



RÉPUBLIQUE  
FRANÇAISE

*Liberté  
Égalité  
Fraternité*

AFA

Agence Française Anticorruption

## ANNUAL REPORT

# 2019





# FOREWORD



Judge CHARLES DUCHAINE

*Director of the French Anti-Corruption Agency*

In the three short years since its creation, the French Anti-Corruption Agency (AFA) has implemented all of its missions under the terms of the Act of 9 December 2016.

This achievement was made possible thanks to the determination of the staff. I salute the drive and creativity that these women and men have shown in building the new Agency and their professional commitment under difficult circumstances.

AFA consolidated its strategy and maintained a sustained pace in its advisory and audit activities in 2019, with 36 new audits, 50 training sessions and nearly 70 awareness-raising actions. In addition, AFA also referred its first cases to its sanctions committee. This independent body is responsible for assessing the deficiencies found by the audits and imposing sanctions if they have not been corrected in the meantime. The sanctions committee's decisions will make it possible to adjust and consolidate our practices, thereby providing more legal security for the parties required to comply with anti-corruption obligations. The stakes are high. The rigour and credibility of the French model need to be impressed on everyone to enhance France's attractiveness for foreign companies, and to restore our legal sovereignty by dispelling doubts of foreign enforcement authorities and countering criticism from international organisations.

Another important milestone was the government's adoption of the first multi-year plan to fight corruption. The plan will be implemented in 2020, 2021 and 2022. It concerns everyone from individual citizens, to businesses and local governments. It also provides for the priority deployment of measures to prevent and detect corruption by all ministries and their devolved departments.

The success of this national plan will hinge on widespread adherence. The primary purpose is to raise all parties' awareness of the nature and different forms that corruption can take, of its reality, even when it is latent, and of the need to take preventive measures and, when necessary, to sanction offences. There is no personal or partisan interest that can justify any harm to the general interest or the social contract. Awareness of this fact alone can give rise to a common determination to fight corruption.

Consequently, implementation of this three-year plan should first and foremost bring about a cultural change to convince everyone that fighting corruption is not merely a task for the French Anti-Corruption Agency or for general and specialised prosecutors; it is everyone's business.

AFA, in collaboration with the University of Paris Dauphine, organised a multidisciplinary conference on 9 December for the purpose of furthering knowledge of the social, economic and historical aspects of corruption and to mark the occasion of International Anti-Corruption Day. The NGOs, researchers and representatives of international organisations who listened to the research and discussions at the conference found a truth that applies to our contemporary societies: economies cannot prosper on corruption, any more than they can on tax fraud or money laundering. Such ruses only provide fleeting infusions of funds with effects that are ultimately toxic.

Many papers published in 2019 show how topical the issues of government integrity, exemplarity, and good governance in sports organisations are, along with research into the state of play in the fight against economic and financial crimes in France. These are legitimate concerns for the public, especially in these fiscally fraught times.

Fighting corruption is not a fad or a field for experts only. It must not remain a discipline unto itself that evolves on the side lines of human activity. On the contrary, it must nourish this activity and become an integral part of it.

For this purpose, AFA sought to improve its standing in the institutional landscape further by forging partnerships with other stakeholders whose responsibilities contribute to the fight against corruption in one way or another: the National Financial Public Prosecutor's Office, with which AFA adopted joint guidelines on deferred prosecution agreements; the High Authority for Transparency in Public Life (HATVP), which acts to supervise and raise the awareness of women and men who aspire to the highest administrative or elected positions; and the Central Government Internal Audit Harmonisation Committee (CHAIE), which disseminates key tools for fighting corruption by standardising internal audit procedures for central government administrations.

AFA has also forged relationships with all stakeholders for the same purpose, which is fully in keeping with its awareness-raising, advisory and support missions. It has also worked with higher education institutions teaching future compliance officers, corporate executives and senior civil servants, and in education for attorneys through its contribution to training provided by the Bar School (EFB) or by company lawyers. It has also organised several one-day sessions on current events throughout the country in collaboration with the National Centre for Local Civil Service (CNFPT).

Despite these efforts, France's ranking in the 2019 Corruption Perceptions Index slipped two places from 21st to 23rd out of the 180 countries and territories assessed. According to Transparency International France, "there is an urgent need to renew the fight against corruption". It now seems necessary to strengthen AFA for this renewed fight, to speak only of the preventive aspects, which are our sole concern here.

# CONTENTS

Foreword	p. 1
Contents	p. 3
Key Figures in 2019	p. 6
Highlights of 2019	p. 10
A Better Understanding of Corruption and Assessing Ownership of Anti-Corruption Measures	p. 12
Gauging Corruption by Legal Proceedings	p. 13
Anti-Corruption Training	p. 14
Training for Government Stakeholders	p. 15
Disseminating Anti-Corruption Guidelines and Raising Awareness of Corruption Risks in Government	p. 16
Support for Two Ministries	p. 18
Helping Businesses Take Ownership of the French Anti-Corruption Guidelines	p. 19
Support for SMEs and ETIs	p. 20
International Cooperation and Technical Support	p. 21
Operational Cooperation on Transnational Corruption	p. 22
Enhancing Administration Coordination through International Organisations	p. 23
Consolidating the International Network of Corruption Prevention Authorities	p. 24
Auditing the Effectiveness of Anti-Corruption Systems	p. 25
Lessons Learned from AFA's Audits	p. 27
Cooperation with Administrative and Judicial Authorities	p. 28
Audits of the Execution of Deferred Prosecution Agreements	p. 30





# INTRODUCTION

The Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016 created the French Anti-Corruption Agency (AFA). AFA has nationwide jurisdiction and is placed under the joint authority of the Minister of Justice and the Minister for Government Action and Public Accounts. Its mission is to help private-sector and public-sector entities prevent and detect corruption offences, such as bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.

AFA performs its tasks using two complementary but totally independent means: advising business and government entities and auditing the quality and effectiveness of anti-corruption systems.

AFA disseminates information on its website:

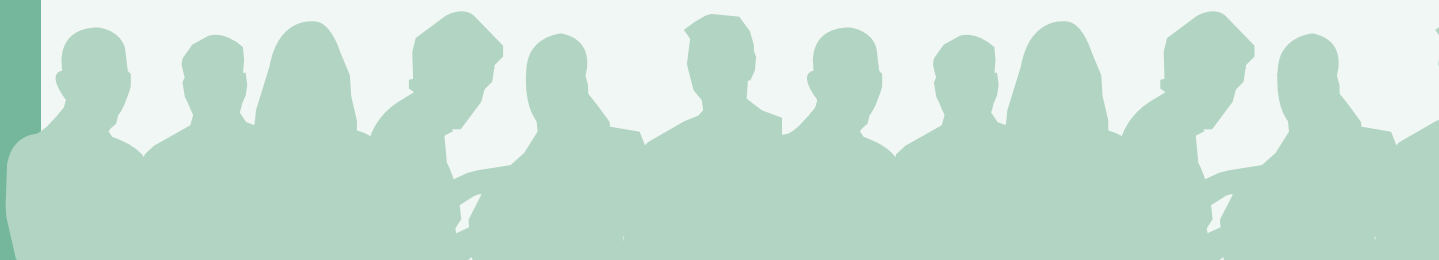
<https://www.agence-francaise-anticorruption.gouv.fr/fr>



