



Agence française anticorruption

Annual Report 2021





Judge Charles DUCHAINE
Director of the French Anti-Corruption Agency.

Foreword

What is the status of France's anti-corruption policy, five years after the Transparency, Anti-Corruption and Economic Modernisation Act of 9 December 2016 was adopted? What are its strengths, weaknesses and potential improvements?

As usual, this report will present the activities of the French Anti-Corruption Agency in 2021. But, looking back after five years, this report will also attempt to assess the Agency's contribution to the implementation of this public policy in its scope of action. Addressing this matter seems all the more necessary at a time when, on the pretext of rationalising the use of government resources or strengthening AFA's

independence, some people are questioning its legal form and indirectly threatening its very existence.

In 2021, France's anti-corruption policy was the subject of several internal and external evaluations, starting with the parliamentary fact-finding mission to evaluate the impact of Act 2016-1691 of 9 December 2016 (Sapin 2 Act). It was also assessed by the Group of States against Corruption (GRECO) as part of the fifth Evaluation Round examining the theme of *"preventing corruption and promoting integrity in central governments and law enforcement agencies"*, and lastly by the Organisation for Economic Co-operation and Development.

In their overall assessment of the national system, the OECD examiners noted some encouraging achievements: *"the creation of AFA and the introduction into French law of an administrative compliance obligation under Article 17 of the Sapin 2 Act. This approach [...] is"*, according to the OECD, *"a notable development [...] that has allowed France to regain credibility and visibility in its efforts to combat the bribery of foreign public officials"*.

Therefore, it can be said from the outset that the criticism previously levelled by international organisations concerning the ineffectiveness of the French system, which was the underlying cause of the 2016 reforms, is no longer heard.

Even though much remains to be done internally, businesses and government administrations have achieved significant progress in adopting corruption prevention and detection measures and procedures and, moreover, the growing commitment of entities testifies to a real determination to ensure effective compliance.

Given these encouraging initial results, we need to persevere and make the necessary technical adjustments to further improve the effectiveness of the Act and avoid any institutional shake-up that could wipe out the results achieved through our efforts in the last five years and, once again, undermine the credibility and visibility of the system as a whole. In this area, where appearances can matter just as much as reality at times, any pointless or misunderstood tweaks, whether justified or otherwise, could give rise to suspicions and feed into distrust of the institutions.

The parliamentary evaluation noted some shortcomings in the text of the 2016 Act, which are ultimately easy to fix, such as *"the lack of a specific system for public sector entities"* and *"the*

limited extraterritorial scope of the Act". Without questioning the function of AFA's tasks, the parliamentary evaluation proposes transferring the performance of those tasks to the High Authority for Transparency in Public Life (HATVP).

The *"hybrid institutional nature"* of the French Anti-Corruption Agency seemed to be the sole justification for the proposal to create a *"High Authority for Integrity"*.

In the first section, which deals with the *"corruption prevention and detection system and AFA's measures"*, the parliamentary evaluation put forward 14 proposals, some of which were more akin to guidelines that seem to have already been implemented by and large. On the contrary, other proposals that are fully in line with AFA's longstanding concerns, but which require lawmakers to act, have not been carried out. These proposals include *"eliminating the requirement that the registered office of the parent company be located in France"* in order to make French subsidiaries of foreign groups subject to the obligations under Article 17, the proposal to create a framework for public-sector entities, or the proposal to enhance *"government oversight of the fight against corruption"*.

Even though it is not very interested in AFA's domestic activities regarding the public sector, the OECD still called for the status quo to be maintained and for more resources, stating that *"AFA's level of financial and human resources is not commensurate with the number of important duties entrusted to it."* The Chair of the OECD Working Group on Bribery, Drago Kos, even said: *"The WGB (Working Group on Bribery) is concerned about the uncertainties surrounding AFA's future, particularly in light of a potential merger with the High Authority for Transparency in Public Life. Such a merger raises concerns that the AFA's role in monitoring companies' adoption of the compliance measures may be stretched thin or even non-existent."*

At a time when everything is working to weaken the government's role and the oversight that it is nonetheless required to provide, the drive to reform institutions is a constant cause for concern. AFA's decried hybrid status is actually the source of its strength. This strength first comes from the authority of the ministries it reports to and from the government as a whole in the implementation of the public policy to combat corruption, primarily in the form of the drafting and implementation of a multi-year plan. There is then AFA's own authority, stemming from its independence guaranteed under Article 2 of the Act for exercising its auditing powers.

In other words, is the proposed shake-up necessary in view of the largely favourable assessments of the national strategy's progress and its results?

Rather than claiming to want to change everything when ultimately nothing will change, since an institutional reform will not outweigh the determination to act, it would be more helpful to continue the work under way and step up AFA's work. There is a more pressing need to question where we are headed rather than getting carried away with the purported merits of an independent administrative authority that AFA allegedly lacks. Any change in AFA's status would in no way make a forced marriage necessary between two institutions that have complementary, but radically different, missions, as is the case of AFA and the High Authority for Transparency in Public Life.

Let's not rush into a union that would need to be dissolved in the future to address another necessity: that of extending regulation to other areas than anti-corruption compliance. The movement is taking off and it is not merely a domestic matter, especially with regard to social and environmental issues. Businesses and public sector entities cannot bear growing numbers of regulators. Their core business is not compliance, and compliance is only effective if it is accepted. It must not bring the day-to-day activities of organisations to a halt, whether they be administrative or industrial and commercial in nature.

There seems to be an urgent need, as rightly suggested by the parliamentary evaluation, to enhance government oversight of the fight against corruption through regular meetings of a specialised interministerial committee chaired by the Prime Minister and with AFA providing the permanent secretariat. This is the only way that AFA can successfully perform the administrative coordination duties under the Act, and that an ambitious and effective multi-year plan to fight corruption can be drawn up and executed for 2023-2025.

It also seems necessary to avoid entrusting two different institutions with preventing corruption: one in the public sector and the other in the private sector. This is necessary to prevent the fragmentation of institutions, which is a cause for suspicion in public opinion. It also creates loopholes for business, impediments to information sharing and the need for pointless coordination activities. Such a choice would also be contrary to the findings of the parliamentary evaluation report. It would show a profound misunderstanding of corruption and negate the latest developments. In the last five years, we have welcomed an alignment of public and private ethical values leading to an adoption of methods. Who could possibly have an interest in stopping this trend, which tightens legal security in France and makes it more attractive to foreign investors?

The risks that corruption poses for public resources, taxpayer consent, public trust in institutions, upholding sovereignty and, ultimately, the rule of law require the government itself to conduct this policy. Oversight of the policy calls governing powers into play and requires a continuous interministerial approach. This is precisely the key recommendation that AFA makes to all of the organisations that it advises and audits: there can be no effective anti-corruption system without fully committed leadership.

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OVERVIEW

Tasks and Actions

The Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016, known as the “Sapin 2” Act, created the French Anti-Corruption Agency (AFA). The Agency has nationwide jurisdiction and is placed under the direct joint authority of the Minister of Justice and the Minister for the Budget. Its operations cover the whole of France’s territory.

Its mission is to implement public policy on preventing and detecting bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism. Such offences are referred to using the umbrella terms “corruption” or “corruption offences”.

Article 2 of the Act ensures that the Director of the Agency guarantees the independence necessary for its audit activities.¹

TASKS

AFA’s tasks are:

- ✓ to help entities prevent and detect corruption through its advisory and audit activities;
- ✓ to participate in administrative coordination (drafting the National Multi-Year Plan to Fight Corruption and helping French authorities to define their policy positions within international organisations);
- ✓ to centralise and disseminate information to help prevent and detect corruption.

ACTIONS

AFA is an anti-corruption public policy coordination body, an advisory structure and an administrative audit authority for public and private entities subject to compliance requirements. These roles make AFA a national leader in preventing and detecting corruption.

AFA conducts two types of audits. The first type are audits conducted at AFA’s initiative² on the existence, quality and effectiveness of the anti-corruption measures and procedures of public and private sector entities with 500 or more employees and revenues of more than €100m. The second type of audits are conducted on behalf of prosecutors or the Sanctions Committee to ensure implementation of administrative and court-ordered measures requiring a legal entity to implement a compliance programme. Such measures include administrative injunctions, deferred prosecution agreements and supplementary penalties involving compliance remediation programmes.

AFA is also responsible for monitoring enforcement of Act 68-678 of 26 July 1968 on the disclosure of economic, commercial, industrial, financial and technical documents and information to foreign individuals or entities (“blocking statute”) in response to the enforcement of foreign authorities’ rulings requiring a company with its registered office in France to submit to a compliance procedure for its internal procedures to prevent and detect corruption. AFA also works closely with the government entities concerned, such as the Economic Strategic Intelligence and Security Department (SISSE) to enforce the Act.

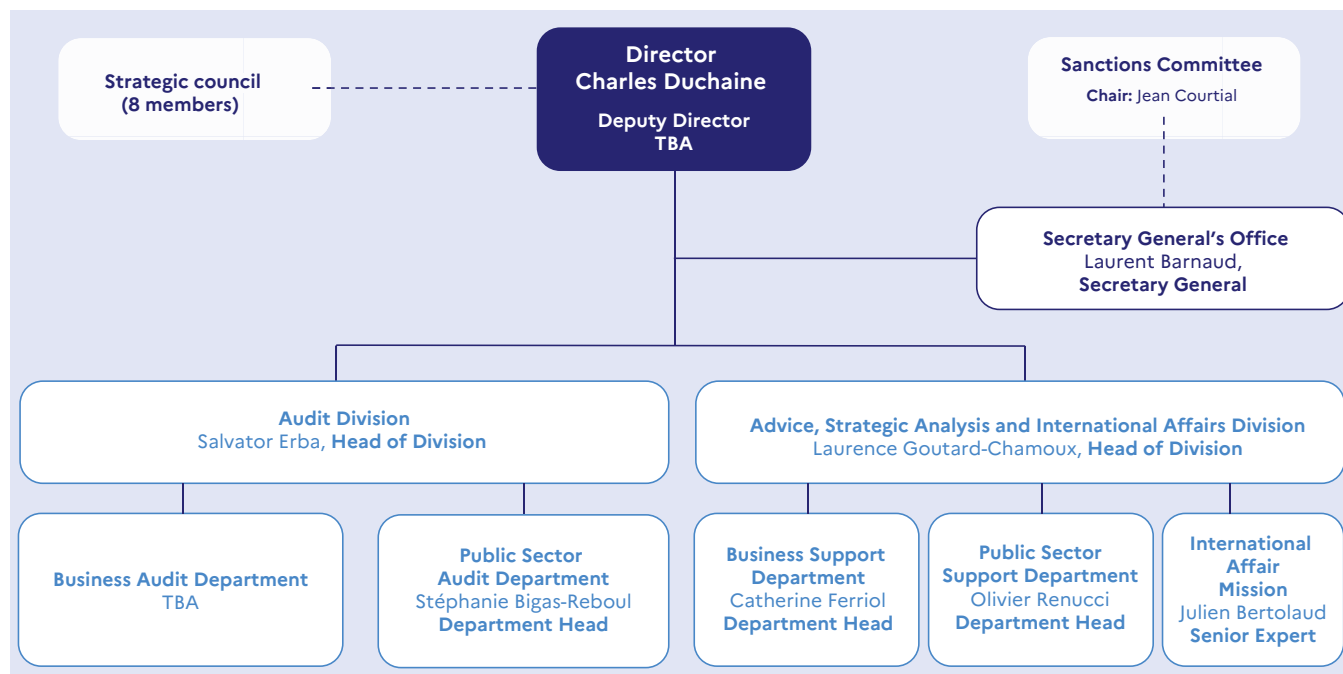
¹ Ces dispositions prévoient les conditions de nomination de son directeur (magistrat hors-hiérarchie de l’ordre judiciaire nommé pour une durée de 6 ans non renouvelable) qui, dans l’exercice des missions de contrôle ne peut recevoir, ni solliciter d’instruction d’aucune autorité administrative ou gouvernementale.

² Définies par la loi, ses missions de contrôle ont été complétées par les lois n° 2018-202 du 26 mars 2018 relative à l’organisation des jeux olympiques et paralympiques de 2024 et n°2022-217 du 21 février 2022 relative à la différenciation, la décentralisation, la déconcentration et portant diverses mesures de simplification de l’action publique locale.

AFA's support and advisory tasks have three main objectives:

- ✓ Facilitating understanding of corruption by monitoring legal developments and statistics, by supporting research work, conducting statistical surveys on entities' maturity with regard to anti-corruption compliance and conducting a national corruption risk mapping exercise.
- ✓ Raising awareness of France's anti-corruption framework, based on the Sapin 2 Act and its implementing decrees, along with the guidelines and guides posted to AFA's website. AFA is working to achieve this objective with awareness-raising and training actions, as well as assistance and technical support for any individuals or entities in the public or private sector upon request. It also proposes and implements technical cooperation, advisory and support actions for foreign authorities.
- ✓ Performing administrative coordination tasks, working with the support of its oversight authorities to draw up the National Multi-Year Plan to Fight Corruption, and participating in the definition of the French authorities' policy positions relating to AFA's jurisdiction within international organisations.

Organisation Chart



Resources

AFA has a multidisciplinary team to perform its tasks. As of 31 December 2021, the team of 51 included 47 full-time staff members and 4 members seconded from other administrations.

The skills needed to perform a great variety of tasks led AFA to select technical experts from the three branches of the civil service (central government, local government and hospitals), as well as specialists from the business world.

In this way, AFA brings together ordinary judges, financial jurisdiction judges, government inspectors, civil servants from interministerial bodies, civil service executives and senior central government executives, civil servants from the economic and financial ministries (civil engineers, customs inspectors, and public finance administrators, inspectors and auditors), and experts under public service contracts, particularly audit and compliance experts.

AFA's operating resources come from pooled appropriations made under budget programme 218, "Conduct and steering of economic and financial policies" under the function "Public finance and human resources management" overseen by the Ministry for the Economy, Finance and the Recovery.



1

**CORRUPTION:
A SHADOWY
PHENOMENON,
BUT BETTER
UNDERSTOOD**

A firmer grasp of the facts

1. CORRUPTION STATISTICS IN FRANCE

1.1. A better understanding of corruption offences through court cases³

The number of penalties handed down is undoubtedly the most scientific indicator of the possible extent of corruption, but it falls far short of giving a true account of the phenomenon, as shown in the following statistics.

This is primarily because the phenomenon is often hidden and only a minute proportion of the offences committed are detected.

Secondarily, the justice system often has difficulties with finding evidence and obtaining international cooperation in corruption cases and must sometimes settle for lesser charges, such as forgery or misuse of corporate funds, in order to conduct effective prosecutions and obtain criminal convictions in cases that actually involve more serious corruption offences.

1.2. Proceedings

In 2020, the Public Prosecutor's Offices dealt with 834 corruption cases, compared to 813 cases in 2019. This represents an increase of 2.6% over 2019. The 834 cases involved 1,206 perpetrators, including 323 legal entities.

Lack of evidence meant that 63% of the perpetrators were not considered liable to prosecution.

Of the 445 perpetrators who were liable to prosecution:

- ✓ 48 (10.7%) had the proceedings against them discontinued because of inconclusive investigations, absence of plaintiffs, or non-trial resolutions;
- ✓ 101 (22.7%) benefitted from an alternative to prosecution;
- ✓ 148 (33.3%) had their case referred to an investigating magistrate;
- ✓ 148 (33.3%) were prosecuted in criminal courts.

1.3. Convictions

In 2020, **359 corruption offences**⁴, compared to 332 in 2019, resulted in individual convictions, mainly for bribery (33.4%, including 8.1% for active bribery and 15.3% for passive bribery), misappropriation of public funds (25.6%), unlawful taking of interest (11.4%), favouritism (10.3%), concealment of offences (7%), influence peddling (10.6%), and extortion by public officials (0.8%)⁵. Four legal entities were convicted of corruption offences.

The acquittal rate is particularly high in such cases, standing at 22.7%, which is three times higher than the acquittal rate for all cases (except road cases) in 2020, standing at 7.1%. **In 2020, 32% of the corruption convictions went to appeal, which is five times higher than the appeal rate of 7% for all cases (except road cases).**

3 Ces données sont issues des statistiques 2020 établies par la Direction des affaires criminelles et des grâces du Ministère de la Justice. Toute demande de précisions complémentaires peut être adressée au pôle d'évaluation des politiques pénales (liste.information.dacg-pepp@justice.gouv.fr).

