ❖ **Total number of civil servants and contract employees**
 - > 1,000
 - between 100 and 349
 - between 20 and 49
 - between 2 and 4
 - between 350 and 1,000
 - between 50 and 99
 - between 5 and 19
 - < 2

- ❖ **Total operating expenditure in euros**
 - > 1 billion
 - [100 million - 1 billion]
 - [51 million - 99 million]
 - [6 million - 50 million]
 - [2 million - 5 million]
 - [0.5 million -1 million]
 - < 0.5 million

Part 2 – Corruption risk

The purpose of this second part is to measure knowledge and treatment of corruption

Knowledge

- ❖ Can you define bribery and can you give an example? Yes No
- ❖ Can you define influence peddling? Yes No
- ❖ Can you define extortion by a public official? Yes No
- ❖ Can you define unlawful taking of interest? Yes No
- ❖ Can you define misappropriation of public funds? Yes No
- ❖ Can you give an example of favouritism? Yes No
- ❖ Has corruption been a topic of discussion in your working environment in the last six months? Yes No

Risk in your entity

- ❖ Has your entity encountered one or more corruption cases in the last five years? Yes No
- ❖ Has at least one case led to a disciplinary procedure? Yes No
- ❖ Did the procedure result in a disciplinary sanction? Yes No
- ❖ Have one or more cases been referred for criminal prosecution? Yes No
- ❖ Have one or more cases resulted in a criminal conviction? Yes No

❖ Do you perceive corruption risk in the following areas?²⁸

- | | | | |
|---|------------------------------|-----------------------------|------------------------------------|
| <i>Social policy</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Communication</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Construction of public infrastructure or buildings</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Applications for bank loans</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>International cooperation</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Waste/household waste</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Economic development</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Water/sanitation</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Energy/district heating-cooling systems</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>European funds</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Vocational training</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Fiscal management/accounting in your entity</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Management of the entity's private property</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Housing</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Use of public property</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Human resources</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Partnerships/patronage/sponsorships</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Tourism</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Attribution of subsidies</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Urban planning/land use</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Roads</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |

 Corruption risk in related entities

❖ Do you perceive corruption risk in any entities related to yours?

- | | | | |
|--|------------------------------|-----------------------------|------------------------------------|
| <i>Education funds</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Social services centres</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Social welfare and medicine institutions</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Public housing board</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Property management unit</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Fire and rescue services</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Semi-public companies or a local publicly-owned companies</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <i>Other (misc. public institutions, associations, etc.)</i> | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> No answer |

Part 3 – Corruption prevention

 Specific anti-corruption policy²⁹

- ❖ Does your entity have an official anti-corruption plan? Yes No
- ❖ Has your entity taken anti-corruption measures? Yes No
- ✓ How long have they been in place?
- less than 2 years
- between 3 and 5 years
- more than 5 years
- ❖ Have the plan and measures been updated since their introduction? Yes No
- ❖ What are the reasons for not having an anti-corruption plan?
- corruption risk is low or under control

²⁸ For the purposes of this questionnaire, “no answer” means that your entity is not involved in the area in question.

²⁹ An anti-corruption plan is defined as coherent set of measures including at least risk mapping, a code of conduct, internal control/audit function and a dedicated training plan.

- you think that the entity's size and resources are insufficient to develop an anti-corruption plan
- a plan is under development or will be developed in the coming year
- a plan will be developed before the end of the local government's term of office
- a plan is not legally required

- ❖ Has your entity called on an external provider to implement the plan/the measures? Yes No
- ❖ Are the anti-corruption plan/measures monitored by
 - an elected official
 - a manager/supervisor
 - a compliance officer
 - a municipal clerk
 - an internal inspection, control or audit function
 - a local government employee
 - a specific collegial body or commission
- ❖ Has your entity conducted an ISO 37001 bribery management certification procedure? Yes No