## KEY FIGURES IN 2019

### AFA STAFF

**59** employees  
as of 31 December 2019



### AWARENESS-RAISING

**3** guides

The corporate compliance function

Anti-corruption due diligence for mergers and acquisitions

Gifts and invitations policy for corporations, non-profits and foundations

**69** awareness-raising actions

### FORMER



**22** technical workshops with general  
and industry-specific trade federations

**50** training actions

**3** online sessions on preventing corruption in local government.  
More than 16,000 participants since 2018

**1** conference organised jointly by AFA and the University  
of Paris Dauphine

### SUPPORT

**109** written enquiries answered by AFA (76 concerning business entities  
and 33 concerning government entities)



**7** individual support missions for business entities

**9** individual support missions for government entities

(1 major city, 1 inter-municipal cooperation institution,  
1 department, 2 ministries, 1 museum,  
2 public industrial and commercial establishments,  
1 sports federation)



### ADVISORY ACTIVITIES



## KEY FIGURES IN 2019

### AUDITS

36

audits at AFA's initiative started in 2019, including:



20 audits of **business entities**:

- **3 comprehensive audits** of CAC 40 companies



- **12 thematic audits**

of the leading companies in a business line that is highly exposed to corruption risks

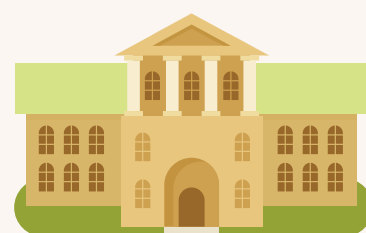
- **5 follow-up audits** of entities audited in 2017 and 2018

16 audits of **government entities**:

- **11 comprehensive audits**

(1 central government directorate, 2 major entities involved in the 2024 Olympics, 1 sports federation, 1 public establishment, 1 overseas local government, 2 regions, 2 departments, 1 public housing board)

- **5 follow-up audits**



**4 audits under the terms of deferred prosecution agreements**, started in 2018 and continued in 2019

6

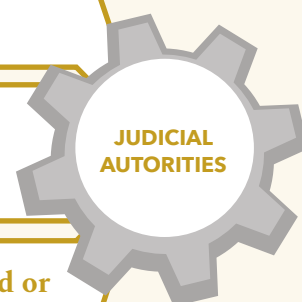
**agreements** with **IGA** (Administration Inspectorate General), **CHAIE** (Central Government Internal Audit Harmonisation Committee), **IHEDN** (Institute for Advanced National Defence Studies), **HATVP** (High Authority for Transparency in Public Life), **ANCOLS** (National Supervisory Agency for Public Housing) and **BRDE** (Economic Crime Unit)

Joint publication of **1 guidance document** with the **National Financial Public Prosecutor's Office** "Guidelines for Implementation of Deferred Prosecution Agreements"

**2 preliminary reviews for potential deferred prosecution agreements**, conducted at the request of the National Financial Public Prosecutor's Office (PNF)

**7 reports submitted to the judicial authorities** under the terms of Article 40 of the Criminal Procedure Code out of the **229 reports** received and processed by AFA

**Follow-up of 3 cases of French companies prosecuted or sanctioned** by the United States, the United Kingdom and the World Bank

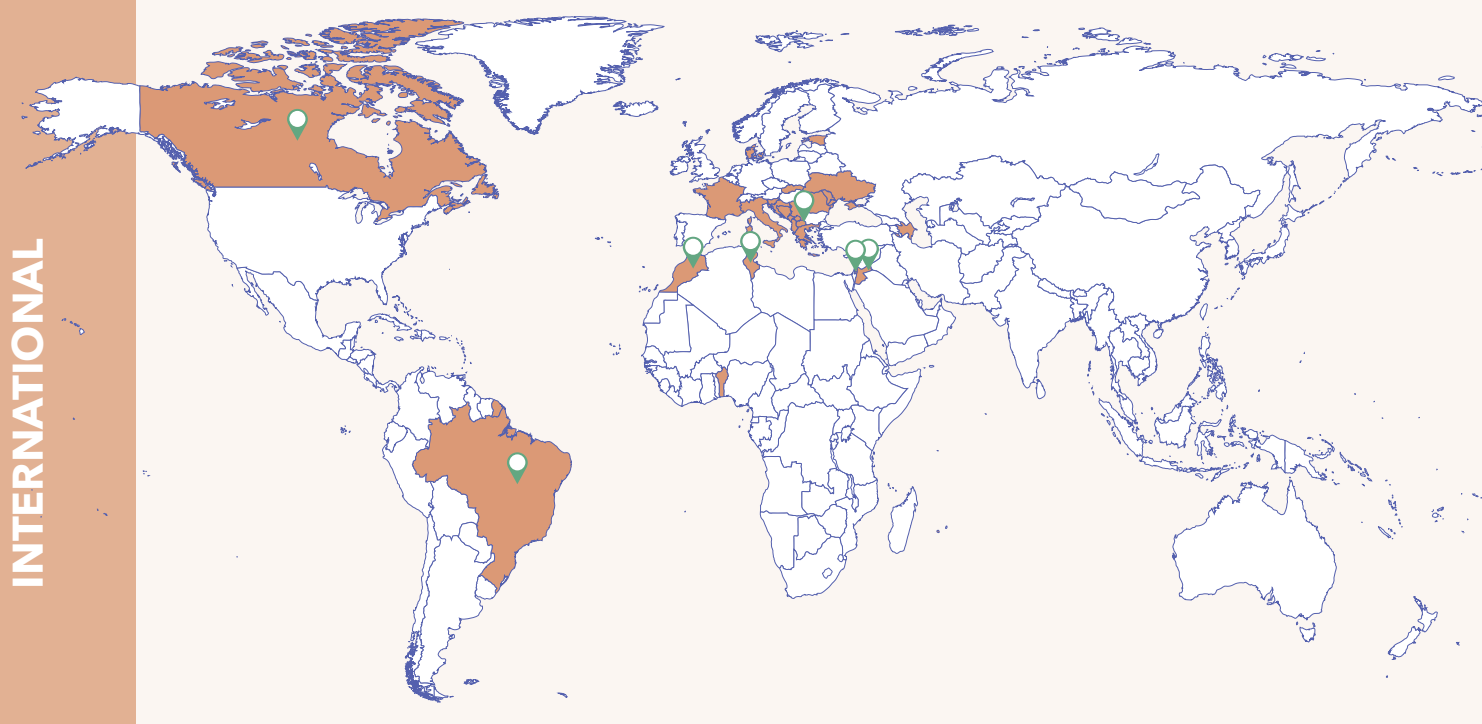


### ADMINISTRATIVE COORDINATION

## KEY FIGURES IN 2019

**The NCPA (Network of Corruption Prevention Authorities)** was set up in October 2018 to promote systematic gathering, management and sharing of information, intelligence and best practices between anti-corruption authorities across the world. In 2019, AFA was elected to the presidency of the Network.