4 Le comptage par infractions tend à surévaluer le volume de condamnations : en effet, les 359 infractions dénombrées en 2020 ne sont en réalité visées que par 274 condamnations. En 2020, 274 condamnations ont été prononcées pour au moins une infraction du champ des atteintes à la probité. Une même infraction peut avoir été commise par plusieurs personnes. Dans ce cas, elle sera comptée autant de fois que l'affaire compte d'auteurs.

5 Les 3 décisions relatives à la prévention des conflits d'intérêts dans le tableau ci-après concernent des infractions aux obligations déclaratives auprès de la HATVP.

The sentences most commonly handed down for individuals are custodial sentences (78%), for an average prison term of 15.8 months, plus a fine (46%), for an average amount of €28,309 (vs €25,648 in 2019).

Corruption convictions in 2020 by type of offence*.



* Figures for 2020, for a total of 359 convictions.

Source: Ministry of Justice, Directorate for Criminal Affairs and Pardons.

As for supplementary measures, in 2020, 58 confiscation orders were handed down for corruption convictions, along with 39 bans on running for public office and 32 bans on public functions or government employment.

The average fine imposed on legal entities stood at €50,000. Some of the supplementary measures were confiscations, dissolution of legal entities and bans on bidding for government contracts.

Table 1. Sentences for corruption convictions from 2016 to 2020

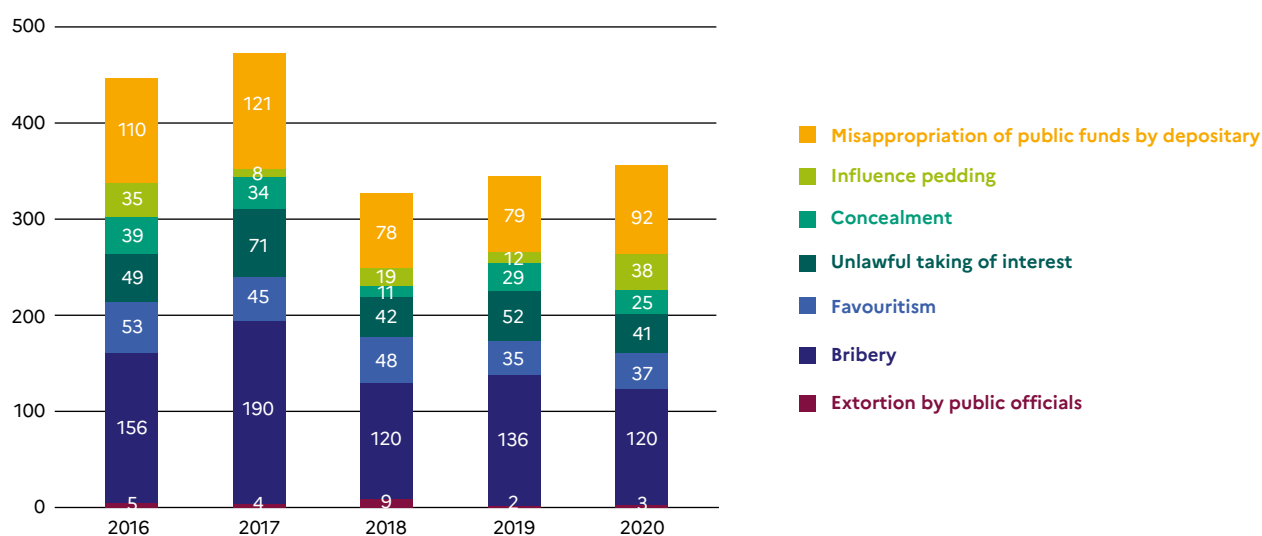
	2016	2017	2018	2019	2020	2020 %
Total convictions	342	352	255	267	237	
Prison sentences	233	264	203	188	186	78%
Of which custodial sentences (in whole or in part)	65	72	63	67	47	25%
Prison sentences length (in month)	14.8	18.6	20.6	14.5	15.8	
Number of fines imposed	153	143	121	128	108	46%
Average fine amount	€14,000	€16,476	€28,938	€25,648	€28,309	

Source : SG-SDSE SID/CASSIOPEE-Processing DACG/PEPP.

NB: The sum of fines and prison sentences is greater than the number of convictions because prison sentences and fines are often imposed at the same time for the same convictions.

CORRUPTION: A SHADOWY PHENOMENON, BUT BETTER UNDERSTOOD

Number of corruption convictions by type of corruption offence from 2016 to 2020 (individual)

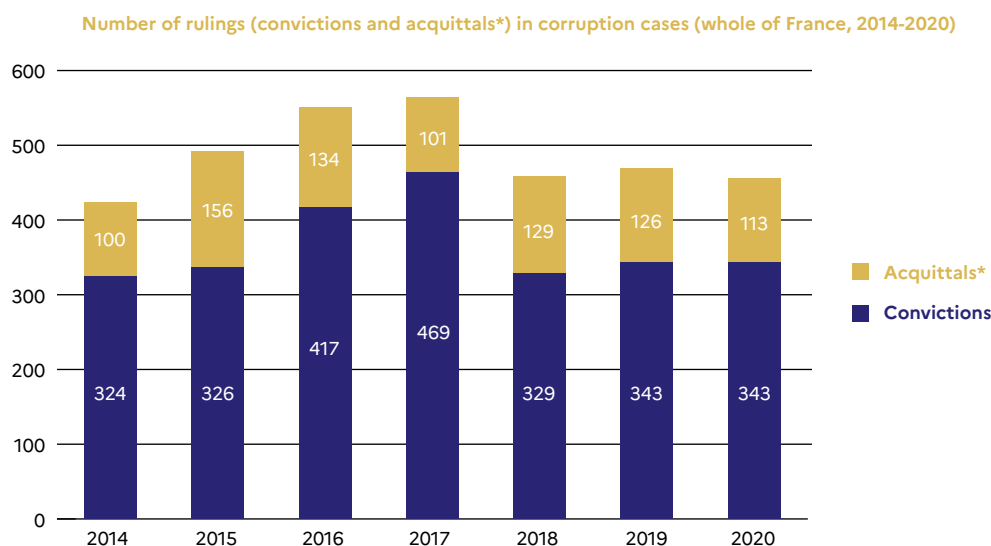


Source : DACG/PEPP – Processing AFA

2. CORRUPTION MAPS

Geographical coverage: metropolitan and overseas France

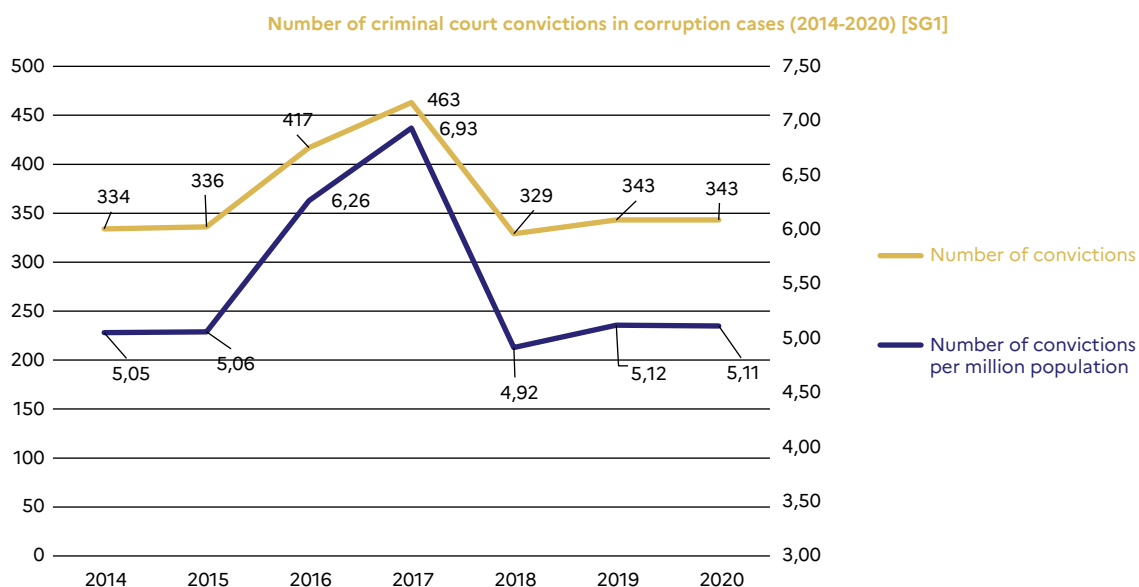
AGGREGATE NUMBERS OF RULINGS SINCE 2014



Source: AFA based on Ministry of Justice data (SDSE/Cassiopée).

Key: 456 corruption offences went to trial in 2020. The court handed down convictions in 343 of the cases and acquittals for the remaining 113 cases.

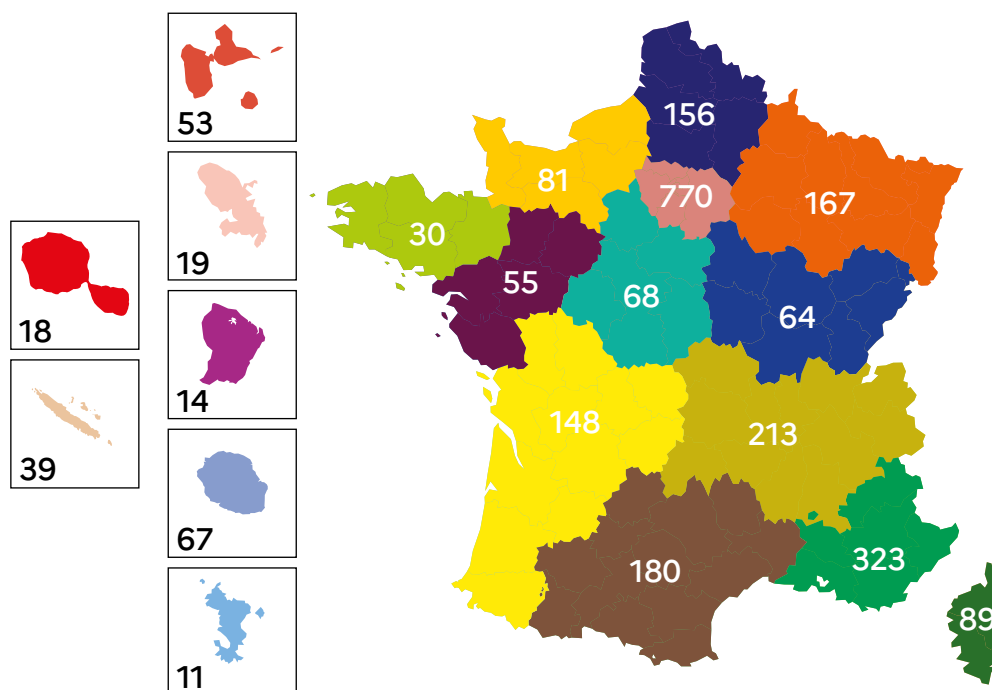
* Cases dismissed and exemptions from liability are included in acquittals.



Source : Ministry of Justice (SDSE/Cassiopée).

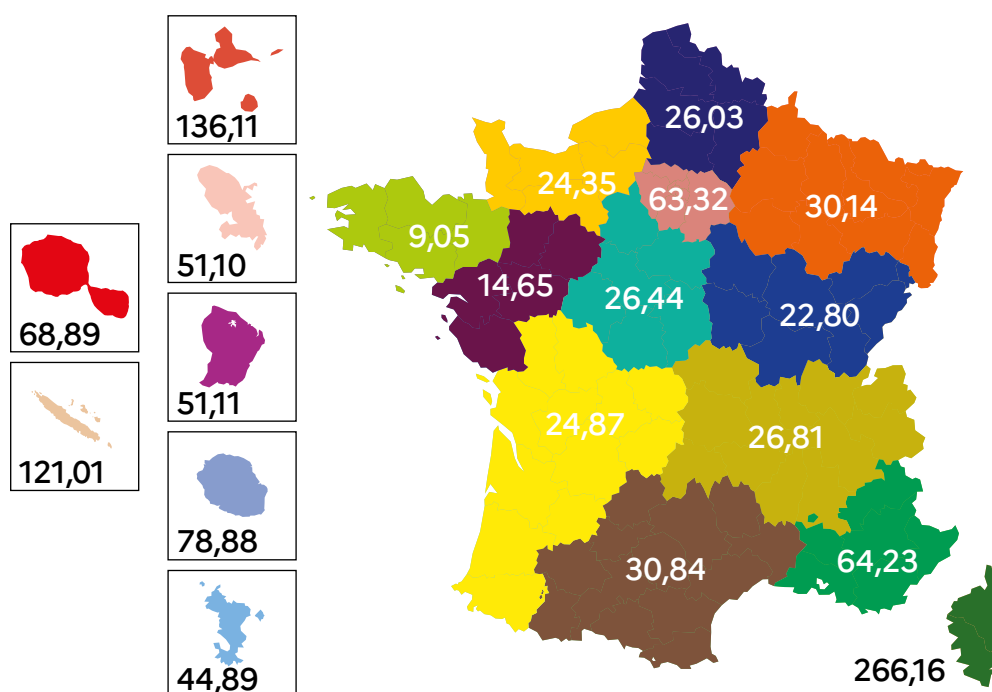
CRIMINAL CONVICTIONS BY REGION

Criminal convictions for corruption in metropolitan and overseas France (total number of convictions 2014-2020)



Source: AFA based on ministry of Justice data (Directorate for Criminal Affairs and Pardons/PEPP – SDSE/Cassiopée).

Total number of corruption convictions per million population (2014-2020) [SG2]



Source: AFA based on Ministry of Justice data (Directorate for Criminal Affairs and Pardons/PEPP – SDSE/Cassiopée) and INSEE data..
 NB: There were 63.32 corruption convictions per million population in the Ile-de-France region between 2014 and 2020..

3. THE NATIONAL CORRUPTION RISK MAPPING PROJECT

The project is part of the legal framework laid down by the Sapin 2 Act and the National Multi-Year Plan to Fight Corruption.

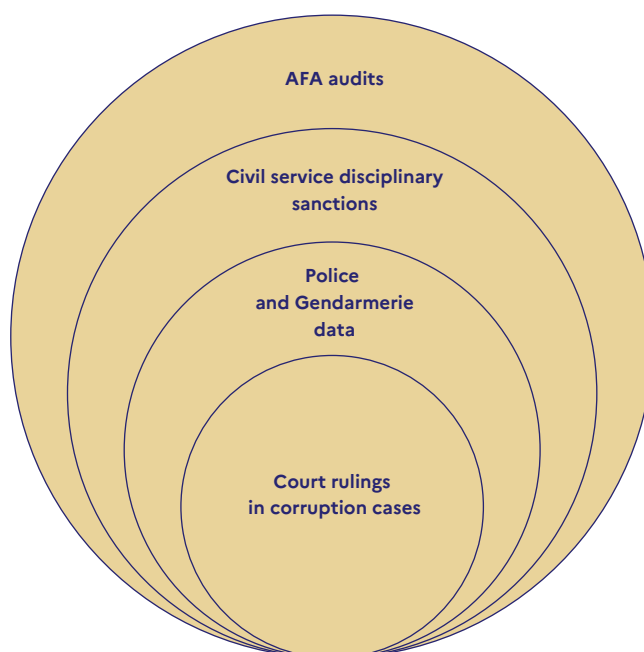
Under the terms of Article 3(1) of the Act, AFA is responsible for contributing to administrative coordination and for centralising and disseminating information to help prevent and detect corruption offences.

This task is critical for understanding and taking an objective approach to corruption and addressing differing perceptions in measuring this phenomenon. There is a gap between the social perception of corruption, as revealed by several surveys, and its treatment by the justice system. Corruption cases account for less than 1% of convictions handed down in all criminal cases, a minute proportion. However, the Eurobarometer 2019 survey found that 69% of French respondents felt that corruption is present in public institutions. The international rankings produced by certain NGOs are based on the perceptions of corruption in general government and the political world, which limits the value of such assessments.

Consequently, AFA felt it was essential to undertake work to:

- ✎ gain a better understanding of the phenomenon and its characteristics;
- ✎ and thereby fulfil its duties, as laid down in Article 1 of the Sapin 2 Act, which are to help the relevant authorities and entities in the public and private sectors to prevent and detect bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.

The government set out its commitments under the National Multi-Year Plan to Fight Corruption, which covers the period from 2020 to 2022 and was published on 9 January 2020. Under Pillar 1 (optimising data analysis to improve our understanding and detection of corruption), the Plan calls for “enhanced collection and disclosure of data on corruption and better data analysis through data mining”.