Internal control in your entity

- ❖ Is there an internal function responsible for ensuring that management actions comply with the laws and regulations in force? Yes No
- ❖ Is there an internal function responsible for accounting control? Yes No
- ❖ Is corruption risk considered in procedures (hiring, attribution of subsidies, procurement, contracts, attribution of planning and land use permits)? Yes No
- ❖ Are all levels of the hierarchy made aware of the need to consider corruption risk in day-to-day management? Yes No

Code of conduct

- ❖ Does your entity have a code of conduct or ethical charter? Yes No
- ❖ Does it define prohibited actions? Yes No
- ❖ Is it appended to the rules of procedure?³⁰ Yes No
- ❖ Does it include sanctions for non-compliance? Yes No
- ❖ The code of conduct tells employees and/or elected officials
 - what to do in a given situation
 - what the sanctions are for code violations
 - what criminal penalties could be incurred
 - how to contact the compliance officer
 - how the whistleblowing system works
- ❖ Does the code of conduct address "gifts and invitations"? Yes No
- ❖ Does it also address conflicts of interest? Yes No
- ❖ Does it use examples to illustrate conflicts of interest? Yes No

³⁰ This does not refer to the Local Elected Officials Charter stipulated by Act No. 2015-366 of 31 March 2015, which is intended to facilitate local elected officials' performance of their duties.

 Appointment of a compliance officer as defined in the Ethics Act of 20 April 2016.

❖ **Is your entity's compliance function**

- provided by an internal compliance officer
- provided by the management centre
- not yet provided

- ❖ Is the compliance officer a full-time employee? Yes No
- ❖ Are all employees given the compliance officer's contact information? Yes No
- ❖ Can the compliance officer be contacted anonymously? Yes No

 Whistleblowing system as defined by the Whistleblowing Decree of 19 April 2017

❖ **Does your entity have**

- ✓ an internal whistleblowing system for employees or elected officials to disclose code of conduct violations Yes No
- ✓ a common system shared with other entities Yes No
- ✓ with a dedicated internet address Yes No
- ✓ a system whereby disclosures are specifically received and examined by a compliance officer Yes No

 Risk mapping³¹

❖ **Does your entity's anti-corruption plan include**

- ✓ a corruption risk map Yes No
- ✓ that is updated periodically Yes No
- ✓ Does the risk map specifically include risks incurred by elected officials (3-63)? Yes No

❖ **Did the risk mapping exercise lead you to take preventive measures to mitigate the risks identified?** Yes No

✓ Which measures?

- Strengthening internal control
- Reassigning certain employees
- Mandatory staff rotations for vulnerable positions
- Rigorous management of access to information systems
- Stricter supervision of procurement
- Stricter conformity checks of goods and services delivered
- Stricter supervision of attribution of subsidies
- Stricter supervision of the use of subsidies
- Supplier due diligence

 Supplier due diligence

❖ **Does your entity have a procedure to exclude bidders with criminal convictions from public procurement contracts?** Yes No

³¹ "Risk mapping" means: i) identifying activities and functions that are vulnerable to corruption risks, and ii) prioritising these risks, which determines the appropriate measures for mitigating these risks.

- ❖ Does this procedure also cover sub-contractors? Yes No
- ❖ Does your entity require anti-corruption clauses in its contracts? Yes No

Internal audit function

- ❖ Does your entity have an audit function? Yes No
- ❖ Is the audit function performed by
 - an internal audit department covering all processes
 - an internal audit department covering mainly public procurement or other high-risk processes
 - an external auditor
- ❖ Does the audit function report directly to
 - the local executive body
 - the general manager
 - other
- ❖ Has it been explicitly assigned an anti-corruption task? Yes No
- ❖ Can it conduct an audit on its own initiative? Yes No

Training

- ❖ Does your entity have
 - ✓ corruption awareness raising for employees Yes No
 - ✓ corruption awareness raising for elected officials Yes No
 - ✓ anti-corruption training for employees Yes No
 - ✓ anti-corruption training for elected officials Yes No