### NCPA : NETWORK OF CORRUPTION PREVENTION AUTHORITIES



#### NCPA members:

Albania, Azerbaijan, Benin, Bosnia-Herzegovina, Croatia, Denmark, Estonia, France, Greece, Italy, Republic of Moldova, Montenegro, Romania, Serbia, Slovak Republic, Slovenia, Ukraine

#### including new members in 2019 📍:

Brazil, Canada (Quebec), Jordan, Morocco, North Macedonia, Palestinian Authority, Tunisia

## KEY FIGURES IN 2019

**43** foreign delegations hosted by AFA



**3** memoranda of understanding with **Kuwait**, **Egypt**, and **Brazil**



**2** enhanced partnerships with multilateral development banks:  
**World Bank** and **Inter-American Development Bank**

Closer coordination with **3** judicial authorities in the United Kingdom, the United States and France:  
**SFO** (Serious Fraude Office),  
**DOJ** (Department of Justice, USA),  
**PNF** (National Financial Public Prosecutor's Office, France)

Survey "Global Mapping of Anti-Corruption Authorities": contributions from **171** national  
authorities in **114** countries and territories



**61** presentations at international events  
AFA enhanced the effectiveness of its fight against transnational corruption in 2019 through closer cooperation with the **OCDE** (Organisation for Economic Cooperation and Development), **GRECO** (Group of States against Corruption), the **Council of Europe**, the **United Nations**, the **European Commission**, **IPACS** (International Partnership against Corruption in Sport), the **G20 Anti-Corruption Working Group**, **EPAC** (European Partners against Corruption) and **OIF** (International Organisation of la Francophonie).

## HIGHLIGHTS OF 2019

### JANUARY

Meeting of the **G20**  
Anti-Corruption Working Group  
chaired by Japan



### FEBRUARY

Signature of a  
**cooperation**  
agreement between AFA and **IGA**  
(Administration Inspectorate General)



### APRIL

1<sup>st</sup> Current Events Day held in Bordeaux  
on the theme “Anticipating and managing  
local government corruption risks”  
organised with the National Centre  
for Local Civil Service (**CNFPT**)

### MARCH

Round table discussion with the  
**Serious Fraud**  
**Office**  
organised by the International  
Bar Association

### MAY

Opening of the new AFA  
**website**



#### AVIS D'AUDIENCE PUBLIQUE

Commission des sanctions  
Mardi 25 juin 2019 à 9h30  
23 avenue d'Italie, 75013 Paris

*Dans la limite des places disponibles.  
Tout enregistrement visuel ou sonore est interdit pendant  
l'audience en salle et dans les locaux.*

14/06/2019



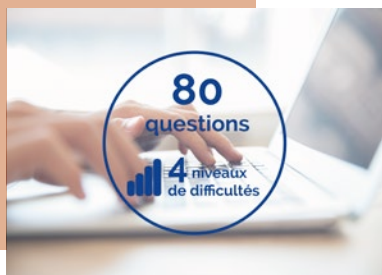
### JUNE

1<sup>st</sup> hearing  
of the AFA **Sanctions**  
**Committee**

## HIGHLIGHTS OF 2019

JULY

Publication of the **quiz**  
on Corruption



SEPTEMBER

5<sup>th</sup> session

of the **MOOC**  
on "Bribery, favouritism, misappropriation  
and how to prevent them in local government"



OCTOBER

Workshop organised jointly  
with the **OECD**  
and the **World Bank**  
on "Trust and Anti-Corruption:  
How to strengthen compliance in SMEs?"



NOVEMBER

Signature of a  
**cooperation** agreement  
between AFA and **HATVP**  
(High Authority for Transparency in Public Life)

DECEMBER

Conference organised jointly with the University  
of Paris Dauphine for **International  
Anti-Corruption Day**



Conference of the States Parties to the  
**United Nations  
Convention  
against Corruption**



# A BETTER UNDERSTANDING OF CORRUPTION AND ASSESSING OWNERSHIP OF ANTI-CORRUPTION MEASURES

A better understanding of actual corruption offences makes it possible to adapt the tools for preventing and detecting them. AFA's contributions consist of gathering and disseminating information and of taking initiatives in collaboration with academic researchers.

## Survey of anti-corruption measures

In 2019, AFA undertook a survey of the corruption prevention and detection measures deployed by each ministry.

This survey was coupled with an online questionnaire sent to central government agencies performing public service missions delegated to them by the central government.

At the same time, AFA undertook a survey of business entities on their knowledge of bribery and influence peddling for the purpose of assessing the development of their anti-corruption measures.

The findings of the three surveys will supplement the findings of the survey on the prevention of local government corruption conducted by AFA in 2018 (<https://www.agence-francaise-anticorruption.gouv.fr/files/files/EN%20Survey%20local%20government%20antibribery%20policy.pdf>).

## Promoting research and a multidisciplinary approach to corruption

In 2019, AFA, the Directorate for Criminal Affairs and Pardons at the Ministry of Justice and the "Law and Justice" research unit of the same ministry drafted and disseminated a call for research proposals.

The purpose was to finance multidisciplinary research on corruption, specifically:

- **corruption perceptions and experiences;**
- **a sector approach to corruption** (by geographical or economic sector).

Despite being disseminated twice, the call failed to produce any proposals, which led AFA and its partners to discuss other means of promoting research into these issues in France.

## A multidisciplinary approach to corruption: a conference organised jointly by AFA and the University of Paris Dauphine

On 9 December 2019, AFA and the University of Paris Dauphine hosted a panel of academics from various fields (sociology, economics, management), legal professionals, business people and civil society representatives. Representatives from the OECD and the European Commission were also in attendance.

The topics discussed included corruption perceptions in contemporary societies, the macroeconomic and microeconomic aspects of corruption and fighting corruption as a source of competitiveness for governments and corporations.

A researcher specializing in corruption in sports spoke about the specific characteristics of corruption in that world.

The event was attended by 250 participants and was organised on the occasion of International Anti-Corruption Day.

Several articles that summarise the discussions can be found in the journal: *La Semaine Juridique - Entreprise et affaires* - N° 23, 4 juin 2020, 1217.



Poster of the conference organised by the University of Paris Dauphine and AFA for International Anti-Corruption Day



# A BETTER UNDERSTANDING OF CORRUPTION AND ASSESSING OWNERSHIP OF ANTI-CORRUPTION MEASURES

## SPOTLIGHT ON: GAUGING CORRUPTION BY LEGAL PROCEEDINGS

### Proceedings

In 2018, the public prosecutor's offices dealt with **823 corruption cases**, which represents an **increase of 24.5% over 2013**. The cases involved **1,235 perpetrators**, including **293 legal entities**.

Fifty-six percent of these perpetrators were not liable to prosecution, mainly for lack of evidence.

Of the 544 perpetrators who were liable to prosecution:

- 50 (9.2%) had the proceedings against them discontinued (inconclusive investigations, absence of plaintiff);
- 104 (19.1%) benefited from an alternative to prosecution;
- 192 (35.3%) saw their case referred to an investigating magistrate;
- 198 (36.4%) were prosecuted in criminal courts.