One aspect of this objective is a national corruption risk-mapping exercise based on a pragmatic approach and various data sets:

- ✓ at the heart of this project is an analysis of rulings handed down in corruption trials, starting with the jurisdictions that have signed cooperation agreements with AFA;
- ✓ additional data from statistical resources relating to criminal investigations conducted by the police and the gendarmerie, obtained with the collaboration of the Ministerial Statistical Department for Internal Security in view of gaining an insight into more recent events;
- ✓ data from disciplinary procedures (Directorate General for Administration and the Civil Service – disciplinary sanctions imposed on central government civil servants);
- ✓ and data from AFA audit activities, especially whistleblower reports.

MINING COURT DATA

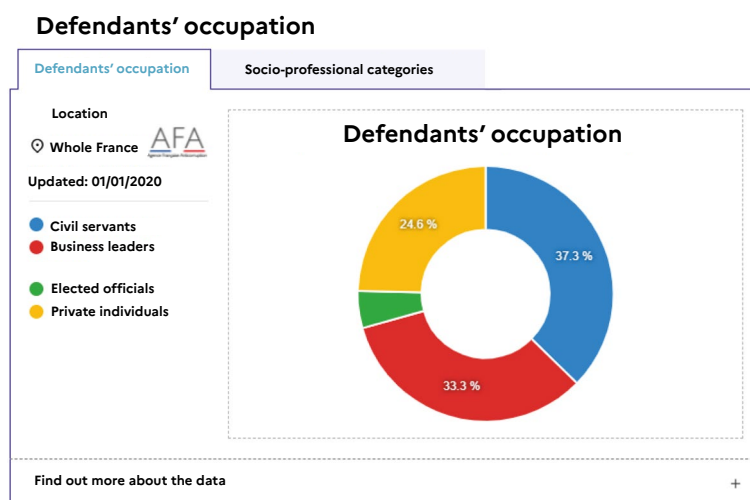
The core of the project is the collection and analysis of court rulings (convictions and acquittals). First of all, the data is collected from the four partner prosecutors' offices (Paris, National Financial Public Prosecutor's Office, Nanterre, Bastia), and collection will be extended to all courts in 2022.

To date, the method has consisted of collecting and analysing rulings handed down in the corruption cases brought before these courts since 2014.

AFA has already collected and examined more than one hundred rulings that will undergo statistical and qualitative analysis in order to gain a better understanding of the characteristics of corruption cases and the courts' treatment of them.

A stringent procedure is currently being finalised for the pseudonymisation⁶ of court rulings. AFA has received help from Etalab⁷ to test the technical solutions to be used for this purpose⁷.

Example of data visualisation produced by Bercy Hub



Source: AFA's analysis of 111 court rulings handed down in corruption trials between 2014 and 2020.

NB: the data above is presented solely for illustrative purposes.

⁶ Pseudonymisation is a process whereby personal data is processed so that the data relating to a natural person cannot be attributed to that person without additional information. In practice, pseudonymisation consists of replacing directly identifying data (last name, first name, etc.) in a data set with indirectly identifying data (aliases, sequential numbers, etc.).

⁷ Etalab is a department of the Interministerial Directorate for Digital Technology (DINUM). This department's tasks and organisation are laid down by the Decree of 30 October 2019 (<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000039281619>).

MINING POLICE AND GENDARMERIE DATA

The data from the Ministerial Statistical Department for Internal Security (SSMSI) may help enhance the analysis of corruption. The cases concerned are more recent and have not been considered by the courts. They can be studied to see what happens before cases go to trial.

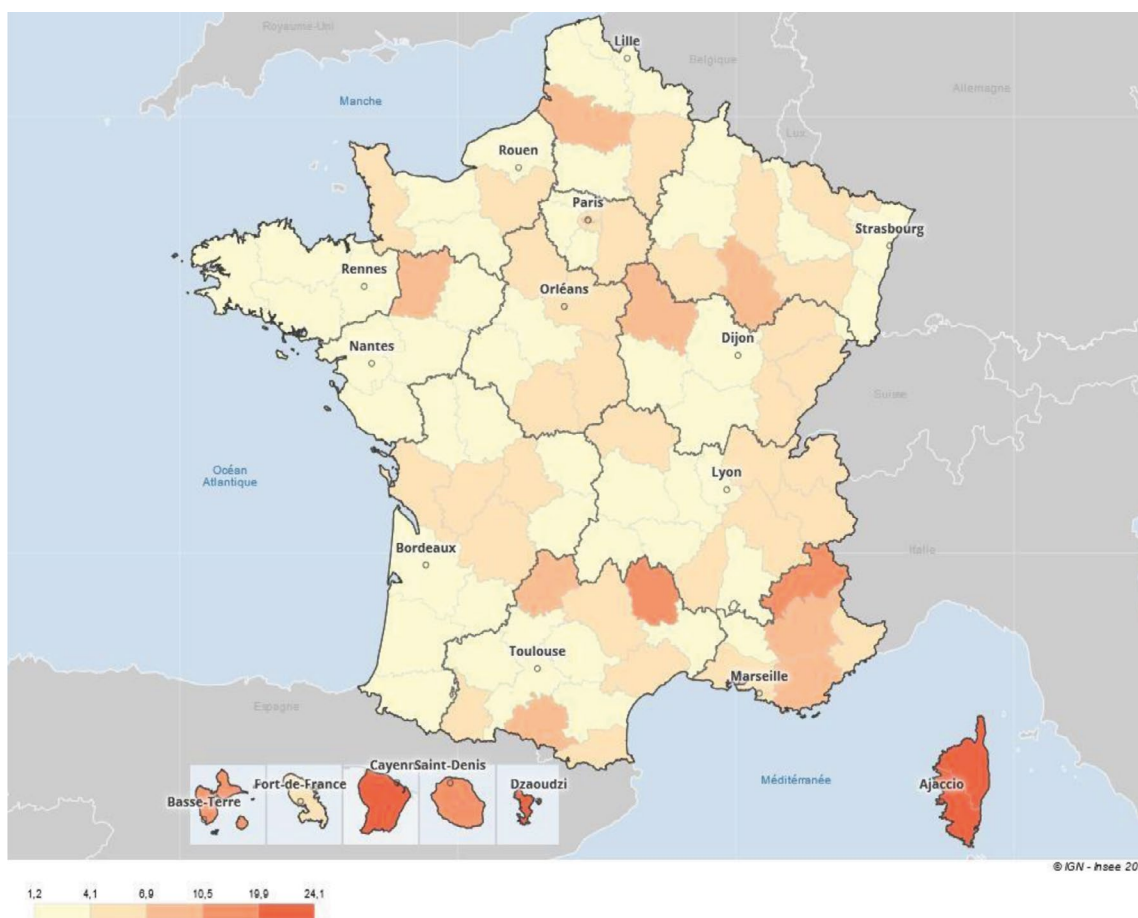
In 2021, AFA worked in partnership with the Ministerial Statistical Department for Internal Security and, for a more qualitative perspective, with criminal investigation units to refine and diversify the data presented.

AFA will ultimately be able to provide the services responsible for fighting corruption and, more generally speaking, all citizens, with a number of analytical and data visualisation tools based on analysis of court rulings and criminal investigation statistics. This will include:

- ✎ visualisations showing the characteristics of corruption. Such tools are an effective medium for representing corruption and informing the wider public, which is not necessarily well versed in legal matters. AFA relies on the skills and technical support of Bercy Hub, the computer support and innovation unit of the General Secretariat of the Ministry for the Economy, Finance and the Recovery, to produce these data visualisations and scorecards;
- ✎ analytical and summary reports that analyse and highlight data on themes that AFA has identified or been asked to study.

Example of a data visualisation produced by the Ministerial Statistical Department for Internal Security (SSMSI)

Total number of corruption offences per 100,000 population (2016-2020)



Source: Ministerial Statistical Department for Internal Security (SSMSI), database of crimes registered by the police and gendarmerie between 2016 and 2020; INSEE legal populations of départements as of 1 January 2021.

Growing acceptance of compliance

1. BUSINESS ENTITIES ARE MAKING PROGRESS IN ADOPTING COMPLIANCE MEASURES

1.1. Growing compliance with the requirements of Article 17

AFA notes that the trend in compliance with the requirement to establish measures and procedures laid down in Article 17 of the Act is strengthening. Non-compliance and failures to deploy effective and efficient measures and procedures are still found, but **cases of outright absence of the required measures and procedures are increasingly rare**. Of the 34 audits of business entities conducted at the initiative of AFA in 2021:

- ✓ only two audits found that any breaches for lack of a corruption risk map;
- ✓ none of the completed audits found any breaches for lack of a code of conduct (60% of the audits completed in 2021 did not find any shortcomings relating to this measure);
- ✓ only one of the audits found a breach for lack of a training system for the most vulnerable executives and employees;
- ✓ only six audits found a breach for lack of a third-party due diligence system;
- ✓ none of the audits found any breaches for lack of internal whistleblowing system;
- ✓ none of the audits found any breaches for lack of disciplinary rules.

However, the audits completed in 2021 did show that there is still room for improvement with regard to the quality and effectiveness of measures and procedures:

- ✓ 85% of the audits revealed shortcomings in the quality of risk mapping, particularly as a result of failings identified in risk identification;
- ✓ 67% of the audits revealed shortcomings related to non-compliant processes for identifying the most vulnerable executives and employees and to the content of anti-corruption training;
- ✓ 91% of the audits revealed shortcomings related to the quality of the third-party due diligence system;
- ✓ 100% of the audits found breaches of the measure related to anti-corruption accounting controls;
- ✓ 92% of the audits found breaches of the measure related to monitoring and evaluation of the anti-corruption systems.

The businesses that receive warnings from AFA's Director following an initial audit show a strong tendency to act on the recommendations they receive and achieve compliance, as shown by the "follow-up" audits conducted.

The earliest follow-up audits⁸ were used to measure the impact of the warnings issued by AFA's Director. Such audits have shown that the audited entities were committed to implementing AFA's recommendations. As a result, the vast majority of the breaches found during the initial audits were eliminated, showing that the warnings issued are capable of pressuring audited entities to achieve compliance.

The results show that, of the 29 recommendations made following an initial audit, 66% have been implemented and 34% are on their way to being implemented. In any event, **as of 31 December 2021, none of the eight follow-up audits completed required further action since no breaches were found.**

1.2 Audits of business entities conducted at AFA's initiative also revealed certain best practices

For example:

- ✓ an examination of the environment and entourage of senior managers as part of due diligence regarding public-sector third parties, particularly in the case of public-sector clients in high-risk countries;
- ✓ adjustments of audit planning and implementation procedures (appropriate interviews, requests for specific documents, prioritisation of high-risk processes), so that auditors are able to obtain helpful information for updating corruption risk maps on an ongoing basis;
- ✓ a mobile phone application for all group employees and third parties, for certain components of the system, providing easy access to the code of conduct and the internal whistleblowing system.

As of December 2021, none of the eight follow-up audits completed required further action since no breaches were found.



⁸ Of the 79 initial audits where deadlines for implementing recommendations had expired, 12 follow-up audits had been initiated as of 31 December 2021, corresponding to 15% of initial audits.

2. GROWING AWARENESS OF THE NEED TO ENHANCE CORRUPTION RISK MANAGEMENT IN THE PUBLIC SECTOR

2.1. AFA surveys show promising results

As part of its task for the administrative coordination and under the terms of the 2020-2022 National Multi-Year Plan to Fight Corruption, AFA regularly assesses the degree of awareness and implementation of France's anti-corruption framework in the public sector. For example, it conducts diagnostic surveys of central government or local government entities for this purpose.

The National Multi-Year Plan to Fight Corruption provides for support for ministries in the development of their corruption prevention and detection systems.

AFA conducted the first survey in 2018, followed by a second in 2021. Local government entities, including municipalities, groups of municipalities, local public establishments and local public-sector businesses were asked to fill out an anonymous online questionnaire (see page XX).

The National Multi-Year Plan to Fight Corruption explicitly calls for AFA to provide support for ministries and their agencies in the development of their corruption prevention and detection systems.

In application of these provisions, AFA assessed the current state of different ministries' deployment of anti-corruption measures and procedures. The assessment looked first at the ministries (central departments, devolved departments and departments with responsibilities at the national level). Then, in the second phase, it looked at the ministries' national agencies.

AFA drafted a summary interministerial assessment report that was released in early 2022. The report was based on the information gathered from all ministries by means of a self-assessment questionnaire on their corruption prevention and

detection measures and best practices. The report presents the state of play as regards awareness and implementation of the ministries' obligations to prevent and detect corruption in their operations.

The report also contributes to the dissemination of France's anti-corruption framework in the ministries and among their employees. It will provide a handhold for the ministries in their efforts to establish effective anti-corruption systems that comply with the AFA recommendations.

Central government agencies are legally distinct entities that usually take the form of public establishments performing general interest tasks on behalf of the central government. AFA conducted an anonymous statistical survey of the agencies' exposure to corruption risk and their progress on the deployment of anti-corruption measures in order to provide its support for the implementation of corruption prevention and detection measures. The survey also provided each agency with an individual assessment that enables it to identify the measures that need further work or that need to be deployed for an effective anti-corruption plan, along with an interministerial benchmark. The survey was also an opportunity for the ministerial departments that oversee the agencies – that relay this survey to them – to develop a dialogue on corruption issues.



Results of the statistical survey of central government agencies

AFA published a report⁹ in December 2021 on the main findings and lessons learned from the interministerial summary of data collected from 402 national agencies.

The highlights include:

- ▶ a correlation between the corruption risk exposure of agencies and their size, as measured by number of employees;
- ▶ encouraging progress on the implementation of the measures imposed by the Sapin 2 Act;
- ▶ a correlation between experiencing a corruption incident and the implementation of corruption prevention and detection measures.

Building on these lessons, and with the support of AFA, the ministries surveyed will be more able to ensure that their agencies deploy anti-corruption systems that are compliant with the French anti-corruption framework.

2.2. Audits of public sector entities reveal progress

Audits of public sector entities in 2021 revealed a growing awareness of the need to step up corruption risk management.

The initial audits did reveal some shortcomings, particularly in taking ownership of the system, adherence to ethical rules and the ability of public sector entities to deploy an effective and organised internal control and audit function.

However, the follow-up audits conducted in 2021 to assess public sector entities' implementation of the recommendations AFA made after the initial audits show that recommendations have only been partially adopted, with 32% of them implemented, 23% in the process of implementation, 13% partially implemented and 33% not implemented. However, **the eight follow-up audits conducted since 2018 show that the implementation of corruption prevention and detection systems that are suited to the risk profiles and specific features of public-sector entities are within their reach**, as long as the right conditions are met, including a strong commitment from senior management and the appointment of a manager with the necessary skills and authority.

The follow-up audits also revealed some best practices:

- ▶ for oversight of the anti-corruption system, some large regional and local authorities have appointed: steering committees of elected officials that are responsible for making decisions and strategic or policy choices; management committees that include the compliance officers and are responsible for decisions and choices regarding hierarchies and for implementation of the steering committees' decisions and choices and those of parliament, where appropriate; and a project management function to be performed by the person responsible for developing anti-corruption plans in consultation with the management bodies, and for reporting to the other bodies on a regular basis;
- ▶ for risk assessment, using relevant tools to involve operating units in the identification of high-risk areas by means of questionnaires to be filled out by employees and interviews with labour unions;
- ▶ many of the audited regional and local authorities have recently established ethics bodies with powers over elected officials, which demonstrates the entities' perceived need for greater security against corruption;
- ▶ regional and local authorities have provided their main offshoots with ethics tools (compliance officers, ethical charters).

Audits of public sector entities reveal best practices

⁹ See the Interministerial Summary of data collected from all central government agencies.

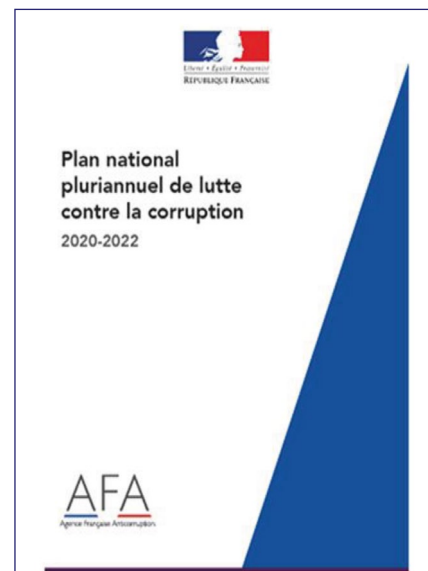
3. A NATIONAL MULTI YEAR PLAN TO FIGHT CORRUPTION TO RALLY STAKEHOLDERS

Under the terms of the Decree of 14 March 2017 implementing the Sapin 2 Act, the French Anti-Corruption Agency is tasked with drawing up a “national multi-year plan to fight bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism” (National Plan).