Appendix 5. Corruption prevention provisions applying to local governments

Provisions	Entities concerned and thresholds
❖ Whistleblowing system ³²	<ul style="list-style-type: none"> • Public- and private-sector entities with more than 50 employees • Municipalities, EPCIs with populations over 10,000 • Départements and regions
❖ Compliance officer ³³	<ul style="list-style-type: none"> • Municipalities, <i>départements</i>, regions and EPCIs
❖ Appointment of an access to administrative documents officer ³⁴	<ul style="list-style-type: none"> • Local publicly-owned companies with more than 200 employees • Municipalities and EPCIs with populations over 10,000 • Départements and regions
❖ Restrictions on hiring family members ³⁵	<ul style="list-style-type: none"> • Municipalities, <i>départements</i>, regions and EPCIs • Enhanced restrictions for municipalities and EPCIs with populations over 20,000 • Enhanced restrictions for municipalities and EPCIs with populations over 100,000
❖ Financial disclosures ³⁶	<ul style="list-style-type: none"> • Départements and regions • Municipalities and EPCIs with populations over 20,000 • Enhanced restrictions for municipalities and EPCIs with populations over 100,000
❖ Prior financial disclosures ³⁷	<ul style="list-style-type: none"> • Départements and regions

³² Decree No. 2017-564 of 19 April 2017.

³³ Decree No. 2017-519 of 10 April 2017.

³⁴ Art. R.330-2 of the Code of Public-Government Relations.

³⁵ Art. 110 of Act No. 84-53 of 26 January 1984 as amended.

³⁶ Art. 11 of Act No. 2013-907 of 11 October 2013 as amended.

³⁷ Art. 25 *ter* and *nonies* of Act No. 83-634 of 13 July 1983 as amended.

	<ul style="list-style-type: none"> • Municipalities, EPCIs and management centres with populations over 80,000
❖ Civil servants' financial disclosures ³⁸	<ul style="list-style-type: none"> • Municipalities, <i>départements</i>, regions, EPCIs, semi-public associations, Aix métropole, National Local Civil Service Centre (CNFPT), inter-<i>département</i> management centres for the inner and outer suburbs of Paris • Management centres serving populations over 20,000 • Enhanced requirements for municipalities, EPCIs, semi-public associations, management centres, municipal credit banks with populations over 150,000
❖ Recusal requirements for elected officials ³⁹	<ul style="list-style-type: none"> • Municipalities, <i>départements</i>, regions and EPCIs
❖ Recusal requirements for employees with conflicts of interest ⁴⁰	<ul style="list-style-type: none"> • All employees
❖ Access to public data ⁴¹	<ul style="list-style-type: none"> • Municipalities with populations over 3,500 • <i>Départements</i> and regions • Public-sector entities with more than 50 employees • Private-sector entities providing public services with more than 50 employees
❖ Collected administrative decisions ⁴²	<ul style="list-style-type: none"> • Municipalities, EPCIs • <i>Départements</i> and regions

NB 1: This table was compiled in October 2018 for information purposes.

NB 2: Paris is subject to special requirements that are not included in this table.

³⁸ Art. 25 *quinquies* of Act No. 83-634 of 13 July 1983 as amended.

³⁹ Decree No. 2014-90 of 31 January 2014.

⁴⁰ Art. 25 *bis* of Act No. 83-634 of 13 July 1983 as amended.

⁴¹ Digital Republic Act No. 2016-1321 of 7 October 2016.

⁴² Art. R2121-10, 3131-1, 4141-1 and 5211-41 of the Code of Public-Government Relations.

Appendix 6. Management of European Funds under the terms of Regulation (EU) 1303/2013⁴³

What follows is an extract from Regulation (EU) 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund. This extract summarises the European Union's requirements for lawful management of European funds.

Article 122. Responsibilities of Member States

Member States shall ensure that management and control systems for operational programmes are set up [...]. [They] shall prevent, detect and correct irregularities and shall recover amounts unduly paid [...]. They shall notify the Commission of irregularities that exceed EUR10,000 in contribution from the Funds and shall keep it informed of significant progress in related administrative and legal proceedings. [...] in cases of suspected fraud, the detected irregularities and the associated preventive and corrective measures shall be reported to the Commission. When amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the budget of the Union.