### Convictions

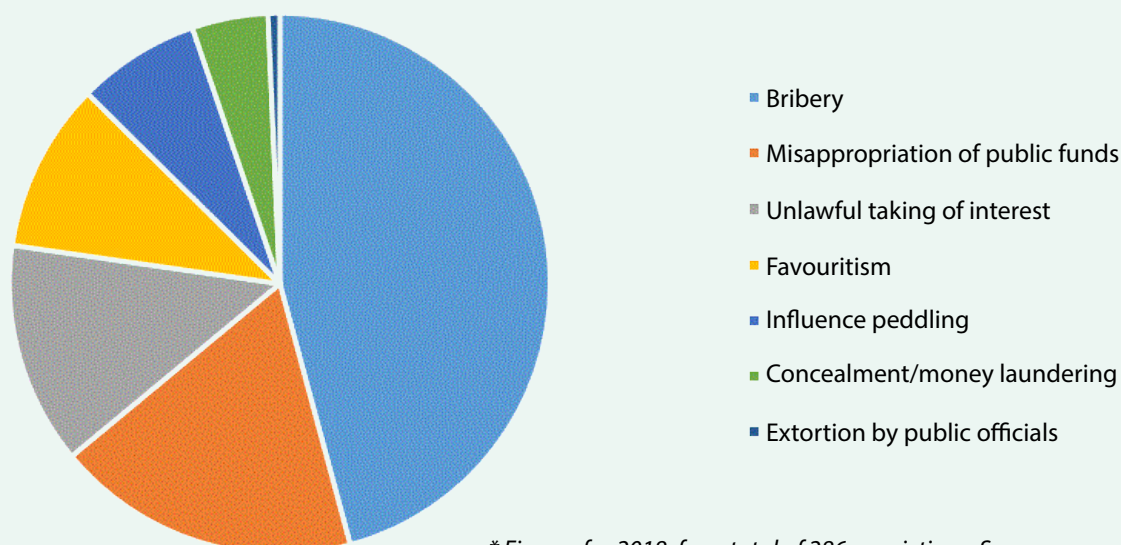
In 2018, the courts handed down 286 definitive convictions in corruption cases, primarily for bribery (45.8%), both active (26.6%) and passive (19.2%), misappropriation of public funds (18.2%) and unlawful taking of interest (38%). There were 344 convictions in 2017 and two legal entities were also convicted.

The acquittal rate is particularly high in such cases at 26.2%, compared to a 7% acquittal rate in all cases. The appeal rate is also high, with 19.5% of convictions going to appeal.

The sentences most commonly handed down for individuals are custodial sentences (72%), for an average prison term of 18.8 months, and fines (40%), for an average amount of €19,265. The courts also ordered 55 confiscations.

*The complete 2018 statistics published by the Directorate for Criminal Affairs and Pardons at the Ministry of Justice can be found on the AFA website: <https://www.agence-francaise-anticorruption.gouv.fr/>*

### Corruption convictions by type of offence\*



*\* Figures for 2018, for a total of 286 convictions, Source: Ministry of Justice – Directorate for Criminal Affairs and Pardons.*

# ANTI-CORRUPTION TRAINING

Expanding training is one of the main priorities of the national multi-year plan to fight corruption. In 2019, initial and continuing education activity resulted in 50 courses given by training institutions, not including online courses.

## AFA's training priorities

In 2019, AFA set priorities for its training mission:

- **disseminate and explain the French anti-corruption guidelines**, enabling stakeholders to take ownership of anti-corruption approaches and tools and apply them within their own organisations;
- **support higher education courses that contribute to the development of anti-corruption compliance as a professional career**;

In 2019, AFA hosted students from the masters programme at Cergy-Pontoise and addressed masters students and students in specialised degree programmes (University of Paris Dauphine and Assas, Sciences Po Paris, Strasbourg and Aix-en-Provence). AFA's training will teach (future) compliance officers about France's new anti-corruption guidelines and make them aware of AFA's expectations regarding deployment of the 8 points from the Act of 9 December 2016.

- **training different stakeholders to detect corruption and identify risks in their business and missions so that they act accordingly**;
- **contributing to better understanding of corruption offences and more effective detection**.

## AFA coordinates training for lawyers and corporate counsels

The deployment of anti-corruption compliance in businesses requires thorough training for the professionals responsible for implementation.

AFA designed and deployed several training modules on the main anti-corruption tools, working in partnership with the Bar School (EFB) and the Cercle Montesquieu, which is the federation of corporate legal officers.

The originality of this training lies in bringing together the company legal officers or compliance officers who are responsible for deploying anti-corruption programmes and the lawyers who will be advising them.

Two courses were held in 2019 with a total of 189 participants.

The 24 teaching hours were given over six half-day sessions. The different modules were generally presented by a trio made up of an AFA representative, a lawyer and a legal officer. This arrangement makes it possible to present AFA's recommendations and expectations, along with the lessons lawyers and legal officers have learned from deploying anti-corruption systems.



*Graduation ceremony for the 2019 EFB – AFA course*

# ANTI-CORRUPTION TRAINING



## SPOTLIGHT ON: TRAINING FOR GOVERNMENT STAKEHOLDERS

In 2019 AFA enhanced and diversified its cooperation with civil service training institutes.

### A very active partnership with the National Centre for Local Civil Service

The National Centre for Local Civil Service (CNFPT) partnered with AFA for some of its training courses for compliance officers and local legal officers.

In addition, three new sessions of the AFA-CNFP online course on *“Preventing bribery, favouritism and misappropriation of public funds in local government”* were held in 2019 with 7,000 registered participants. Since the first session in September 2018, more than 16,000 participants have taken the course. It provides access to some fifty teaching aids (videos, interviews, filmed classes, topical bibliographies) that participants are free to re-use.

### Ongoing developments with other schools in the Civil Service Schools Network

In 2019, AFA sought closer collaboration with the Civil Service Schools Network (RESP) to boost dissemination of anti-corruption culture to government employees through their initial and continuing training.

Three presentations were made at the Institute for Advanced Education and Training Studies (IH2EF) as part of the training for school inspectors and managers.

In addition, AFA took part once again in 2019 in training for police lieutenants at the Cannes-Écluse campus of the National Police School (ENSP).

Work with the Public Management and Economic Development Institute (IGPDE) made it possible to offer anti-corruption presentations to ministry employees.

AFA participated in two sessions of the National Public Administration School’s programme on *“Fighting corruption”* attended by some forty foreign civil servants.

AFA also continued its close collaboration with the National School for the Judiciary (ENM). It coordinated a training session on *“Detecting, preventing and fighting national and international corruption”* for forty foreign judges. AFA participated in four training sessions organised by ENM for judges undergoing continuing training, and presidents and judges of commercial courts. In addition, two judge’s assistants and nine judges undergoing continuing training completed internships at AFA in 2019.

### A new partnership for AFA with the Institute for Advanced National Defence Studies

In 2019, AFA signed a partnership agreement with the Institute for Advanced National Defence studies (IHEDN) resulting in the organisation and presentation of anti-corruption training modules for auditors of the *“Economic and strategic intelligence”* and *“Ethics and compliance”* courses.

The training activities address French and foreign civilians and military personnel. AFA raised their awareness of the French anti-corruption guidelines and of the issues involved in fighting corruption at the international level, particularly with regard to protecting France’s interests and economic potential.

### Training for elected officials with the French Mayors Association

The French Mayors Association (AMF) commissioned AFA to provide a day-long training course that is included in its 2019 catalogue of courses for elected municipal officials. The course discusses the various risk areas in local government and measures to detect and prevent corruption.

# DISSEMINATING ANTI-CORRUPTION GUIDELINES AND RAISING AWARENESS OF CORRUPTION RISKS IN GOVERNMENT

## AFA raises government entities' awareness of the different aspects of corruption risk in government.

Sometimes, government entities restrict their risk analysis exclusively to activities involving financial flows. AFA's action is aimed at encouraging them to look at all of their activities and decision-making processes, such as public procurement, hiring, granting subsidies and support payments to individuals, granting permits, titles or diplomas).

## Developing dedicated teaching tools for government entities

### Tools to further knowledge of corruption offences

In 2019, AFA posted an online **quiz** testing knowledge of government corruption. The quiz was based on criminal court proceedings and recorded more than 5,000 hits.