The 2020-2022 National Plan was adopted in January 2020. It is structured around four pillars made up of eight sets of measures. It set the early course for the fight against corruption in France.

It highlights:

- ✔ the need for a better understanding of corruption using data analysis tools;
- ✔ the importance of better training and heightened awareness of public employees about corruption risks and the behaviours to be adopted;
- ✔ the special attention given to supporting large regional and local authorities, and central government departments and agencies in the implementation of anti-corruption systems that comply with the French anti-corruption framework by the end of 2022;
- ✔ the challenges of preventing and detecting corruption in the context of the major sporting events that France will be hosting in the coming years;
- ✔ the importance of supporting businesses in their efforts to adopt the French anti-corruption framework and encouraging them to make anti-corruption compliance a driver for their competitiveness;
- ✔ the need to impose more effective penalties for corruption and strengthen France’s international action.



AFA has responded to these needs with many actions in the last two years aimed at public sector entities, businesses and France’s international partners under multilateral structures and bilateral partnerships.

AFA undertook an intermediate review of these actions in mid-2021. The review will be updated in 2022 and provide a basis for the discussions about a new three-year plan, which should be drawn up in collaboration with all of the government stakeholders in the fight against corruption.

The success of the next plan hinges on several factors:

- ✔ a commitment at the highest levels of government through an interministerial committee, with AFA providing the secretariat services, as proposed in the report on the parliamentary evaluation of the Sapin 2 Act;¹⁰
- ✔ a national strategic anti-corruption vision: France’s economy, businesses, government and citizens should benefit from a public anti-corruption policy that addresses national and international economic and political challenges, and citizens’ relationships with and trust in the government and businesses’ senior management;
- ✔ a scope that encompasses all of the public sector and private sector entities exposed to corruption risks;
- ✔ appropriate and effective messaging.

¹⁰ Proposal 10 in the fact-finding report by the MPs Raphaël Gauvain and Olivier Marleix on the evaluation of the Sapin 2 Act.

A successful public policy with sound objectives, internationally promoted and praised by examiners

1. FAVOURABLE EVALUATIONS

1.1. France's anti-corruption framework commended by the OECD

France's anti-corruption framework includes the Sapin 2 Act, the implementing decrees, AFA guidelines and the guides published on the AFA website.

The guides and guidelines (see page 47) are not legally binding and must be seen as methodological tools to help with the deployment of effective anti-corruption systems, so that businesses subject to the provisions of Article 17 of the Act can achieve compliance, and public-sector entities and entities that are not covered by Article 17 in fighting corruption can receive support.



AFA ensures that the anti-corruption framework is up to date. In January 2021, building on the experience acquired in performing its advisory and audit tasks, AFA updated its guidelines first published in December 2017. Some measures and procedures needed to be clarified, fleshed out and illustrated. This was particularly the case for the guidelines concerning the commitment of senior management, third-party due diligence procedures, whistleblowing and internal control and audit. AFA also developed its guidelines for public sector entities further, with special presentations of the measures these entities may implement. The measures, which largely draw from the framework provided for under Article 17 of the Sapin 2 Act, must naturally be proportionate with respect to the size and risk profiles of the public sector entities, with due consideration of their diversity and the public integrity provisions that already apply to them.

The updated AFA guidelines were subject to public consultation and then published in the Official Journal of the French Republic on 12 January 2021. The guidelines structure anti-corruption systems around three inextricably linked pillars: a commitment from senior management to promote corruption-free operations; corruption risk-mapping specific to the entity; and the management of these risks. Risk management consists of measures and procedures to prevent, detect and resolve risks when they occur.

The guidelines are featured in teaching materials that can be consulted on the AFA website and have been presented on many occasions to stakeholders. Details about these presentations can be found in the section of this report on AFA's advisory tasks.

When the OECD conducted its evaluation¹¹, the examiners praised France's anti-corruption framework.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 November 1997 has been signed by 44 countries. France ratified the Convention in 2000.

The Convention lays down legally binding standards aimed at making the bribery of foreign public officials a criminal offence. It is the first international anti-corruption instrument to take aim at the "supply" of bribes to foreign public officials.

¹¹ <https://www.oecd.org/daf/anti-bribery/France-Phase-4-Report-EN.pdf>

The Convention provides for systematic monitoring of implementation of the Convention itself and its implementation instruments¹² by the signatory countries. This monitoring consists of peer review and results in recommendations.

The OECD Working Group on Bribery in International Business Transactions (WGB) monitors implementation of the Convention. AFA participates in the Working Group alongside the Ministry of Justice (Directorate of Criminal Affairs and Pardons) and the Ministry for the Economy, Finance and the Recovery (Directorate General of the Treasury), which chair the Working Group.

PREVIOUS EVALUATIONS OF FRANCE

France has previously been through three evaluation phases:

- ✓ Phase 1 evaluated the compliance of French legislation with the Convention requirements (1999);
- ✓ Phase 2 examined France's enforcement of its anti-corruption legislation (2004, 2006 and 2010);
- ✓ Phase 3 focused primarily on the implementing acts for the Convention and related instruments. The Phase 3 Report on France released in 2012 was critical and generated negative media coverage.

PHASE 4 EVALUATION OF FRANCE IN 2021

Phase 4 looks at the evaluated country's particular context and challenges. It focuses on the progress achieved in remediating the weaknesses found in previous evaluations, enforcement efforts and outcomes, and best practices. The report also covers detection, enforcement, corporate liability, international cooperation and unresolved problems revealed by previous evaluation reports, along with any issues raised by changes to national legislation or institutions.

The evaluation included four steps:

- ✓ a comprehensive **questionnaire** (200 questions) was sent to France in March and April;
- ✓ the evaluation team, made up of representatives from Switzerland, Canada and the OECD, conducted **video interviews from 3 to 12 May** with 184 persons designated by the team from the courts, government administrations, civil society, the media, etc.;
- ✓ in **September, October and November**, a third step consisting of written exchanges was based on a preliminary draft of the report that the examiners sent to France on 30 July, along with 102 supplementary questions.
- ✓ the **discussion of the Report on France from 2 to 9 December** took place at meetings with the 43 other delegations to the Working Group on Bribery. AFA took part, alongside the representatives of the entities concerned (Ministry of Justice Directorate for Criminal Affairs and Pardons, Directorate General of the Treasury, Public Finances Directorate General, Economic Strategic Intelligence and Security Department, TRACFIN [Financial Intelligence Unit], BPI France, French Development Agency, Directorate General for Arms, Financial Public Prosecutor's Office, Central Office for the Fight against Corruption and Financial and Tax Crime).

THE REPORT

The Phase 4 Report praises France's many reforms carried out since Phase 3 in 2012, including the adoption of the Sapin 2 Act. The Report also notes that, "France has made notable progress in enforcing the offence since Phase 3". The Report highlights the creation of the National Financial Public Prosecutor's Office, the Central Office for the Fight against Corruption and Financial and Tax Crime, and AFA.

¹² The 2009 OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions; the OECD Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials; the OECD Recommendation on Bribery and Officially Supported Export Credits; the OECD Recommendation for Development Cooperation Actors on Managing Risks of Corruption; the OECD Guiding Principles for Multinational Enterprises.

“AFA’s creation and its assigned mandate are the cornerstone for encouraging French companies to adopt internal compliance measures. (...) This (...) has allowed France to regain credibility and visibility in its efforts to combat foreign bribery.”

Drago KOS, Chair of the OECD Working Group on Bribery
(interviewed by V. Gastine Menou) (2022, mars) in *Business & Legal forums*

According to the OECD, France is now a “credible actor” in the fight against foreign bribery.

The OECD deems AFA to be a central player in combating corruption in the public and private sectors.

The OECD stresses that “the creation of the French Anti-Corruption Agency (AFA) and the introduction of an administrative compliance obligation into French law under Article 17 of the Sapin 2 Act have placed prevention and the development of compliance measures within companies at the heart of France’s anti-corruption policy”. This approach is deemed to be “a notable step forward for the French legal framework in the fight against offences, enabling France to regain credibility and visibility in its efforts in this area.” Room for improvement is also mentioned with regard to strengthening legislation and increasing the resources allocated to the fight against corruption.

MONITORING IMPLEMENTATION OF RECOMMENDATIONS

In December 2022, France will submit an oral report on the measures taken to implement the recommendations deemed to be critical for maintaining the progress made since Phase 3.

In December 2023, France will also submit a written report on the measures taken to implement the recommendations. These reports will be made public.

1.2. An Act subject to parliamentary review

REPORT BY THE PARLIAMENTARY EVALUATION MISSION

According to the Parliamentary Evaluation Mission, “France’s anti-corruption framework constitutes a notable advance that brings France up to the level of the best international standards.”

Article 24 of France’s Constitution entrusts Parliament with the role of reviewing the Government’s action and assessing public policies. The rules of the National Assembly lay down the procedures for evaluating Acts after they have been adopted: “Three years after the entry into force of an Act, two MPs, including one belonging to an opposition group, shall present a report on an assessment of the impact of the Act to the relevant commission. The report shall address the legal, economic, financial, social and environmental consequences of the Act, with respect to the evaluation criteria defined in the impact study conducted beforehand, if any, and any difficulties encountered in the implementation of the Act.” On 16 December 2020, the National Assembly’s Legislation Commission charged two MPs – Olivier Marleix for the opposition and Raphaël Gauvain for the majority – with the task of assessing the Sapin 2 Act. After six months of work and some fifty hearings, the report by the fact-finding mission was registered with the Speaker of the National Assembly on 7 July 2021¹³.

The first section of the report deals with the action of the French Anti-Corruption Agency and the general obligation to prevent and detect corruption provided for by the Act.



¹³ https://www.assemblee-nationale.fr/dyn/15/rapports/cion_lois/l15b4325_rapport-information# (text in French)

The parliamentary fact-finding mission noted several positive findings relating to:



AFA's actions

→ *"AFA made a very quick start, launching its first audits and drafting its first recommendations in 2017. This determined action resulted in the implementation of the Sapin 2 Act systems and ensured their credibility in the eyes of businesses, as well as France's international partners. Implementation of an ambitious anti-corruption framework and effective compliance monitoring by AFA have promoted dissemination of the framework to businesses, who now seem to be appropriately aware of corruption prevention issues. AFA's early audits were beset with operational difficulties and some missteps, which hampered efforts to build confidence in its relationships with businesses. However, AFA responded quickly to these difficulties and improvements were made."*

→ *"Building on the lessons learned in its early days, AFA made improvements to its human resources management, audit procedures and the formalisation of its reports". The mission noted that **AFA was able to "improve its methods and organisation"** and "welcomed these improvements and urged AFA to continue its efforts (since 2019) to promote shorter and more concentrated audits."*

→ *"AFA was set up rapidly and started its activities very quickly. It performs its advisory and support tasks well and its efforts are appreciated by the intended recipients. Our hearings revealed the value of AFA's support activities for both public and private sector entities. The hearings also brought to light some methodological problems during the early audits, but improvements are underway following **the major changes that AFA made to its audit methods and to its human resources policy.**"*

→ The two MPs on the fact-finding mission stressed that, **"the resources devoted to AFA fell far short of the initial estimates**, and the constraints related to the fact that AFA reports to the General Secretariat of the Economy and Finance Ministries make it a less attractive place to work." "We also found that AFA has implemented an appropriate communication strategy that has enabled it to carve out its place in France's institutional landscape in no time."

"AFA's action has been decisive in disseminating the framework provided for in the Act"



✓ France's anti-corruption framework:

→ *"In just four years, the Sapin 2 Act has enabled France to close the gaps that international observers had identified with regard to fighting corruption.*

→ *France's anti-corruption framework, as laid down by the Act and supplemented by AFA Guidelines and Guides, is a considerable step forward that brings France up to the level of the best international standards (Report, page 42)."*

✓ The creation and application of deferred prosecution agreements:

→ *"DPAs quickly proved to be an effective tool. They were rapidly put into effect, including in cases that were already under investigation at the time the Act was adopted. This new type of tool makes it possible to resolve complex corruption cases involving French businesses in concert with foreign prosecutors. The twelve deferred prosecution agreements reached led to major sums being paid into the National Treasury (more than €3bn)."*

"The corruption prevention framework under the Sapin 2 Act is a major step forward in the fight against corruption in France."

The report then goes on to put forward 50 proposals to bolster this progress and strengthen France's model for fighting corruption. Some of the proposals are in line with AFA's recommendations.

- ✓ **Eliminate the requirement that the registered office of the parent company be located in France** for the small French subsidiaries of large foreign groups to be subject to the obligations laid down in Article 17, as long as the parent company exceeds the thresholds laid down in the Act (Proposal 1).
- ✓ **Adopt a new National Multi-Year Plan to Fight Corruption that is more ambitious, more detailed and more transparent** (Proposal 8).
- ✓ **Strengthen government oversight** of the fight against corruption through regular meetings of a specialised interministerial committee chaired by the Prime Minister, with AFA providing the permanent secretariat (Proposal 10).
- ✓ **Create appropriate compliance obligations for government administrations** that are tailored to their size and risk profiles, and back these obligations up by publicising them (Proposals 12 and 13).

2. PROMOTING FRANCE'S APPROACH INTERNATIONALLY

2.1. AFA promotes France's anti-corruption framework in international organisations

MONITORING WORK IN INTERNATIONAL ORGANISATIONS

AFA takes part in defining and implementing the French anti-corruption authorities' positions in multilateral fora.

It participated in 63 international events in 2021, including:

- ✓ the OECD Working Group on Bribery, for the revision of the 2009 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions, the final version of which was adopted on 26 November;
- ✓ the OECD Working Party of Senior Public Integrity Officials (SPIO);
- ✓ the OECD Public Integrity Indicators Task Force;
- ✓ the International Partnership Against Corruption in Sport (IPACS), with particular involvement in the drafting of the guidelines for the Sport Governance Benchmark;
- ✓ the Corruption Prevention Working Group and the Implementation Review Group for the Merida Convention.

the European Partners against Corruption (EPAC) and the European Contact-Point Network Against Corruption (EACN) to strengthen cooperation between agencies and to draft a manual on preventing corruption and promoting integrity. réseau « European Partners against Corruption » (EPAC) and « European contact-point network against corruption »

EVALUATING FRANCE

AFA also participates in the evaluation of France's efforts to prevent corruption and implement international guidelines. In 2021, AFA contributed to:

- ✓ the compliance report on France in the Council of Europe GRECO Fifth Evaluation Round on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies;
- ✓ the evaluation of France with regard to the United Nations Convention against Corruption: review of the final second-cycle evaluation report in May and June 2021;
- ✓ as noted above, the preparations and Phase 4 Evaluation of France under the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- ✓ the preparations for the evaluation of France by the Financial Action Task Force (FATF) and the on-site visit in July.



Spotlight on the ninth session of the conference of the States Parties (COSP) to the United Nations Convention against Corruption (UNCAC)



In 2021, AFA, the Ministry of Foreign Affairs and the National Financial Public Prosecutor's Office attended the ninth session of the Conference of the States Parties to the United Nations Convention against Corruption (UNCAC) hosted in Sharm El-Sheikh by the Egyptian Administrative Control Authority (ACA). AFA signed a cooperation protocol with ACA in 2019.

This biennial international event brings together delegations from all over the world. All of the signatory countries are invited.

The COSP supports governments in the implementation of the Convention and provides policy guidance for UNODC to expand activities to combat corruption. The COSP sessions promote and review implementation of the Convention, draft recommendations and facilitate information sharing.

In 2021, eight resolutions were adopted, including resolutions on fighting corruption in crisis situations, strengthening implementation of the Convention at regional levels, enhancing international law enforcement cooperation, enhancing use of beneficial ownership information and education.

The COSP is also an opportunity for each participating country to meet with their foreign counterparts or maintain existing relationships at the side events and bilateral meetings.

An event co-hosted by the NCPA and the Italian anti-corruption authority (ANAC) discussed the use of new technologies to prevent and detect corruption. The Greek anti-corruption authority (NTA) also hosted an event to discuss the development of national anti-corruption strategies.

2.2. AFA is an active member of anti-corruption cooperation networks

An effective fight against corruption requires coordinated efforts, involving a wide range of stakeholders at the international level. AFA is committed to this collective effort and contributes to the rapid growth of international cooperation networks and partnerships dedicated to fighting corruption.