Article 123. Designation of authorities

Each Member State shall designate, for each operational programme, [...] a managing authority [...]. [...], the Member State shall designate [...] a certifying authority [...]. [...], the Member State shall designate [an] audit authority [...].

Article 125. Functions of the managing authority

1. The managing authority shall be responsible for managing the operational programme [...].
2. [The managing authority shall] establish a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in operations.
4. [The managing authority shall:]
 - (a) verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid and that it complies with applicable law, the operational programme and the conditions for support of the operation;
 - (b) ensure that beneficiaries involved [...] maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation;
 - (c) put in place effective and proportionate anti-fraud measures taking into account the risks identified;
 - (d) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held [...];
6. On-the-spot verifications [...] may be carried out on a sample basis.

⁴³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R1303&from=en>

Article 126. Functions of the certifying authority

The certifying authority of an operational programme shall be responsible in particular for: (a) drawing up and submitting payment applications to the Commission, and certifying that they result from reliable accounting systems, are based on verifiable supporting documents and have been subject to verifications by the managing authority [...]; (c) certifying the completeness, accuracy and veracity of the accounts and that the expenditure entered in the accounts complies with applicable law [...]; (e) ensuring, for the purposes of drawing up and submitting payment applications, that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure; (f) taking account [...] the results of all audits carried out by, or under the responsibility of, the audit authority; [...].

Article 127. Functions of the audit authority

1. The audit authority shall ensure that audits are carried out on the proper functioning of the management and control system of the operational programme and on an appropriate sample of operations [...].
3. The audit authority shall ensure that audit work takes account of internationally accepted audit standards.
4. The audit authority shall, within eight months of adoption of an operational programme, prepare an audit strategy for performance of audits. The audit strategy shall set out the audit methodology, the sampling method for audits on operations and the planning of audits in relation to the current accounting year and the two subsequent accounting years.
5. The audit authority shall draw up: (a) an audit opinion [...]; b: a control report setting out the main findings of the audits [...], including findings with regard to deficiencies found in the management and control systems, and the proposed and implemented corrective actions.

Appendix 7. Arachne, the European Commission's risk scoring tool⁴⁴

Arachne is an IT tool developed by the European Commission for data mining and data enrichment. Arachne can increase the efficiency of project selection, management verifications and further strengthen fraud identification, prevention and detection by supporting managing authorities for Structural Funds in their administrative controls and management checks. Arachne:

- i) establishes a comprehensive database of projects implemented under the Structural Funds in the EU and provided by the managing authorities
- ii) enriches the data with publicly available information in order to identify, based on a set of risk indicators, the projects, beneficiaries, contracts and contractors which might be susceptible to risks of fraud, conflicts of interest and irregularities
- iii) provides risk alerts to enrich management verifications, but it does not supply any proof of error, irregularity or fraud

Arachne methodology

The managing authorities transmit operational data from the projects to the European Commission. These data are further complemented with information from external data sources, Orbis and World Compliance, containing official published and publicly available data on companies and related persons. Arachne calculates individual risk indicators. The Arachne Risk Scoring Tool identifies more than 100 risk indicators, which are grouped into seven risk categories: procurement, contract management, eligibility, performance, concentration, reputation and fraud alerts, etc. All of these risk indicators help the managing authorities identify the riskiest projects, beneficiaries, contractors and contracts. Once it is in place and part of the management and control system, Arachne can substantially increase the level of prevention and detection and the fight against irregularities and fraud.

Benefits for managing authorities

Integrating Arachne in the management and control system and effectively applying Arachne in the day-to-day management and verification of expenditure claims and projects could contribute to meeting the compliance requirements of Regulation (EU) 1301/2013.

The Commission provides training at the authorities' request for staff members designated to use Arachne. The managing authorities will be advised on how to integrate the programme into their day-to-day work and into their management and control system.

⁴⁴ Taken from <https://ec.europa.eu/social/main.jsp?catId=325&intPageId=3587&langId=en>

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