The AFA site also features a **simplified teaching presentation** that illustrates each of the six corruption offences.

### An AFA-DAE guide on managing corruption risk in public procurement

In 2019, the Directorate for Central Government Procurement (DEA) and AFA hosted a working group for central government, local government and hospital procurement officers. The working group drafted a guide setting out AFA's recommendations for the public procurement process that was published in 2020.

## In-person awareness-raising for government entities

AFA gave 36 presentations in 2019 on corruption risks for central government entities, local governments, associations of elected officials, networks of associations and foundations.

## Building on stakeholder networks

AFA continued its collaboration with networking organisations, such as Régions de France, Don en confiance and France générosités.

By building on these networks of stakeholders that are used to working together, AFA is able to reach a wider audience with its advice and recommendations.

## Reaching various functions within ministries

In 2019, AFA was often called on by ministries to raise the awareness of staff in various functions: internal control, internal fiscal and accounting control, procurement, supervision and compliance.

Internal auditors from central government departments are key players in the dissemination of anti-corruption guidelines. AFA turned to the Central Government Internal Audit Harmonisation Committee (CHAIE) to facilitate ownership of the guidelines. AFA and CHAIE signed a partnership agreement aimed at enhancing management of corruption risks within central government departments on 2 July 2019 with the aim of ensuring collaboration in the long term.



*Meeting between AFA and the Central Government Internal Audit Harmonisation Committee (CHAIE)*



## Advising local government entities

In 2019, two major urban areas asked AFA to take part in their internal initiatives to prevent corruption: managers conference, workshops with the management committee, meeting with the compliance officer for elected officials, awareness-raising for members of general management.

## Six days to anticipate and manage local government corruption risk

AFA and the National Centre for Local Civil Service presented six current events days devoted to preventing local government corruption in 2019, after finding that local governments are still largely unfamiliar with the tools for preventing and detecting corruption.

These events were held in Bordeaux, Vannes, Aix-en-Provence, Lille, Nancy and Paris and attended by 270 local government civil servants.

Each morning, AFA presented speakers (Whistleblower Protection Advocate, local government auditors, a lawyer or legal expert, a compliance officer from a local government or a *département* management centre). Each afternoon, AFA presented workshops on corruption offences, prevention tools, including risk mapping and codes of conduct.

Supporting government entities at their request

In 2019, AFA provided support for a major city, a *département* council, community of municipalities, two ministries, a museum, a sports federation, and two public industrial and commercial establishments.

This support generally provides the stakeholders concerned with a preliminary map of corruption risks and a code of conduct, and enables them to develop awareness-raising and training actions for their staff and management. Sometimes, these bodies invite AFA to present corruption offences and the Agency's missions to their employees or elected officials. In 2019, AFA's Charter for Supporting Government Entities established an official framework for this customised support.

In 2019, AFA also answered 33 written enquiries from government entities, which primarily concerned local government.



## Current events day in Paris on 24 September 2019

# DISSEMINATING ANTI-CORRUPTION GUIDELINES AND RAISING AWARENESS OF CORRUPTION RISKS IN GOVERNMENT

## SPOTLIGHT ON: SUPPORT FOR TWO MINISTRIES

The Ministry for Primary and Secondary Education, Youth Affairs and Sport, combined with the Ministry for Higher Education, Research and Innovation (MENJ-MESRI) and the Ministry for the Armed Forces sought AFA's support for the deployment of their anti-corruption plans.

For this purpose, AFA made presentations and held awareness-raising sessions about anti-corruption requirements. Its action was part of the initial training for new employees. AFA also provided methodological advice and expert analysis.

A participative approach was used for the **Education Ministries** to identify the corruption risks in each "universe": primary, middle and secondary schools, higher education agencies, research agencies, central administration, devolved departments, etc. Workshops for each "universe" identified activities where risks are the greatest. These activities will be the priorities for the deployment of the ministries' anti-corruption plans.

As part of this action, AFA reached out to the key professional networks in the education ministries for the deployment of anti-corruption requirements: internal controllers, agencies' internal audit functions, public procurement officials.

At the same time, the **Ministry for the Armed Forces** started work on risk mapping and drafting an anti-corruption code of conduct. A Military Reservist Charter was disseminated. In addition, communication about the

Ministry's compliance and anti-corruption commitments was designed for both Ministry employees and the general public.

In 2019, AFA organised a meeting between these ministries to promote sharing of experiences among government stakeholders. The meeting focused on the methodologies used to deploy their anti-corruption plans or on their main risk areas.

### COMPLIANCE AT THE MINISTRY FOR THE ARMED FORCES



Source: Ministry for the Armed Forces website



# HELPING BUSINESSES TAKE OWNERSHIP OF THE FRENCH ANTI-CORRUPTION GUIDELINES

AFA supports all companies in the deployment of anti-corruption measures so that they can protect their business performances.

## Making anti-corruption guidelines available to businesses

In December 2019, AFA published a practical guide to organising a corporate compliance function.

It also submitted two guides for public consultation. The first on anti-corruption due diligence for mergers and acquisitions and the second on corporate policies on gifts and invitations.

## Facilitating ownership of anti-corruption guidelines

AFA initiated a number of actions to facilitate the private sector's ownership of anti-corruption issues and the relevant guidelines.

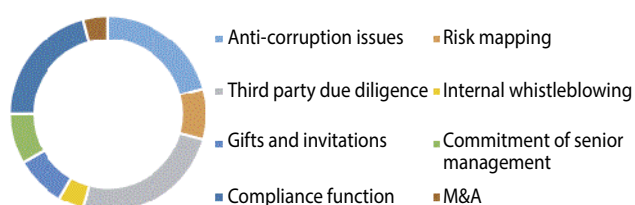
### Technical workshops

In 2019, AFA reached out to companies by organising joint action with general and industry-specific trade federations.

The workshops aimed to raise the participants' awareness of some or all of the anti-corruption guidelines, to identify any problems that companies encounter and to adapt AFA's advice to specific business sectors represented at the workshops.

This action resulted in 21 technical workshops either in person or online.

Topics of the 2019 workshops with general and industry-specific trade federations



### External actions

AFA also made presentations at 32 private-sector events (conferences, seminars, etc.) to raise companies' awareness of anti-corruption issues and train them on the anti-corruption guidelines.



Compliance conference in partnership with Infolegal

### Customised support

AFA provided support for 7 companies on the implementation methodology for some or all of their anti-corruption measures and answered 76 enquiries from private-sector entities.

### Commitment of senior management

AFA made presentations on corporate leaders' commitment in 2019 that were aimed at raising awareness of senior management's key role in deploying anti-corruption measures in a company.

AFA made presentations to the boards of several trade federations. Workshops and webinars were hosted with the French Directors Institute (IFA), the National Managers Federation (FNDCS) and the Young Managers Centre (CJD).

AFA also took part in events organised within companies and attended by managers to explain its expectations, particularly in terms of governance of anti-corruption compliance.

# HELPING BUSINESSES TAKE OWNERSHIP OF THE FRENCH ANTI-CORRUPTION GUIDELINES



## SPOTLIGHT ON: SUPPORT FOR SMES AND ETIS

Small and medium-sized enterprises (SMEs) and intermediate-sized enterprises (ETIs) that are not subject to the terms of Article 17 of the Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016 are not required to establish measures and procedures for preventing and detecting bribery and influence peddling.

However, there are many advantages to adopting an anti-corruption system (see table below).