NETWORK OF CORRUPTION PREVENTION AUTHORITIES (NCPA)

After holding the chair in 2020, AFA held the vice-chair of the NCPA in 2021. This initiative of the Council of Europe brings together some thirty public-sector entities and partners from different sectors to fight corruption. AFA participated in eight events related to the network and directed:

- ✓ the preparation of a **global mapping of anti-corruption authorities**;
- ✓ the publication of **recommendations in four languages for tackling facilitation payments**;
- ✓ work on the **factors for success in anti-corruption education**.

AFA also took part in projects initiated by other members of the NCPA, such as a compendium of best practices for using new technologies to prevent corruption.

EUROPEAN PARTNERS AGAINST CORRUPTION (EPAC/EACN)

AFA participated in **three events** held by the EPAC/EACN, a network of anti-corruption authorities and police oversight bodies from European countries, including the annual conference held in Lithuania. Working with the members from Austria, Germany and Romania, AFA drafted a **manual on preventing corruption and promoting integrity**. Its contribution dealt with enhancing cooperation between agencies.

INTERNATIONAL ASSOCIATION OF ANTI CORRUPTION AUTHORITIES (IAACA)

In December 2021, AFA was **elected to the office of Vice-President of the Executive Committee of the IAACA**, an association of more than 140 countries that encourages implementation of the United Nations Convention against Corruption.

INTERNATIONAL PARTNERSHIP AGAINST CORRUPTION IN SPORT (IPACS)

IPACS brings together sport organisations, international institutions and governments to promote integrity in sport. AFA attended 16 meetings of the Partnership in 2021 and was involved in developing the Sport Governance Benchmark. AFA led discussions on this subject during the conference hosted in Rome by the Council of Europe and the Italian Sport Department.



▲ Presentation by AFA at the EPAC/EACN conference in Vilnius..



▲ Panel discussion moderated by AFA at the Conference in Integrity in Sport in Rome.

2.3. AFA's international strategy for a European approach

AFA contributes to fulfilling France's international commitments and to raising the international standing of the country's technical expertise by providing cooperation, support and technical assistance upon request for countries that represent a strategic interest for France. Such countries include:

- ✎ Countries on the frontline of the fight against corruption: regular talks with the American Department of Justice (DOJ), American academics and British authorities, such as the International Anti-Corruption Coordination Centre IACCC, based in London.
- ✎ European partners: AFA participates in the work of the European Partners against Corruption Network (EPAC/EACN) and the work of the European Council. It also builds stronger links with anti-corruption authorities in nearby countries, whether or not they have nationwide powers. In 2021, AFA forged a new operational partnership with Italy's National Anti-Corruption Agency (ANAC). The partnership agreement calls for a special relationship by designating contact points and providing for regular discussions on corruption prevention and detection practices. The Director of AFA made an official visit to Romania and Moldova in 2021 to support these countries' efforts in the fight against corruption.



▲ Signature d'un protocole de coopération avec l'Autorité italienne anticorruption (Giuseppe BUSIA, président de l'ANAC).

- ✓ French-speaking countries: Mali, Tunisia, the Quebec province, Guinea and Cameroon were offered massive open online courses (MOOC) as part of a large-scale distribution initiative from the Organisation Internationale de la Francophonie (OIF). In 2021, AFA, with the support of Expertise France, and at the head of an anti-corruption consortium made up of the German Foundation for International Legal Cooperation (IRZ) and the Anti-Corruption Directorate General of the Romanian Interior Ministry, successfully concluded an anti-corruption institutional support twinning agreement with the Tunisian anti-corruption authority (Instance Nationale de Lutte contre la Corruption – INLUCC). Implementation will depend on political developments in Tunisia.
- ✓ France's trading partners: particularly Italy and Brazil, with the latter being France's leading trade partner in Latin America and the top destination for French investment among emerging countries.
- ✓ Countries requesting France's technical expertise: several awareness-raising and technical assistance actions were carried out in Latin America, North Africa, the Middle East and Central Asia.

AFA presented France's anti-corruption system to two foreign delegations visiting from Uzbekistan and San Salvador in 2021. AFA also held seven remote bilateral technical meetings with government authorities and civil society representatives from across the globe.

In March 2021, AFA and the Government Inspectorate of Vietnam (GIV) held a meeting on integrity in the civil service and combating conflicts of interest. The meeting was an opportunity to present France's system and its latest developments, and to understand how the Vietnamese system has developed.

- ✓ Multilateral development banks: the signature of a Memorandum of Understanding (MoU) with the European Investment Bank, the Inter-American Development Bank and the African Development Bank, and the organisation of workshops with the World Bank and the Council of Europe Development Bank.

SHARING BEST PRACTICES

Sharing best practices

In 2021, AFA shared best practices for detecting and preventing corruption during a prevailing public health crisis. Best practices were shared during:

- ✓ a TAIEX training session with the European Union and the Israeli authorities on corporate liability;
- ✓ a webinar hosted by the National School for the Judiciary (ENM) for the Kazakh anti-corruption authorities;
- ✓ a training seminar on fighting corruption and money laundering hosted by the National School for Administration (ENA) for Tunisian government comptrollers;
- ✓ regular contact with international researchers (such as the University of Richmond or the Basel Institute on Governance) and representatives from the international sport movement (such as the International Forum for Sports Integrity – IFSI – hosted by the International Olympic Committee).



▲ Meeting with Romania's State Secretary for the Ministry of Justice, Mihai Pasca, and French Ambassador, Laurence Aauer.

In their own words



Andrew SPALDING

Professor at the University of Richmond School of Law, Senior Editor of the FCPA Blog.

1. YOU CONTACTED AFA AS PART OF YOUR RESEARCH FOR THE BOOK “A NEW MEGASPORT LEGACY”. CAN YOU TELL US SOME MORE ABOUT THE PROJECT?

The book examines the new capability of “megasports” events to leave an anti-corruption and/or human rights legacy of improved laws, standards and practices in the host country. France plays a historic role in this new process by having won its bid to host the 2024 Olympic Games in the same year as the entry into force of the Sapin 2 Act and the Duty of Vigilance Act. Paris is also the first Olympics host city to have a contractual obligation to adopt significant measures to prevent corruption and human rights violations. Given that its remit covers the 2024 OGOC and SOLIDEO, AFA is contributing to a new way of using “megasports” to promote compliance.

2. YOU HAVE WRITTEN AN FCPA BLOG ARTICLE IN WHICH YOU HIGHLIGHT THE ORIGINALITY OF FRANCE’S COMPLIANCE STRATEGY. HOW DOES IT DIFFER FROM OTHER COUNTRIES’ STRATEGIES? WHAT IS THE ADDED VALUE OF A GOVERNMENT AGENCY RESPONSIBLE FOR PROMOTING AND MONITORING COMPLIANCE?

When I look at the global anti-corruption landscape, I see three main approaches to incentivise corporations to comply with anti-corruption laws: discretionary penalty reductions (United States); a statutory defence for “adequate procedures” (United Kingdom); and finally, a stand-alone compliance requirement like the one France is currently instating. This is major progress in my opinion, and France is at the peak of this. At the same time, France is not asking prosecutors to be part-time compliance experts. Instead, it has given this task to a dedicated agency. AFA is experimenting with what is basically an instructive approach, rather than a punitive approach to promoting compliance. These are critical and innovative contributions to the global anti-corruption effort. It is important for other jurisdictions to see these three approaches and to decide which one to adopt. Personally, I am going to advocate for the French approach.

3. AFA HAS COMMITTED TO FURTHERING THE INTERNATIONAL FIGHT AGAINST CORRUPTION. MORE SPECIFICALLY, AFA HAS PLAYED A KEY ROLE IN DEVELOPING THE NCPA. WHAT DO YOU THINK ABOUT THIS TYPE OF TRANSNATIONAL COOPERATION INITIATIVE?

There is no doubt that law enforcement and cooperation in multiple-jurisdiction cases are key to an effective global fight against corruption. Unilateral, sporadic and patchy enforcement of transnational corruption laws, as we are now seeing, has harmful consequences, particularly in developing countries. France’s innovative approach to compliance gives it the moral credibility to lead such cooperation efforts. It’s about time France became a global leader in the fight against corruption.



2 AUDITS

Key figures

The audits that AFA conducts under the terms of Article 3 (3 and 4) and Article 17(III) of the Sapin 2 Act fall into two categories:

- ✓ **Audits conducted at the initiative of AFA's Director ("initiative audits"),** which concern:
 - ➔ central government administrations, local governments and their public establishments and semi-public companies and companies covered by Section 1 of Book V(II) of the Local Authority Code¹⁴, associations and foundations recognised as public interest entities¹⁵, along with legal entities involved in the preparation, organisation and management of the 2024 Olympic Games and Paralympic Games or tasked with reconfiguring Olympic and Paralympic sites after the Games¹⁶ that are audited under the terms of Article 3(3);
 - ➔ industrial and commercial public undertakings¹⁷ that exceed the thresholds laid down in Article 17(I); it should be noted that some industrial and commercial public undertakings, semi-public companies and local public companies are required to comply with both Article 3(3) and Article 17¹⁸.
- ✓ **Audits to ensure execution of administrative sanctions or implementation of compliance remediation programmes imposed by a court (remediation audits)** under the terms of compliance remediation orders handed down by the AFA Sanctions Committee and the new judicial measures introduced by the Sapin 2 Act (deferred prosecution agreements – DPA – and compliance remediation programmes – CRP).

Initiative audits and remediation audits are intended to ascertain the existence, quality and effectiveness of the anti-corruption systems deployed by the audited entities i.e. the measures and procedures intended to prevent and detect corruption¹⁹.

On a strictly operational level, the procedures for conducting initiative audits and remediation audits are as follows:

- ✓ **Audits conducted at AFA's initiative** may consider the whole anti-corruption system of the audited entity ("**comprehensive**" audits) or only specific components of the system ("**thematic**" audits). Audits may look beyond the anti-corruption systems to give ongoing support to the entities concerned for designing, validating and deploying the measures and procedures that need to be implemented ("**in itinere** audits"). Audits may also consider the implementation of recommendations made following a previous audit conducted at AFA's initiative ("**follow-up** audits") and, in some cases, where AFA's Director has issued a warning.
- ✓ **Audits to ensure execution of decisions** are intended to ensure compliance with the remediation orders issued by the Sanctions Committee ("**compliance remediation order** audits") or proper implementation of compliance remediation programmes ("**compliance remediation programme** audits") that are part of judicial measures (deferred prosecution agreements or additional compliance remediation programme penalties). The prosecutors may require preliminary audits to be completed before reaching a deferred prosecution agreement ("**preliminary examinations for reaching a settlement**") to determine the usefulness of the agreement under consideration and to define its scope, as well as to set the cap on consulting fees that are to be paid by the legal entity under the Act.

14 All of the local semi-public and public companies (Article 212 of Act 2022-217 of 21 February 2022 on Differentiation, Decentralisation, Devolvement and Implementing Various Measures to Simplify Local Government Action)..

15 Included in the generic category of "public sector entities" (PE).

16 Article 30 of Act 2018-202 of 26 March 2018 on the organisation of the 2024 Olympic and Paralympic Games.

17 Included in the generic category of "business entities" (BE).

18 The relevant audits, which concern semi-public companies and industrial and commercial public undertakings that exceed the thresholds laid down in Article 17 of the Act are "combined audits".

19 Bribery and influence peddling for entities covered by Article 17 of the Act, with the addition of unlawful taking of interest, extortion by public officials, misappropriation of public funds and favouritism for entities covered by Article 3 only or by both Article 3 and Article 17.

1. AFA'S AUDIT ACTIVITIES REBOUNDED IN 2021

In 2021, AFA undertook 34 new audits and preliminary examinations:

- ✓ 6 remediation audits:
 - ➔ 2 audits of compliance remediation orders at the request of the Sanctions Committee;
 - ➔ 3 preliminary examinations for potential DPAs (2 at the request of the National Financial Public Prosecutor's Office and 1 at the request of the Paris Prosecutor's Office);
 - ➔ 1 compliance remediation programme audit under the terms of a deferred prosecution agreement with the National Financial Public Prosecutor's Office.
- ✓ 28 audits initiated by AFA:
 - ➔ 18 of these audits were of businesses, including 4 comprehensive audits (including 2 audits of CAC 40 companies), 11 thematic audits of the leading companies in two high-risk business sectors and 3 follow-up audits for companies audited in 2018.

These 18 audits undertaken in 2021 cover businesses with revenue ranging from €187m to €30bn, and workforces ranging from 1,000 and 271,000 employees. One of the audited businesses has its registered office outside of the Paris region. Five of the audited businesses are French subsidiaries of foreign groups. On the audit start dates, the companies had between 0 and 966 subsidiaries, with an average of 66% being foreign subsidiaries.

- ➔ 10 audits of public-sector entities, including 7 comprehensive audits, including a combined audit²⁰ (1 central government agency, 1 social security body, 1 chamber of commerce, industry and trade, 1 public-sector business, 3 local governments (1 département and 2 municipalities with a population of more than 100,000), 2 thematic audits of 2 municipalities with a population of more than 100,000 and one follow-up audit of a local government audited in 2018.

These 10 audits undertaken in 2021 covered public-sector entities with budgets ranging from €300m to €51bn. They included three entities with budgets in excess of €1bn, and seven entities with budgets ranging from €300m to €1bn. These public sector entities have workforces ranging from 1,200 to more than 6,000. Six of them had their registered office outside of the Paris region.

Audits and examinations undertaken since 2017	2017		2018			2019			2020			2021			Total
	BE		BE	AP		BE	PE		BE	PE		BE	PE		
Remediation audits			8		8	2		2	1		1	6		6	17
Compliance remediation order audits												2		2	2
Compliance remediation programme audits			4		4				1		1	1		1	6
Preliminary examinations			4		4	2		2				3		3	9
Audits initiated by AFA	6	6	28	15	43	20	16	36	19	10	29	18	10	28	142
Comprehensive audits	6	6	28	15	43	3	9	12	4	8	12	4	7	11	84
In itinere audits							2	2							2
Follow-up audits						5	5	10	4	2	6	3	1	4	20
Thematic audits						12		12	11		11	11	2	13	36
Total	6	6	36	15	51	22	16	38	20	10	30	24	10	34	159

²⁰ Audit that is based on Article 3 and Article 17 of the Act.

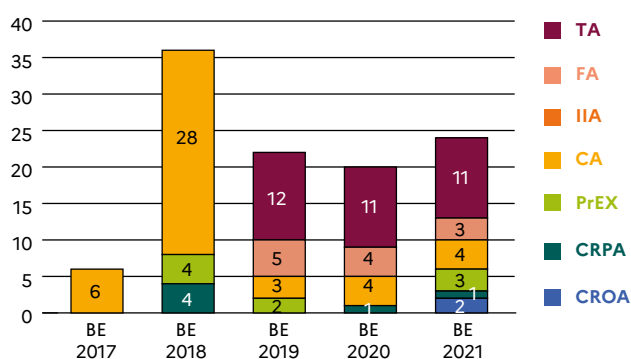
As shown in the table above, 159 audits and examinations were undertaken between October 2017 and 31 December 2021, including:

- ✓ 108 audits and examinations of business entities and 51 audits of public sector entities,
- ✓ 17 audits and examinations relating to remediation audits and 142 audits initiated by AFA, including 84 comprehensive audits, 2 *in itinere* audits, 36 thematic audits and 20 follow-up audits.

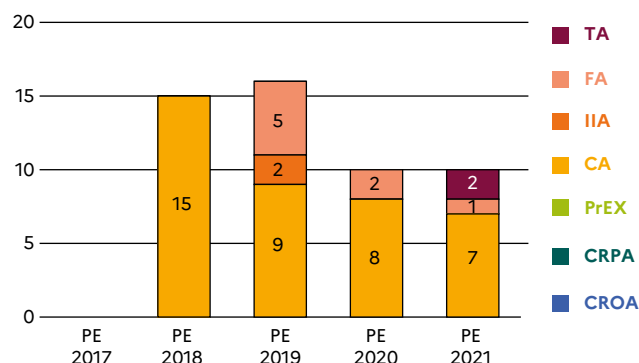
Audits and examinations undertaken by types of audited entities	BE	PE	Total
Remediation audits	17		17
Compliance remediation order audits	2		2
Compliance remediation programme audits	6		6
Preliminary examinations	9		9
Audits initiated by AFA	91	51	142
Comprehensive audits	45	39	84
<i>In itinere</i> audits		2	2
Follow-up audits	12	8	20
Thematic audits	34	2	36
Total	108	51	159

2. AUDITS UNDERTAKEN IN 2021 CONTRIBUTED TO THE DIVERSIFICATION OF AUDIT PROCEDURES INTRODUCED IN 2018

Audits of business entities by audit type



Audits of public sector entities by audit type



3. NEW AUDITS TO PROMOTE AFA'S STRATEGY

In keeping with the audit scheduling guidelines, the audits undertaken in 2021 were in line with AFA's audit strategy. The strategy seeks to encourage the deployment of complete and effective anti-corruption systems as quickly as possible in the entities most vulnerable to corruption risks.