Regardless of its size, a company's anti-corruption measures must be **proportionate to the risks incurred**. The measures rely on a **strong commitment from senior management to business integrity** and **proper management of all of the corruption risks** that the company may incur because of its activity, its location, its dealings with third parties, etc.

AFA is aware that SMEs and ETIs sometimes lack the human and financial resources, as well

as the expertise, to implement effective anti-corruption measures. Therefore, AFA developed special actions for such entities in 2019.

For example, AFA:

- met with general trade federations representing SMEs and ETIs (METI, CGPME, U2P) and worked with them to design joint actions to be carried out with AFA;
- drafted a flyer for SMEs and ETIs on anti-corruption issues and sent it to many trade federations, some of which passed it on to their members;
- started work on drafting a practical anti-corruption guide for SMEs and ETIs;
- took part in regional meetings to reach more companies (Caen and Rennes in 2019);
- organised and hosted a workshop at the OECD jointly with the World Bank on 2 October 2019, on the theme of "Trust and Anti-Corruption: How to Strengthen Compliance in SMEs?".

## Business benefits of deploying anti-corruption measures

THE FACTS		ADVANTAGES OF ANTI-CORRUPTION MEASURES
The <b>penalties</b> for corruption offences and their impact are the <b>same</b> , no matter how big or small a company is		Preventing corruption offences by employees and protecting the company's reputation and business
The anti-corruption systems that large corporations must implement include a <b>third-party due diligence section</b> that requires them to investigate their partners and assess their integrity		Gaining a favourable position with major accounts or suppliers with a business advantage over companies that do not have anti-corruption measures
<b>Financing</b> providers (banks and capital investors) increasingly rely on anti-corruption compliance criteria when selecting customers or investments		Meeting the compliance requirements that are increasingly necessary to obtain financing
Companies with an international presence may be accused of corruption by a <b>foreign authority</b> (United States, United Kingdom)		An effective system for fighting corruption helps decrease the amounts of fines under deferred prosecution agreements

AFA's international cooperation actions contribute to the implementation of international agreements to which France is a party. These agreements include the United Nations Convention against Corruption, which promotes extensive technical assistance, particularly for developing countries. AFA's actions also contribute to raising the international profile of France's anti-corruption system.

## Technical cooperation

### Government Inspectorate of Vietnam

In 2019, relations between AFA and the Government Inspectorate of Vietnam were enhanced in line with their continuing cooperation under the terms of a memorandum of understanding between the two institutions signed in January 2018.

- an AFA representative travelled to Vietnam to provide training on audits and corruption risk mapping;
- in September 2019, AFA coordinated a study visit for a high-level delegation, in collaboration with the Inspectorate General of Administration (IGA), the High Authority for Transparency in Public Life (HATVP) and the city of Paris.

### Central Asian Anti-Corruption Authorities

In December 2019, AFA's expertise was called on to provide training in Kazakhstan jointly with the National School for the Judiciary (ENM). The event was attended by anti-corruption authorities, judicial authorities and administrations from four countries in Central Asia: Kazakhstan, Uzbekistan, Kyrgyzstan and Turkmenistan. The training focused on corruption prevention mechanisms, corruption offences, international cooperation, and protection for whistleblowers.

### Serbian Anti-Corruption Agency

In 2019, AFA continued its collaboration with its Serbian partners on corruption prevention mechanisms in local government. This collaboration included two meetings held in

Serbia. AFA hosted a study visit by a Serbian delegation in November 2019. In addition to AFA, the delegation met with the National Commission for Campaign Accounts and Political Financing, the High Authority for Transparency in Public Life, the French Supreme Audit Institution, and Transparency International France.

## Hosting foreign delegations

In 2019, AFA accepted **43 requests for visits and technical meetings from foreign delegations** (Austria, Canada, China, Dominican Republic, Egypt, Guinea, Haiti, Italy, Kazakhstan, Kuwait, Lithuania, Mexico, Moldavia, Monaco, Mozambique, North Macedonia, Palestine, Romania, Serbia, Slovakia, South Korea, Spain, United States and Vietnam).

For example, in 2019, AFA hosted four delegations from Romania composed of auditors from the Government General Secretariat, the Ministry of Justice and the National Integrity Agency. These visits were part of European projects aimed at strengthening the corruption prevention capacities of the Romanian authorities.

In January 2019, AFA also participated in the conference organised by the United Nations Development Programme on "Integrity for Development". In July, AFA made a presentation for a seminar in Lebanon organised by the OECD on anti-corruption and business integrity.



*Seminar "French and Mexican Perspectives on Ethics and Transparency for the Public Interest," Mexico, June 2019*



## SPOTLIGHT ON: OPERATIONAL COOPERATION ON TRANSNATIONAL CORRUPTION

Promoting international coordination in transnational corruption cases

Four key events in 2019 illustrate AFA's enhanced action in favour of coordinated resolutions of transnational corruption cases<sup>1</sup>:

- presentation in March 2019 by AFA and the UK's Serious Fraud Office to a roundtable on negotiating settlements for international corruption cases hosted by the International Bar Association;
- intervention de l'AFA dans une conférence à l'Université de New York avec le Département de la Justice des États-Unis sur les résolutions coordonnées des affaires de corruption transnationale en avril 2019 ;
- presentation by AFA to a conference at the University of New York with the US Department of Justice on coordinated resolutions of foreign bribery cases in April 2019;
- publication of the English version of the guidelines from the National Financial Prosecutor's Office and AFA on implementation of deferred prosecution agreements in September 2019;
- AFA participated in a special event organised by the United States on the occasion of the Conference of the States Parties to the United Nations Convention against Corruption (CoSP) in December 2019.

Expanding operational cooperation with foreign anti-corruption authorities

In 2019, AFA continued to share information and best practices with its foreign counterparts.

Three memoranda of understanding on cooperation were signed with:

- the **Anti-Corruption Authority of Kuwait**, which is France's fourth largest trading partner in the Arabian Peninsula;
- the **Egyptian Administrative Control Authority**;
- the **Office of the Comptroller General of Brazil**, which is France's leading trading partner in Latin America and the top destination for French investment in emerging countries.

<sup>1</sup> Article 4.3 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.



### Enhanced partnerships with multilateral development banks

In 2019, AFA stepped up its **cooperation with the World Bank**. This took the form of two meetings at AFA in March and September 2019, followed by the joint hosting of a workshop on anti-corruption compliance for SMEs and ETIs as part of the OECD's "Trust in Business" Forum in October 2019.

In June 2019, AFA signed a **memorandum of understanding on cooperation with the Inter-American Development Bank**, which is the leading source of development financing for Latin America and the Caribbean. It finances projects by many French companies and groups.



*At the CoSP 8 in Abu Dhabi with Wagner Rosario, Minister Comptroller General of Brazil, and Italian and Moroccan partners of the NCPA*



# ENHANCING ADMINISTRATIVE COORDINATION THROUGH INTERNATIONAL ORGANISATIONS

AFA acts within its remit to help define the position of the relevant French authorities in international organisations.

## Major international events

AFA is very involved in international activities related to the fight against corruption. It took part in many events, with 61 presentations in all. In particular, the AFA made contributions to:

- the OECD Integrity Forum in March 2019;
- a special event on fighting corruption that was organised as part of the French Presidency of the Council of Europe in June 2019;
- the preparations for France's participation in the Special Session of the United Nations General Assembly Against Corruption in 2021.