AFA's audit scheduling guidelines have been in place since 2017 and take into consideration:

- ▮ entities' risk exposure, which is determined by many factors, such as their revenue and the size of their budgets. In the case of business entities, risk factors include their strategic importance, particularly the share of export revenue, international exposure, ownership of key technologies, potential exposure to aggressive law enforcement strategies in other countries, etc. Risk factors for public sector entities and for associations and foundations recognised as public interest entities include the volume of public procurement and appropriations for operations, involvement in public service activities, licensing and permitting, etc.;
- ▮ the high-risk sectors and countries in which entities do business;
- ▮ the potential impact of audits on the dissemination of best practices in an entity's industry, business sector, class or category;
- ▮ whistleblowing reports submitted to AFA.

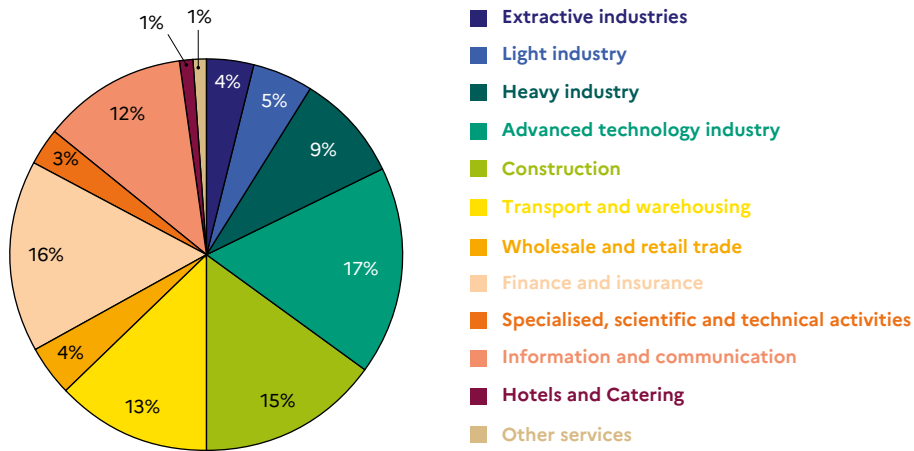
The potential impact of an audit on the dissemination of best practices of the audited entity's industry, business sector, class or category guided the choice of all of the audits undertaken in 2021. All of the audited entities were businesses in high-risk sectors or public sector entities in high-risk categories. Eleven of them, representing 61% of the 18 new audits of businesses and nearly 40% of all the new audits initiated by AFA, were doing business in high-risk areas and one of them had been the subject of a whistleblowing report that was deemed to be credible.

Therefore, audits undertaken in 2021 confirmed AFA's targeting of its audits on the highest-risk business sectors and the most exposed entities.

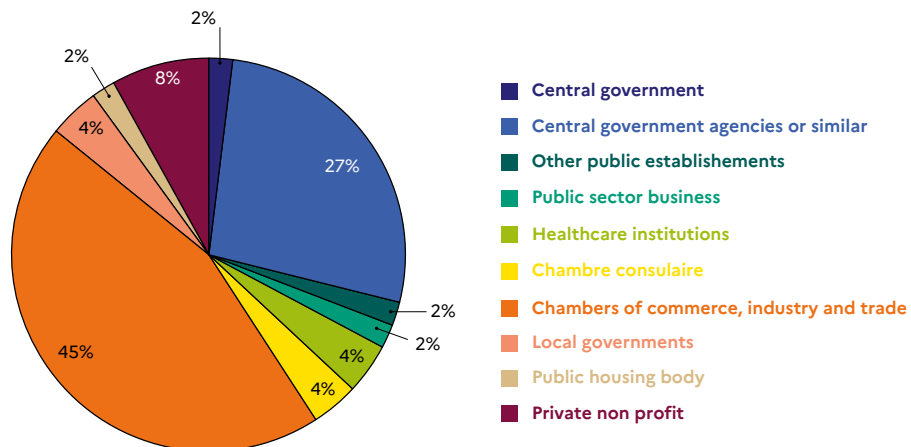
- ✓ One third of the businesses audited since 2017 are in manufacturing, 16% are in finance, 15% in construction, 13% in transport and 12% in information and communication. Most of the audited companies have extensive international business.
- ✓ More than 80% of the audits undertaken under the terms of Article 3(3) of the Sapin 2 Act concerned central government agencies, local governments and private non-profit entities.

The audits undertaken in 2021 confirmed AFA's targeting of its audits on the highest-risk sectors and the most vulnerable entities.

Audits of business by sector



Audits of public sector entities by category



Remediation audits

1. THE EFFECTIVENESS OF DPAS IN HELPING BUSINESSES ACHIEVE COMPLIANCE WAS RECONFIRMED IN 2021

The first four audits of compliance remediation programmes that were launched in 2018 and ended in 2021 show that DPAs are a powerful means of getting legal entities on board with a new compliance dynamic.

The entities subject to compliance remediation programmes completed virtually all of their tasks under the AFA-validated actions plans on schedule, despite the backdrop of the Covid-19 pandemic. **As of 31 December 2021, four notices of DPA termination were issued based on the four final reports to the prosecutors concerned.**

The four completed DPAs included one involving Société Générale, which was part of a global settlement in coordination with the American Department of Justice (DOJ). The American DPA signed in connection with this French DPA, which terminated in 2021, was also terminated, ending prosecution in the United States, since the compliance remediation completed under the sole supervision of AFA was deemed satisfactory by our American counterpart agency.

Other highlights of 2021 include:

- ✓ the start of a new compliance remediation programme under the DPA with Bolloré SE²¹,
- ✓ ongoing supervision of the compliance remediation programme of Airbus SE by means of targeted audits,
- ✓ the first two compliance remediation order audits conducted at the request of the AFA Sanctions Committee in preparation for hearings held in June and October 2021.

In their own words



Bertrand BRÉHIER

Deputy Head Banking Regulation, Financial Security
and Competition Law
Société Générale Group Legal Department

1. WHAT IS YOUR VIEW OF DPAS?

We must welcome the adoption of this legal solution in French law. Admittedly, the “transactional” criminal justice system in other countries has been effective. Our only version of it in France was a plea bargain, which requires a guilty plea to a criminal charge, or the administrative version, negotiated with the financial market authority (AMF). Therefore, there was absolutely a demand to adopt an equivalent to American Deferred Prosecution Agreements. The advantages are well known: speedy procedures, no admissions of guilt, no convictions, more predictable penalties, consideration for remediation efforts and willing cooperation with the authorities.

²¹ On 9 February 2021, the National Financial Public Prosecutor’s Office and Bolloré SE signed a DPA that terminated the prosecution related to events that happened between 2009 and 2011 and involved bribery of foreign public officials in France and in Togo.

In addition to the procedural advantages, DPAs make it possible to coordinate with foreign authorities (especially the American authorities) in simultaneous investigations with the ultimate goal of achieving simultaneous resolution of cases. They mark a significant step for France in advancing its sovereignty, and not just in Société Générale's case.

Thanks to this adoption, the entities concerned by procedures with massive potential penalties that may drag on for years can rapidly put litigation behind them in cases that can be very damaging for their stakeholders (shareholders, analysts, regulators, public opinion, etc.)

Furthermore, the weight given to the quality and effectiveness of anti-corruption compliance systems when considering eligibility for DPAs and, if applicable, when calculating any penalties is a powerful incentive for companies to strive constantly to strengthen their measures and procedures.

2. WHAT OBLIGATIONS WERE IMPOSED ON YOUR GROUP UNDER THE TERMS OF THE DPA?

In addition to the fine, which was paid within ten days of the end of the cooling-off period stipulated in the DPA, Société Générale undertook to have AFA evaluate the quality and effectiveness of the measures it implemented. For this purpose, Société Générale also undertook to pay AFA a provision of €3m corresponding to the cap on AFA's expenses for consultants' fees.

AFA's supervision took the form of several audits in practice: the initial audit conducted from 1 April to 31 July 2019, followed by targeted audits and a final audit conducted from 4 May to 14 June 2020. AFA made some comments and recommendations after the initial audit, which led to discussions and a plan of action that was validated by AFA. The plan of action constituted our roadmap. As the audits took place, we had regular contacts with AFA and submitted progress reports and documentary evidence of completed actions. In the final audit, AFA evaluated the progress made on our programme and shared its conclusions and its report with the National Financial Public Prosecutor's Office.

The Financial Public Prosecutor issued a notice on 11 December 2020 stating that, in light of AFA's final report, Société Générale had completed virtually all of the actions set out in the plan validated by AFA and that the remaining actions were on track in accordance with the action plan. The Prosecutor noted the fulfilment of our obligations under the DPA and notified us of its termination.

WHAT DO YOU THINK OF THE LEGAL AND PROCEDURAL FRAMEWORK FOR DPAS IN FRANCE?

We believe that the legal framework is satisfactory overall, given the current legislation and, more particularly, current practices. The give and take in AFA's audits, with the submission of a draft audit report for the audited entity's remarks, should undoubtedly be stipulated by statute, even though AFA fully applies the principle in practice. Of course, this would be in the interest of the audited business, AFA and the National Financial Public Prosecutor's Office.

The final phase of dealings with the National Financial Public Prosecutor's Office, which also go very smoothly in practice, should probably be formalised as well, by means of a circular from the Chancellery, for example.

Management of reports received and issued by AFA

1. REPORT-RELATED ACTIVITIES INCREASED IN 2021

	2020	2021
Number of reports received by AFA	298	216
Number of reports received and processed by AFA (reports received in previous year and processed in current year, reports received and processed in current year)	288	205
Number of reports issued by AFA		
Number of reports referred to other entities based on reports received by AFA	9	79
<i>of which authorities and departments excluding prosecutors</i>	4	9
<i>of which prosecutors</i>	5	70
<i>of which not under Article 40</i>	4	63
<i>of which under Article 40</i>	1	7
Number of reports submitted to other entities based on AFA audits	2	7
<i>of which authorities and departments other than prosecutors</i>
<i>of which prosecutors</i>	2	7
<i>of which not under Article 40</i>
<i>of which under Article 40</i>	2	7

2. REPORTS RECEIVED BY AFA

AFA did not receive any requests in 2021 for audits from the authorities mentioned in Article 3(3) of the Sapin 2 Act and did not receive any reports from authorised associations under the terms of Article 2-23 of the Code of Criminal Procedure.

Letters, including some anonymous letters from private individuals, may report situations involving private sector and public sector entities. These reports may be analysed by the audit unit. **AFA received 216 reports in 2021.**

One of these reports in 2021 contributed to the AFA Director's decision to start audits to determine the existence, quality and effectiveness of anti-corruption systems.

AFA processed 205 reports in 2021. These reports included 20 that were received at the end of 2020 and 185 received in 2021 and processed in the same year. AFA deemed that 51% (104 reports) were actionable after a preliminary examination. Of these, 70 were followed up by contacting the reporting party to expand on the processing. In 40 cases, this contact produced further information and in 22 cases the person making the report was directed to the competent entity. Of the cases corresponding to the 205 reports processed, 67% were set out in an explanatory note written for AFA, 10% were documents obtained from open sources, 8% were copies of complaints filed and 8% were contractual documents or other documents related to public procurement.

One quarter of the 205 reports processed in 2021 were from persons who wished to remain anonymous

Whistleblowers

One quarter of the 205 reports processed in 2021 were from persons who wished to remain anonymous. In 77% of cases, there was no information about whether other authorities or departments had been contacted.

Of the 205 reports processed, 19% of the whistleblowers did not fit into any specific category, 60% were users/residents/citizens, 7% were civil servants, 6% were elected officials, 4% were employees acting as whistleblowers or compliance officers, and 4% were managers or heads of companies.

In 14% of the cases, the report authors specified their employers, such as businesses (43%, of which more than half were subject to Article 17 of the Sapin 2 Act), non-profits (17%), local governments (10%) and hospitals (10%).

Entities and persons reported

Processing the 205 reports made it possible to identify:

- ✓ **116 persons reported**, consisting of 47% elected officials, 22% civil servants, 16% managers or heads of businesses, 3% employees, 3% users/residents/citizens and 3% officers of the law;
- ✓ **144 public-sector entities**, consisting of 50% local governments (of which 80% municipal governments, nearly half of which were municipalities with fewer than 3,500 inhabitants), 8% regional governments, 7% départements and more than 35% central government entities (of which 55% in the justice system, nearly 28% devolved government departments and tax offices, and 11% and domestic security forces) and 4% public housing bodies;
- ✓ **76 private-sector entities**, consisting of 71% businesses (of which more than half are not subject to Article 17 of the Sapin 2 Act) and 13% non-profits.

Categories of incidents reported

It should be noted that the data below cannot be considered to be actual criminal offences; they are merely indications of how AFA's processing of reports received categorises the incidents reported for statistical purposes only.

The processing of the 205 reports resulted in the categorisation of 223 incidents that, if proven, could constitute offences, including:

- ✓ 71% accounting for corruption offences, of which 29% concern the bribery of a public official, 27% the unlawful taking of interest, 18% the misappropriation of public funds, 14% favouritism, 8% influence peddling, and 4% extortion by public officials.
- ✓ 29% accounting for other offences, of which 16% concern a breach of trust, 14% forgery, 11% tax fraud, 8% laundering the proceeds of tax fraud and 5% the misuse of corporate funds.

Of the 223 incidents reported, 72% can be situated geographically. They break down as follows:

Auvergne-Rhône-Alpes	33	21%
Île-de-France	31	19%
Provence-Alpes-Côte d'Azur	18	11%
Occitanie	16	10%
Normandy	10	6%
Grand Est	9	6%
Centre-Val de Loire	6	4%
Brittany	5	3%
Bourgogne-Franche-Comté	4	3%
Hauts-de-France	5	3%
Nouvelle-Aquitaine	3	2%
Overseas departments and territories	2	1%
Corsica	0	0%
Pays de la Loire	0	0%
Other countries	18	11%
(of which, 56% in Europe, 22% in Africa, 17% in South America and 6% in Asia)		
Total	160	100%




The activity sector concerned can be identified in 63% of the 223 incidents reported. Of these, 46% are in the government sector, 11% in construction, 4% in transport and warehousing, 4% in real estate activities, 3% in the water treatment and distribution, sanitation, waste management and clean-up sector, 3% in the agriculture, forestry and fishing sector, and 2% in finance and insurance.

In 24% of the 223 incidents reported, the socio-professional group of the persons reported can be identified. Of these persons, 48% are heads of businesses with 10 or more employees, 24% are civil servants and 11% are retail traders.

3. REPORTS REDIRECTED BY AFA

The reports received by AFA may be redirected to another department or to another authority, such as a public prosecutor's office or an administration.

In 2021, 79 of the reports processed by AFA were redirected to other departments or authorities, including 70 redirected to public prosecutors' offices:

-  **Seven reports were redirected to public prosecutors' offices under the terms of Article 40 of the Code of Criminal Procedure.** The offices concerned were the National Financial Public Prosecutor's Office and the public prosecutors' offices in Paris, Marseille, Nice and Lyon. The incidents reported were probable corruption offences, such as bribery, influence peddling, favouritism, unlawful taking of interest, misappropriation of public funds, extortion by public officials, complicity and concealment of these offences and related offences, such as forgery. Two reports concerned incidents that were potential cases of bribery of foreign public officials as part of business transactions with various Asian countries (Thailand, Malaysia, Vietnam, Indonesia) and Burkina Faso.
-  There were 63 reports that did not have to be referred to public prosecutors under the terms of Article 40 of the Code of Criminal Procedure, but they were redirected nonetheless because they could be related to ongoing criminal proceedings. Of these reports, 18 were sent to specialised prosecutors' offices (five to the National Financial Public Prosecutor's Office, nine to specialised inter-regional jurisdictions, and four to the business and financial crime unit in Nanterre).
-  Nine of the reports received by AFA were redirected to other authorities, jurisdictions and departments (Office for Immigration and Integration, Regional Government Audit Offices, TRACFIN, the Financial Markets Authority and the Central Criminal Investigation Directorate).

AFA also issued seven reports under the terms of Article 40 of the Criminal Procedure Code that were not based on reports received and processed. These reports were based on AFA's audit findings.

In 2021, 14 reports were referred to the competent prosecutors under the terms of Article 40 of the Code of Criminal Procedure (vs three reports in 2020), bringing the total number of reports referred since 2017 to 28

Five of these reports concerned public-sector entities and two concerned business entities. The reports were submitted to the National Financial Public Prosecutor's Office and the public prosecutors' offices in Paris, Nanterre, Nice and Marseille. The incidents reported were probable offences of bribery, influence peddling, favouritism, unlawful taking of interest, misappropriation of public funds, extortion by public officials, and complicity and concealment of these offences and related offences, such as breach of trust, unfair competition, misuse of corporate funds and tax and social security fraud. A report was issued on a probable case of bribery of foreign public officials related to the activities of consultants involved in public procurement contracts in other countries. No cases of probable obstruction of AFA audits were reported.

Per the dispatch of 21 March 2019 relating to the procedures for sharing information between prosecutors and AFA, prosecutors apprise AFA of the actions they intend to take regarding the reports. To date, all of the reports have given rise to preliminary investigations by specialised investigation departments.

In 2021, 14 reports were referred to the competent prosecutors under the terms of Article 40 of the Code of Criminal Procedure (vs three reports in 2020), bringing the total number of reports referred since 2017 to 28.



3

ADVICE

AFA's advisory activities consist of gaining a better understanding of corruption by centralising and disseminating helpful information for preventing and detecting corruption offences, as well as publicising the anti-corruption framework.

AFA's corruption research

Under the terms of Article 3(1) of the Sapin 2 Act, AFA is responsible for contributing to administrative coordination and centralising and disseminating information to help prevent and detect corruption. This task is critical for an objective approach to corruption, which is, by its very nature, a hidden phenomenon.

It should be noted that there is little research into corruption in France compared to the research conducted in English-speaking countries.

Consequently, AFA, in partnership with the Law and Justice Research Unit, expressed its intentions to conduct a research mission to compile a literature review of existing corruption research and lead a discussion on why there is so little French research on the topic. The approach was intended to be multidisciplinary so as to consider all facets of corruption and to identify possible perspectives for humanities and social sciences research.

A research agreement was drawn up on 23 November 2020 and given to Maxime Agator, a PhD student in sociology preparing a thesis on corruption. His study of "Corruption through the Lens of Humanities and Social Sciences, State of the Art" was published in May 2021.

This paper detailing the current state of knowledge is based on a presentation of the main findings from humanities research. The paper is organised into four parts: the classical triptych of the sociology of deviance, with a normative approach to corruption, along with a study of transgressive behaviours and, finally, a look at how society perceives and reacts to corruption. The fourth part looks at the quantification of corruption, and what are called the "measurements" of corruption.

This state-of-knowledge review is a key step in gaining a better insight into corruption. There are two objectives: first, meeting the needs of the stakeholders, public decision-makers, by presenting a summary of the main lessons learned from past and current research on the topic and second, enabling AFA and the Law and Justice Research Unit to identify shortcomings in this area in order to initiate research projects and meet the needs for knowledge.

When asked²² about the contribution of corruption research, especially for public decision-makers, Maxime Agator stressed that "in addition to its civic value and informing public debate on this important topic for our modern democracies, this research can provide helpful food for thought for public decision-makers with regard to several aspects. Of course, the most obvious is that it may help us better understand changes in certain transgressions, in certain mechanisms, their costs, their consequences, and how practices become embedded in the ordinary functioning of certain milieus."

²² Interview "Law and Justice/AFA Research Unit on fighting corruption"

Practical guides to advise and support businesses and public-sector entities

In 2021, AFA continued to develop and publish new practical guides to meet entities' needs for support as they deploy their anti-corruption systems.

1. GUIDES PUBLISHED IN 2021

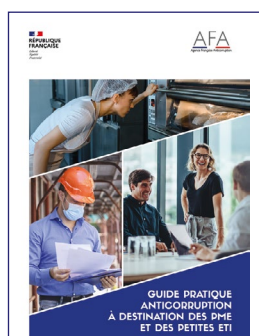


Practical guide on managing conflicts of interest in the private sector

This guide was published in November 2021. It underscores that the law gives no definition of conflict of interest in the private sector. Nonetheless, each person has professional, social and familial relationships that link their interests with others. Such links must be considered since they may give rise to behaviour that could constitute corruption offences.

The guide presents best practices and is intended to support business entities in identifying high-risk situations and developing measures to prevent and manage such situations.

Public consultations about the guide produced some one hundred comments and AFA incorporated nearly two thirds of them into changes to the initial draft.



Anti-corruption guide for SMEs and smaller mid-sized firms

This guide was published in December 2021. It was drafted in consultation with the French Confederation of Small and Medium-Sized Enterprises (CPME) and the French Federation of Mid-Sized Firms (METI) and is intended to help businesses that are not subject to the requirements of the Sapin 2 Act to deploy anti-corruption measures (see page 49 [SG5]).

Public consultations about this guide in October and November 2021 produced more than 400 comments. More than half of these comments were incorporated in changes to the initial draft of the guide.



Draft guide on anti-corruption accounting controls in the private sector

In November 2021, AFA initiated public consultations on a draft guide on anti-corruption accounting controls in the private sector.

The guide was written in consultation with the High Council of Statutory Auditors, the National Company of Auditors, the Order of Chartered Accountants, the Chief Financial Officers and Controllers Association and the French Institute of Internal Audit and Control. It will contain an instructive collection of best practices and examples of internal anti-corruption accounting controls, which form one of the eight measures that businesses subject to the provisions of Article 17 of the Sapin 2 Act are required to put in place.

The guide stresses that rigorous and organised accounting systems make a major contribution to preventing and detecting corruption. Nevertheless, the company may deploy dedicated and formalised accounting controls for risks areas identified by the corruption risk mapping exercise in order to enhance the security of its operations.

The final version of the guide is scheduled for publication in March 2022. .

2. UPDATES TO EXISTING GUIDES



AFA ensures that its publications are up to date. For example, an updated version of the Practical Guide on anti-corruption due diligence for mergers and acquisitions was posted to the AFA website on 12 March 2021. The updated version incorporates the 25 November 2020 decision of the French Supreme Court of Appeal (Cass. Crim. 18-86.955) on the liability of the absorbing company for corruption offences committed by the absorbed company, along with AFA's new guidelines.

Substantial work was done in 2021 on improving the presentation of AFA guides, with more illustrative charts and diagrams to make risk measures and risk scenarios easier to understand. Most of the guides have been translated into English, which promotes their use at the international level, since AFA disseminates its guides to its foreign and international partners.

Spotlight on the Anti-corruption guide for SMEs and smaller mid-sized firms

AFA developed an anti-corruption guide for small and medium-sized enterprises and smaller mid-sized firms in 2021, working in consultation with the French Federation of Mid-Sized Firms (METI) and the French Confederation of Small and Medium-Sized Enterprises (CPME). These businesses are not required by law to have anti-corruption measures in place, but such measures bring real benefits in protecting against potential corruption offences and their financial, reputational and human consequences. The measures also demonstrate the integrity of these businesses to the larger entities they deal with, which are required to conduct third-party due diligence by law, and to lenders. However, smaller businesses sometimes lack the necessary expertise and human and financial resources. Their need for support, which AFA has been aware of since its creation, has also been pushed by international organisations.

The guide is instructive and accessible, including how-to pages illustrated by examples and best practices. Given the importance of the presentation of the guide, AFA worked with an external provider to decide on the format before submitting the guide for public consultation. It includes a condensed section with a concise summary of the main issues and measures to be implemented. This section can be distributed separately from the guide to a wider readership.


In addition to publishing the practical guide, AFA continued its actions at the regional level to reach small and medium-sized enterprises. For example, AFA organised presentations in the Seine-et-Marne and Alsace-Lorraine regions to raise awareness of anti-corruption issues and the measures that smaller enterprises can implement.

VOUS ÊTES UNE PME... ÊTES-VOUS CONCERNÉS PAR DES MESURES ANTICORRUPTION ?

- Suis-je obligé de mettre en place des mesures pour lutter contre la corruption ?
- C'est coûteux et cela prend du temps.
- À quoi ça sert ? Il n'y a pas de corruption chez nous.
- Mes gros clients me demandent ce que j'ai mis en place pour lutter contre la corruption.
- Et mon banquier aussi.
- Mon concurrent l'a fait et communique beaucoup dessus.

... L'AFA RÉPOND À VOS QUESTIONS

UNE PME N'A PAS L'OBLIGATION LÉGALE DE METTRE EN PLACE DES MESURES ANTICORRUPTION, MAIS ELLE Y A INTÉRÊT !



La loi oblige les grandes entreprises, comme les donneurs d'ordre publics, à demander à leurs partenaires commerciaux de toute taille s'ils ont mis en place des mesures anticorruption.

- ✓ Les PME qui l'ont fait se positionnent de façon favorable auprès de leurs clients.

Les banques et les investisseurs évaluent l'intégrité de leurs clients.

- ✓ Vous avez plus de chances d'obtenir votre financement si vous avez mis en place des mesures anticorruption.

Êtes-vous certain qu'il n'y a pas de corruption chez vous ? Un cas de corruption pourrait gravement porter atteinte à votre réputation et pourrait engager la responsabilité du chef d'entreprise.









- ✓ Les mesures anticorruption préservent votre réputation.


La mise en place de ces mesures est aussi l'occasion de revoir certains façons de faire et de vous assurer que tout le monde applique vos consignes.

- ✓ Cela peut améliorer la gestion de votre entreprise.

EST-CE COMPLIQUÉ À FAIRE ? COMMENT S'Y PRENDRE ?

VOUS POUVEZ COMMENCER PAR 9 MESURES DE BASE :

-  En tant que dirigeant, adoptez une attitude exemplaire et affichez que votre entreprise ne tolère pas la corruption (dans votre règlement intérieur, sur votre site Internet, etc.).
-  Identifiez des manières de procéder qui pourraient présenter des risques : export, contact avec les gros partenaires, utilisation d'intermédiaires commerciaux, soumission aux marchés publics ou obtention d'autorisations administratives par exemple.
-  Mettez en place des consignes pour encadrer les relations avec vos partenaires, notamment en matière de cadeaux et invitations (offerts comme reçus), de conflits d'intérêts, de sponsoring, etc.
-  Informez et formez votre personnel régulièrement à la lutte anticorruption. Sensibilisez-le à la prévention des conflits d'intérêts.
-  Renseignez-vous sur l'intégrité de vos principaux partenaires notamment si vous faites appel à des agents commerciaux.
-  Informez vos personnels qu'ils peuvent vous alerter, de manière confidentielle, sur toute situation qui leur paraît douteuse.
-  Contrôlez régulièrement l'application des consignes et plus souvent dans les activités identifiées comme à risques.
-  Tenez votre comptabilité rigoureusement en suivant les principes en vigueur et vérifiez notamment qu'aucune écriture n'est passée sans justificatif.
-  Sanctionnez si les consignes ne sont pas appliquées.



In their own words



Lionel VIGNAUD

Director of Economic, Legal and Tax Affairs at the French Confederation of Small and Medium Sized Enterprise (CPME)

Anti-corruption is not just an issue for large corporations or companies doing business at the international level. That is why we were delighted to take up AFA's offer to take part in writing a guide for small and medium-sized enterprises.

There are legal requirements, but they concern businesses with more than 500 employees only. This threshold should absolutely not be lowered. Nevertheless, voluntary compliance with the requirements may give a company a competitive edge and greater legal security. The smaller and medium-sized enterprises that adopt compliance measures are in a more favourable position with regard to their customers. They have a better chance of obtaining financing, winning contracts and maintaining their reputation. These advantages should not be overlooked.

Therefore, it was important for us to take part in writing the Anti-corruption guide for SMEs and smaller mid-sized firms. The objective that we shared with AFA was to write a document that captures the attention of business leaders and compels them to do more. This was the reason for the condensed version of the guide, which can be used for further action and provides practical tools for risk-mapping exercises, for example. The practical aspect was very important for us and provided a basis for working effectively with AFA and the various members of the working group. This working method is familiar to us, but the public consultation that came afterwards was less so. Nevertheless, it helped enhance the quality of the guide.

When we completed the work, we welcomed AFA's determination to involve the different stakeholders and we shall continue to work with them by offering to host awareness-raising sessions for our local branches.

Working with stakeholders to develop guides for public sector entities



As part of its continuous effort to improve France's anti-corruption framework and meet the needs of public sector entities for support, AFA is committed to publishing practical guides that are as instructive and pragmatic as possible. AFA's method is based on cooperation and co-drafting with the stakeholders in the activity sector concerned to produce the guides. The method highlights case studies, illustrations and diagrams in the guides.

AFA and its partners finalised three guides in 2021 for publication in early 2022.

The first guide is for non-profits and foundations recognised as public interest entities (ARUP FRUP). A working group made up of France géné-

rosités and the Comité de la charte committee of Don en Confiance held five meetings on the guide starting in January 2020.

Two practical guides were developed in partnership with the Sports Department and the members of a working group for the purposes of the strategic pillar relating to sport and major competitions in the National Multi-Year Plan to Fight Corruption. These guides are for the Ministry for Sport agencies and sports federations.

It should be noted that AFA also played an active role in developing the ethics and integrity guidelines for sport published last June by the French standardisation agency AFNOR. These are intended to provide practical guidance to strengthen integrity in sport and good governance in sports organisations. AFA also continues to take part in the National Platform to Combat Manipulation of Sports Competitions, which was established in 2016, after France ratified the Macolin Convention²³. The Platform is chaired by the National Gambling Agency

Continuous improvement of the anti-corruption framework to support stakeholders

²³ The Council of Europe Convention on the Manipulation of Sports Competitions of 9 July 2014 (<https://www.coe.int/fr/web/sport/t-mc>).

Awareness-raising and training to improve support for business and public sector entities

1. AWARENESS-RAISING ON CORRUPTION RISKS FOR PUBLIC SECTOR ENTITIES

AFA works with public sector entities to promote better understanding of corruption risks and of the French anti-corruption framework concerning such entities. The awareness-raising sessions are an opportunity to discuss anti-corruption tools and their practical applications in the high-risk processes and functions of the participants' organisations,

such as public procurement, awarding subsidies, human resources management and individual administrative decisions that create rights. The sessions in 2021 included detailed presentations of AFA's new guidelines published on 12 January 2021.

Awareness-raising to promote engagement in the fight against corruption (and anti-corruption systems)

Awareness-raising takes the form of targeted actions for AFA's partners in the public sector at both the central and local government level. More targeted actions addressing issues in sports, public housing and non-profits rounded out these activities. A total of 16 such actions were carried out in 2021.

Awareness-raising actions continued to rely on online teaching tools, such as corruption quizzes, which more than 7,000 participants have now used to test their knowledge. These actions will be enhanced in 2022 with new tools, such as "En quête d'intégrité", a serious game playable online (see page 55 [SG6]).

2. AWARENESS-RAISING SESSIONS ON ANTI-CORRUPTION ISSUES AND SYSTEMS FOR BUSINESS ENTITIES

Awareness-raising for businesses promotes their engagement with issues relating to the fight against corruption and anti-corruption systems. Actions are tailored to the needs of businesses concerned and range from a general presentation of the French anti-corruption framework to technical workshops focusing on a specific topic.

In 2021, AFA's 39 awareness-raising actions included:

- ✓ 24 technical workshops held jointly with industry federations and associations for their members;
- ✓ 7 presentations at conferences or seminars;
- ✓ 6 presentations at events organised by consulting firms or service providers;
- ✓ 2 presentations organised with regional chambers of commerce and industry and a regional directorate for the economy, employment, labour and solidarity.

More than half of the awareness-raising actions in 2021, which each addressed between 10 and 50 businesses, included a presentation of AFA's new guidelines. Other subjects addressed in 2021, in addition to the general presentation of anti-corruption issues and AFA's tasks, included anti-corruption measures in SMEs and smaller mid-sized firms, managing conflicts of interest in the private sector, senior management's commitment and communication issues in anti-corruption systems.

3. TRAINING: CENTRAL TO THE NATIONAL MULTI-YEAR PLAN TO FIGHT CORRUPTION



AFA strives to continue and step up its training efforts to prevent and detect corruption offenses with a combination of virtual and in-person sessions.

Some forty initial and continuing training actions, twice as many as in 2020, were provided for public sector and business entities. The main training sessions were organised in partnership with educational institutions, such as schools in the network of public service schools and training institutions, universities and specialised schools, including:

- ✦ the National School for the Judiciary, where a five-day training session entitled "Preventing, Detecting and Fighting National and International Corruption" was held for foreign judges and civil servants;
- ✦ the Institute for Public Management and Economic Development (IGPDE) with three training sessions, including a one-day in-person session in November 2021;
- ✦ the French Bar School and the Cercle Montesquieu (corporate legal officers' association), where a training session on "Preventing Corruption" was organised;
- ✦ the Institute for Advanced National Defence Studies, with five training sessions as part of the "Economic and Strategic Intelligence" courses.