## 20<sup>th</sup> anniversary of the Group of States Against Corruption (GRECO)

On 17 June 2019, a High-Level Conference marking the 20<sup>th</sup> anniversary of the Group of States against Corruption (GRECO) was held in Strasbourg under the auspices of the French Presidency of the Committee of Ministers of the Council of Europe. Nicole Belloubet, France's Minister of Justice, opened the conference, which provided an opportunity to review the work accomplished by GRECO and to outline future actions.

AFA used its presentation to stress the need to expand international cooperation between anti-corruption authorities in order to find a satisfactory response to transnational corruption cases and to prevent derailment of the fight against corruption.

AFA gave an account of the efforts made for this purpose. This included a presentation of the activities of the Network of Corruption Prevention Authorities, which was inaugurated by AFA and its foreign partners in Šibenik, Croatia in October 2018.

## Following up the ongoing activities of the working groups

AFA regularly attends several working groups within international organisations: OECD, GRECO, IPACS, G20, UNODC, EPAC/EACN (network of national contact points against corruption from Council of Europe and European Union Member States).

## Taking part in international evaluations

**AFA also contributes to highlighting the progress France is making in the fight against corruption and to monitoring international recommendations.**

In 2019, AFA was involved in:

- the evaluation of France in GRECO's Fifth Evaluation Round on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies;
- the evaluation of France in the second review cycle under the terms of the United Nations Convention Against Corruption ;
- preparations for France's Phase 4 evaluation under the terms of the OECD Anti-Bribery Convention.



*Speaking alongside the High Authority for Transparency in Public Life in the Working Group on Prevention of Corruption at the United Nations Office on Drugs and Crime (UNODC)*

# ENHANCING ADMINISTRATIVE COORDINATION THROUGH INTERNATIONAL ORGANISATIONS



## SPOTLIGHT ON: CONSOLIDATING THE INTERNATIONAL NETWORK OF CORRUPTION PREVENTION AUTHORITIES

### A strong start for the Network of Corruption Prevention Authorities (NCPA)

The Network of Corruption Prevention Authorities was inaugurated in Šibenik, Croatia in October 2018. Its aim is to provide authorities specialised in preventing corruption with a forum for discussion of operational issues of common interest.

The NCPA has been very active, continuing its expansion in 2019. Its first full year saw new members join the Network: Jordan, Morocco, Tunisia, North Macedonia, Quebec, Brazil and the Palestinian Authority.

The NCPA is reputed for its energetic action and now has 24 members.

### AFA's actions

#### In 2019, AFA initiated many actions to stimulate and expand the NCPA:

- participating in working meetings in Strasbourg (March, June and December 2019) and the Annual Conference in Tunis in October 2019;
- contributing to the projects of other members of NCPA (guide on codes of conduct, drafted by Italy, and a survey investigating the link between corruption perceptions and prevention conducted by Serbia);
- overseeing and implementing projects such as the global mapping of anti-corruption authorities and a study on facilitation payments (see box);
- developing academic partnerships, including collaboration with LUISS University and Italy's National Anti-Corruption Agency (ANAC) in the organisation a seminar in Rome in July 2019;
- AFA's election to the presidency of the NCPA for 2020;
- promoting the NCPA at a special event organised with Italy in December 2019 on the occasion of the Conference of the States

Parties to the United Nations Convention against Corruption.

### Global mapping of anti-corruption authorities

On 7 June 2019, AFA, in partnership with GRECO, the OECD and NCPA, initiated a global mapping of national authorities responsible for preventing and fighting corruption.

An online survey was sent to all of the anti-corruption agencies and authorities that have been identified across the world. The survey was composed of questions specifically focused on the missions and prerogatives of each of these entities. Its goal is to obtain a global picture of the various systems implemented at the international level.

In December 2019, the preliminary results of the survey, based on contributions from 171 national anti-corruption authorities in 114 countries and territories, were presented at a special event hosted by AFA at the Conference of the States Parties to the United Nations Convention against Corruption (CoSP).



*Presentation of the global mapping of anti-corruption authorities at the CoSP8 in Abu Dhabi*



In 2019, AFA's audit activities concerning business entities and government entities were consolidated.

## Audits carried out on AFA's own initiative

"Initiative audits" may concern the entire anti-corruption system of the audited entities ("contrôles globaux"), certain components of the system ("thematic audits") or implementation of recommendations made after an earlier initiative audit ("follow-up audits"), in cases where the Director of AFA may have issued a warning.

### Audits of business entities

In 2019, 20 initiative audits were undertaken, including:

3

comprehensive audits  
of CAC 40 companies;

12

thematic audits  
of the leading companies in a business sector that is highly exposed to corruption risks;

5

follow-up audits  
of entities audited in 2017 and 2018.

The 20 audits concerned business entities with turnover ranging from €102 million to €58 billion and workforces ranging from 1,500 to 211,000 employees. On the audit start date, they had between 1 and 505 subsidiaries, with an average of 56% being foreign subsidiaries.

Fifteen of them do business in territories that are highly exposed to corruption risks and two of them were the subject of whistleblowing reports deemed to be credible.

### Audits of government entities

In 2019, 16 initiative audits were undertaken, including:

11

comprehensive audits

1 central government directorate, 2 major entities involved in the 2024 Olympics, 1 sports federation, 1 public establishment, 1 overseas local government, 2 regions, 2 departments, 1 public housing board;

5

follow-up audits.

The 16 audits focused on government and non-profit entities with budgets ranging from €69 million to €10.7 billion. The breakdown of these entities by budget size is as follows: six have a budget in excess of €1 billion, seven have a budget between €100 million and €1 billion, and two have a budget of less than €100 million. The workforces of these entities ranged from 70 to more than 10,000 employees. Six of the entities had headquarters outside of the Paris region.

### Handling whistleblowing reports submitted to AFA

Messages from individuals, which are most often sent to AFA by email, may report situations involving government or business entities.

Such reports may merit a specific response from the Director of AFA or they may be passed on to another department or external authority (public prosecutor, prefect, government departments, etc.).

In 2019, AFA processed 229 reports. Two of these reports contributed to the AFA Director's decision to start audits to determine the existence, quality and effectiveness of anti-corruption systems. One audit was based on Article 3.3 of Act 2016-1691 of 9 December 2016, and the other was based on Article 17 of the same Act.

## Enhancing audit information

AFA's new website provided an opportunity for substantial enhancement of the resources made available to the public. The website now features:

- the revised questionnaire, in French and in English, for entities subject to compliance with Article 17 of the Act of 9 December 2016;
- fact-sheets describing the follow-up of warnings issued by the Director of AFA, the sanctions liable to be handed down by the sanctions committee and monitoring of the sanctions, along with audits of the execution of judicial measures;

## Charter of Audit Rights and Obligations

This Charter has replaced the Charter of Audit Rights and Obligations for the Information of Business Entities, published in October 2017, and the Charter of Audit Rights and Obligations for the information of government entities and recognised public interest non-profits, published in April 2018.

The Charter sets out the scope of audits and describes the potential procedures for organising audits.

It presents the rights and obligations of the parties and defines the principles of good conduct followed by AFA auditors along with the behaviour expected of persons solicited for auditing purposes.

Ultimately, the Charter defines the procedures for the dialogue between the auditors and the audited entities throughout the audit process (particularly for the preliminary interviews).