AFA has continued to harness new technology, with two new sessions of its free massive open online course (MOOC) on preventing corruption in local government management. The course has attracted more than 25,000 participants since it was created in 2018.



AFA's ongoing dialogue with public sector and business entities

1. AFA STRENGTHENS ITS LINKS WITH BUSINESS ENTITIES

AFA strengthened its links with business entities in 2021. In addition to organising nationwide consultations about its guidelines and practical guides, AFA systematically contacts industry representative organisations after publication to offer presentations to their members. This approach resulted in many technical workshops being organised to present the new guidelines.

AFA is also keen to involve businesses even more in the development of its guides. This was particularly the case for the anti-corruption guide for SMEs and smaller mid-sized firms, which was developed in consultation with CPME and METI, and the draft of the practical guide on anti-corruption accounting controls, being developed with High Council of Statutory Auditors, the National Company of Auditors, the Order of Chartered Accountants, the French Institute of Internal Audit and Control and the Directorate for Financial Affairs and Management Control.

EAFA periodically asks industry federations and associations about topics that are likely to cause problems for their members so as to address these issues with a workshop or a publication.

AFA takes care to involve businesses and public sector entities in its various projects

2. AFA STEPS UP ITS COOPERATION WITH PUBLIC-SECTOR ENTITIES

In 2021, AFA bolstered and further developed its partnership actions for awareness-raising and training. It renewed its successful partnership with the National Centre for Local Civil Service at the Mayors' Conference in November 2021. The renewed partnership agreement will further broaden the range of direct training and the deve-

lopment of innovative awareness-raising tools for local government civil servants (see page 58 [SG7] for AFA's actions for the local public sector).

Central government and its agencies were examined as part of a large-scale joint diagnostic study on the measures and best practices that prevent and detect corruption offences. AFA's advice and support actions for central government agencies will be stepped up in 2022. These actions are based on the summary reports that AFA produced and shared with the agencies starting at the end of 2021 and aimed at enabling them to meet the objectives of the 2020-2022 National Multi-Year Plan to Fight Corruption.

Awareness-raising actions for non-profit associations and foundations and the joint drafting of a practical anti-corruption guide focusing on donation and governance processes relied on the expertise of France Générosité and Don en Confiance.

Relationships forged with hospitals in 2021, through participation at a session of the conference of teaching hospital directors, will be consolidated in 2022 to enhance France's anti-corruption framework in this field.

New teaching tools: the online serious game for corruption prevention: “En quête d’intégrité”

Under Pillar 2 of the 2020-2022 National Multi-Year Plan to Fight Corruption, “training and awareness-raising for public employees”, AFA is committed to developing innovative teaching media for public employees using digital tools. For this purpose, AFA developed an online serious game called “Integrity Quest” in 2021. The game was developed with the support of the Ministerial Transformation Fund of the Ministry for the Economy, Finance and the Recovery, and the HR Innovation Fund of the Ministry for Government Transformation and the Civil Service.



The educational serious game is for teaching public employees about preventing corruption. It has seven chapters and presents the different corruption offences (bribery, influence peddling, misappropriation of public funds, unlawful taking of interest, favoritism and extortion by public officials). The game tells an adventure tale through text and 2D motion graphics to help public employees identify high-risk situations and take the right steps to prevent corruption offences. It uses entertaining interactive teaching methods.

FIRH - Fonds d'Innovation RH



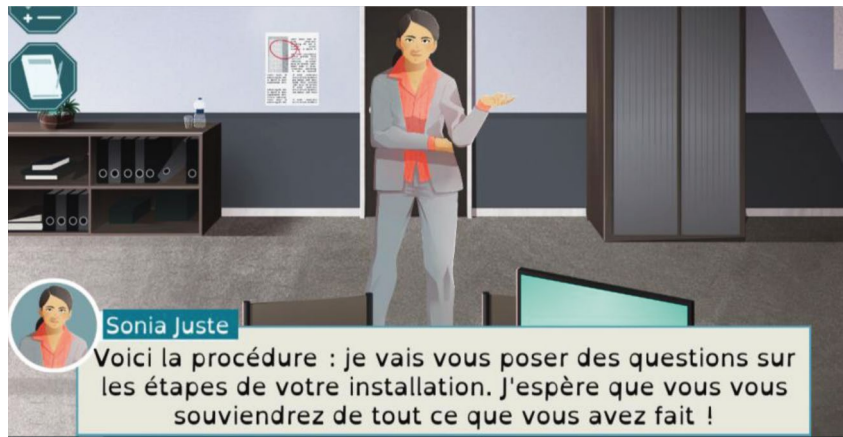
The scenario follows a project to set up a regional branch of a public establishment. The player's role is that of the project leader, who needs to overcome various logistical, financial and human resources problems associated with different corruption risks. Each chapter provides support and help for identifying and preventing corruption risks and ends with an extra quiz to test the player's progress. Each chapter is about 10 minutes long and the game takes about one hour to complete.

The creation of an innovative serious game to help public employees identify high-risk situations

The game has been translated into English and has been made publicly available on the AFA website since 21 February 2022. It is also available on two e-learning platforms for central government civil servants: :

- ✦ Mentor, for public employees, which is run by the Directorate General for Administration and the Civil Service (DGAFP);
- ✦ and the Institute for Public Management and Economic Development (IGPDE) of the Ministry for the Economy, Finance and the Recovery.

AFA plans to use the game both as a teaching aid for corruption prevention training sessions, but also make it freely available to anyone interested.



In their own words



Chantal CUTAJAR

Lecturer-researcher at the University of Strasbourg, Director of the Organised Crime Action Research Group (GRASCO), Director of the Compliance Officer Masters programme

1. YOU COORDINATE THE COMPLIANCE OFFICER MASTERS PROGRAMME AT THE UNIVERSITY OF STRASBOURG. IS THE DEMAND FOR THIS DEGREE INCREASING? WHAT ARE THE PROFILES OF YOUR STUDENTS?

Employers in banking, insurance and, more generally, all businesses with compliance departments are seeking graduates with a Compliance Officer Master's degree. We receive growing numbers of applications each year, which makes the programme very selective. It is aimed at law students, as well as students with a background in economics, finance or audit, as long as they have the prerequisite credentials in business law, tax law, company law, criminal business law, general criminal law and criminal procedure.

2. YOU INVITED AFA TO PARTICIPATE IN THE PROGRAMME: WHAT WERE THE EDUCATIONAL OBJECTIVES? WHAT SORT OF FEEDBACK HAVE YOU HAD FROM STUDENTS REGARDING THIS PARTICIPATION? WHAT DOES THE FUTURE HOLD IN STORE FOR YOUR COLLABORATION WITH AFA?

AFA's contribution aims to give students the tools to understand and implement an obligatory compliance system in a business. It should also give students an understanding of AFA's expectations with regard to the businesses concerned so that they can become operational in no time. The student feedback on AFA's involvement has been extremely positive. AFA's contribution is critical, since it allows students to look beyond the legal requirements and understand the ultimate purpose of the systems and how to implement them. This contributes to a fuller ownership of the systems among the compliance officers, which is integral to their effectiveness. I can see, to the extent AFA is able, a greater contribution to the "Corruption Prevention in Business" course in the future. A simulation of an AFA audit would be an excellent learning opportunity.

3. . YOU ARE ALSO THE DIRECTOR OF GRASCO AND ITS REVIEW, WHICH PERIODICALLY PUBLISHES ARTICLES ON CORRUPTION PREVENTION. HOW DO YOU SEE THE CHANGES IN SOCIETY'S PERCEPTION OF CORRUPTION? DO YOU THINK THAT YOUR STUDENTS' AWARENESS OF THE STAKES IN THE FIGHT AGAINST CORRUPTION IS ENOUGH? WHAT DO YOU THINK COULD BE IMPROVED AND HOW?

Corruption prevention is a categorical imperative because corruption is a weapon of mass destruction for democracy and for all life in society. Major progress has been achieved in France in the last decade, but there is still room for considerable improvement. Better prevention requires understanding the deadly effects of corruption on both the preservation of the social contract and on the functioning of the economy. This calls for a major effort to raise awareness. Except in the case of specific specialised curricula, generally speaking, students' awareness of the stakes in the fight against corruption is lacking. Corruption encroaches on all fields and areas of activity. I therefore think that awareness-raising for corruption prevention should be designed for secondary school pupils and for all university students, regardless of their field of study. The eyes of future citizens would be open to the destructive power of corruption as highlighted by Aristotle in his Nicomachean Ethics, "The liar's word is the perfect corrupt action, a destructive action, and it makes relations between people impossible because the conclusion may be that it is either true or false."

AFA's action for the local public sector

As part of its task to support local governments, AFA forged a special partnership with the National Centre for Local Civil Service (CNFPT) back in 2018. This partnership was renewed at the Mayors' Conference on 16 November 2021.

The purpose of the partnership is to develop a CNFPT corruption prevention training tool for the 1.9 million local civil servants in France. This furthers the expansion of services for local civil servants since 2018, including training, events, studies and educational resources, such as:

-  A free massive online open course (MOOC) called "Preventing Bribery, Favouritism and Misappropriation in Local Government". Two new sessions of the course were provided in 2021, bringing the total number of course participants to 25,000 since its creation in 2018. AFA will undertake an update of the course in 2022 with the support of the CNFPT.
-  "CNFPT current events days" were hosted at the local level throughout the year in 2019, until the pandemic put a stop to in-person events. There are however plans to resume these events in 2022.
-  Participation in the local government legal meetings in November 2021, sharing new developments in the guidelines for local government entities with more than 80 legal specialists from local governments.



The partnership continued in 2021 with work to prepare new educational projects. These projects will debut in 2022 with the broadcast of three web radio shows on fighting corruption at the local level and a chat-bot tool, now in the design stage, to help with decision making.

AFA also undertook a series of training initiatives in 2021 aimed at local civil servants (for example, an action for the Ile-de-France Regional Council) and local elected officials. Awareness-raising for elected officials remains one of the top priorities and AFA is cooperating with the French Mayors Association to provide municipal elected officials with opportunities to measure conflict-of-interest risks more accurately and to gain a better understanding of the anti-corruption tools that could be applied in their municipalities. For this purpose, AFA organised a training session for the mayors of the Dordogne département with the support of the French Mayors Association, which was held in Périgueux in June 2021.

In its responses to individual referrals, AFA dealt with some ten legal matters concerning the local public sector, which accounted for a quarter of the forty or so legal matters concerning public-sector entities that were referred to AFA.

From June to September 2021, AFA repeated the statistical survey first conducted in 2018, and published the findings in a preliminary study on the AFA website. AFA's new guidelines, which were published in 2021 to replace the 2017 guidelines, incorporate the feedback from the 2018 survey, with a special set of guidelines for public sector entities, including local government entities. The 2021 survey was used to update and expand the findings of the 2018 survey. It took the form of an anonymous online questionnaire with fewer than 50 questions that was distributed with the help of the leading national associations of local elected officials.

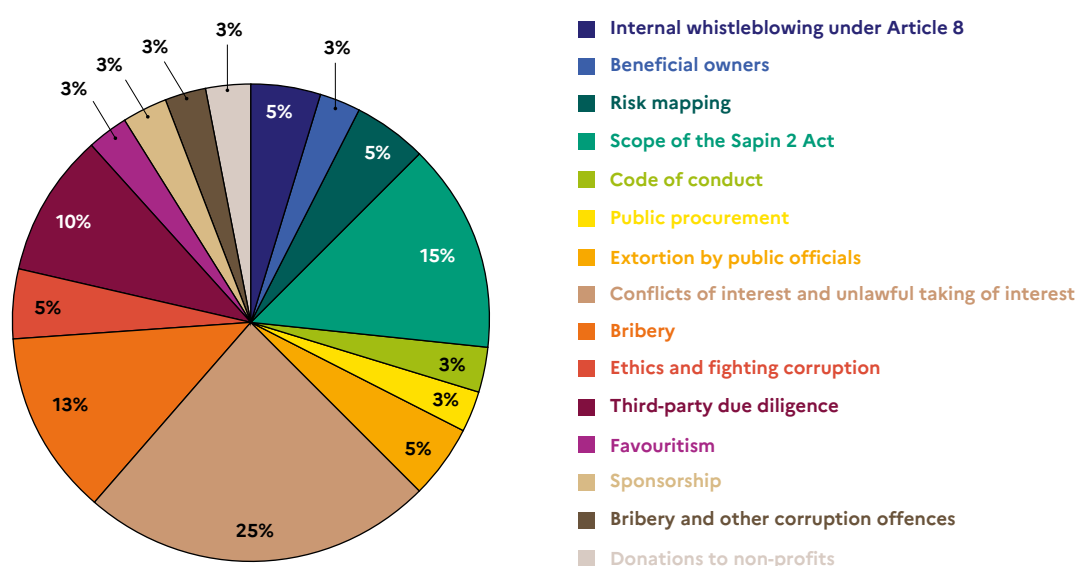
Disseminating the French anti-corruption framework through individual referrals and tailored support

AFA applies its legal and methodological expertise to answer questions from business and public-sector entities, as well as any citizen who has questions about corruption offences and the systems for preventing and detecting such offences.

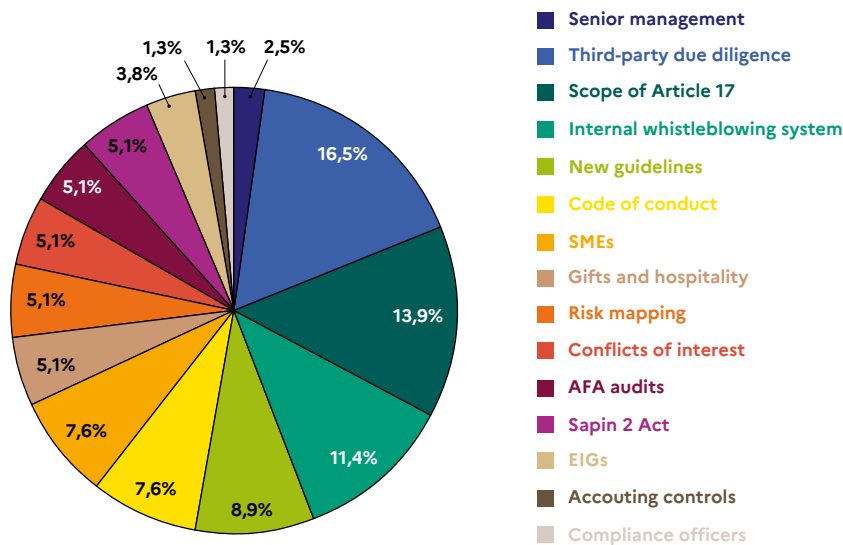
1. LEGAL REFERRALS

AFA answers all of the questions it receives in the post or by email (afa@afa.gouv.fr) from individuals, businesses and public-sector entities. AFA received some 200 questions, of which 120 were about legal matters. Forty questions concerned public-sector entities and 79 concerned businesses.

Legal referrals concerning public-sector entities by topic



Legal referrals from business entities by topic



Most of the questions from the private sector came from businesses (44%) and consulting firms (36%), the other questions came from individuals, students, industry federations or academics.

2. TAILORED SUPPORT FOR PUBLIC SECTOR ENTITIES AND BUSINESS ENTITIES

Under the procedures laid out in its support charters²⁴, AFA may provide tailored support based on four core principles.

- ✓ voluntary participation (under the terms a working relationship between AFA and the entity, which allocates adequate resources for the project);
- ✓ general good: AFA uses feedback from its legal and methodological support work in order to share the lessons learned in the field with other entities;
- ✓ enhancing the anti-corruption framework if a new general-interest issue is addressed;
- ✓ the tailored support provided by AFA is independent from its audit activities and does not result in certification or seals of approval.

Procedures are based on a prior definition of the methodological needs and the scope of the support in order to ensure successful and operational actions. The support is free for a period ranging from a few months up to a year.

AFA supports the business or public sector entity's planning and approach for all or part of the anti-corruption programme while it is being set up or updated.

In 2021, AFA started to provide support for a local government and for two business entities.

²⁴ Charter for Supporting Government Entities: <https://www.agence-francaise-anticorruption.gouv.fr/fr/lafa-vous-conseille/vous-etes-acteur-public>
 Charter for supporting Business Entities: <https://www.agence-francaise-anticorruption.gouv.fr/fr/lafa-vous-conseille/vous-etes-acteur-economique>

www.agence-francaise-anticorruption.gouv.fr

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