The Charter can be viewed on the AFA website:

[https://www.agence-francaise-anticorruption.gouv.fr/files/files/charte\\_droits\\_devoirs\\_unique%20controles.pdf](https://www.agence-francaise-anticorruption.gouv.fr/files/files/charte_droits_devoirs_unique%20controles.pdf)

- guides that present deferred prosecution agreements (DPAs) and court-ordered compliance remediation programmes (PPMC);
- Charter of Audit Rights and Obligations.

## The first ruling of the sanctions committee

In 2019, two cases were referred to the AFA sanctions committee, which made its first ruling on 4 July 2019 concerning one of the cases.

The sanctions committee ruled that the breaches of Article 17 of the Act of 9 December 2016 noted in the audit report were no longer constituted as of the hearing date, following a long process of improvements and adjustments to the corruption risk map. The sanctions committee has full jurisdiction to assess the existence of non-compliance at the time of the hearing.

This first ruling testifies to the impact that AFA audits have. The auditors' recommendations enabled the company to improve its anti-corruption system and remedy the non-compliance.

The committee also stated that the recommendations published in the Journal Officiel in December 2017 were not binding, but it urged the companies to comply with them.

Furthermore, this ruling underpinned AFA's practices in several ways:

- AFA's audits must be more than mere formalities; they must be used to evaluate the actual effectiveness of the audited entities' anti-corruption systems;
- AFA can require the production of any document helpful for the audit;
- the AFA Director's presence at the commission's public hearings does not affect either the independence or impartiality of the commission.

# LESSONS LEARNED FROM AFA'S AUDITS

**We learned more lessons about the quality of anti-corruption systems and the impact of AFA's audits in 2019.**

## Business entities

Even though the entities audited are at different stages of maturity in the anti-corruption compliance process, there are three general lessons to be learned:

- the commitment of senior management is strengthening, but still falls short in many cases;
- some components of the anti-corruption system seem to be easier to implement, such as the code of conduct, training and whistleblowing, whereas others, such as corruption risk-mapping or third-party due diligence, still suffer too often from haphazard methodology, even though they are decisive elements of a robust anti-corruption system;
- cases of non-compliance involving the lack of a measure or procedure are diminishing; the cases found now are more likely to involve measures or procedures that have not been brought into compliance or that have not been deployed.

**It was also possible to measure the impact of warnings issued by the Director of AFA in 2019.**

The two follow-up audits completed in 2019 showed that the audited entities endeavoured to implement AFA's recommendations, remedying all of the non-compliance found by the date of the follow-up audit.

## Government entities

The audits conducted in 2019 show that government entities have made little progress with regard to preventing and detecting corruption.

Corruption prevention and detection measures and procedures are scarce, incomplete and do not use a risk-based approach. In local governments, anti-corruption systems rarely cover both elected officials and staff.

Compliance with statutory ethical requirements is patchy, especially with regard to preventing conflicts of interest. And yet, it is in the interest of these entities to spell out the procedures for fulfilling these requirements and supplementing them with internal rules when necessary.

Risk management culture is underdeveloped beyond the statutory requirements:

- risk-mapping is rarely used, except for European funds and in fiscal and accounting internal control;
- very few government entities have a code of conduct;
- internal control and/or audit functions are underdeveloped;
- if there is action to fight fraud, it sometimes overlooks the risk of fraud with internal accomplices.

Any best practices should be more widely promoted and shared. This falls within the responsibility of the supervisory bodies of government agencies and public healthcare institutions.

# COOPERATION WITH ADMINISTRATIVE AND JUDICIAL AUTHORITIES

## Cooperation with independent administrative authorities

Work with the **Competition Authority** and the **Financial Markets Authority** in 2019 led to the drafting of memoranda of understanding for the purpose of defining procedures for sharing information and expertise in order to intensify the fight against corruption, market abuse and anti-competitive practices.

### Cooperation agreement between AFA and the High Authority for Transparency in Public Life (HATVP)

AFA and the **High Authority for Transparency in Public Life (HATVP)** signed a cooperation agreement on 26 November 2019.

It officialises the existing cooperation and promotes coordination between the two bodies, particularly with regard to preventing and detecting unlawful taking of interest. It also defines the procedures by which the President of the High Authority can request that AFA conduct an audit.



**Haute Autorité  
pour la transparence  
de la vie publique**

## Cooperation with control and inspection departments

AFA signed a preliminary cooperation agreement with the General Economic and Financial Audit Department in 2018.

In 2019, AFA signed a comparable agreement with the Inspectorate General of the Administration and with the National Agency for Supervision of Public Housing. The purpose of these agreements is to define the framework for sharing methodology and information that are helpful for the parties' audit and inspection tasks.

### Criminal Investigation and Intelligence Departments

In 2019, AFA signed a preliminary cooperation agreement with the Economic Crime Unit (BRDE) at the Paris Prefecture of Police.

Drafts of other agreements have been finalised with:

- The National Criminal Investigation Directorate (DCPJ), where AFA's main contact will be the Central Office for the Fight against Corruption and Financial and Tax Crime (OCLCIFF);
- the Directorate General of the National Gendarmerie;
- the Financial Intelligence Unit (TRACFIN);
- the Directorate General of Customs and Excise, where AFA's main contact will be the National Customs Intelligence and Investigations Directorate (DNRED).

# COOPERATION WITH ADMINISTRATIVE AND JUDICIAL AUTHORITIES

## Financial jurisdictions

In 2019, AFA and the financial courts engaged in fruitful discussions to enhance coordination of their respective audits.

In March 2019, the General Prosecutor of the Government Audit Office issued a recommendation to financial prosecutors setting out the procedures for sharing information between AFA and the Regional Government Audit Offices (CRC), including the possibility of AFA's holding operational meetings with financial prosecutors.

Several audits have already given rise to talks between AFA auditors and auditors from the financial jurisdictions.

All audit reports on government entities are submitted to the Government Audit Office.

## Prosecutorial authorities

The agreements AFA signed with the National Financial Public Prosecutor's Office and the Public Prosecutor's Offices in Paris, Nanterre and Bastia in 2018 gave rise to information sharing about corruption patterns and the economic and sector background to certain corruption cases. This information has been helpful for planning and conducting AFA's audits.

Working relationships have also been forged with the Public Prosecutor's Offices in Marseille, Lille, Bordeaux, Strasbourg, Versailles, Bobigny, Amiens, and Basse-Terre.

AFA may respond to court orders to provide technical opinions about corruption offences as part of current proceedings, thereby responding to the judicial authorities' needs for operational support. In 2019, AFA received such orders from two prosecutor's offices and one from a government department that was acting on a court order.

## AFA's reports to judicial authorities

In 2019, acting under the terms of Article 40 of the Code of Criminal Procedure, AFA sent seven reports to the National Financial Public Prosecutor's Office, as well as to the Public Prosecutor's Offices in Paris, Bordeaux, Marseille and Nanterre.

The reports cited possible corruption offences, such as bribery, misappropriation of public funds, favouritism, unlawful taking of interest, and complicity and concealment of such offences, along with tax fraud, criminal bankruptcy with misappropriation of assets, aggravated breach of trust, fraud, handling forged works of art and art forgery.

Four reports concerned government entities that AFA had audited. The three reports concerning business entities had no links to AFA's audits. The cases were deemed serious enough to be referred to the relevant prosecutors and resulted from whistleblowing reports sent to AFA.

In accordance with 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, six reports have given rise to preliminary investigations by specialised investigation departments.

There have been no reported cases of obstruction of AFA audits.

# COOPERATION WITH ADMINISTRATIVE AND JUDICIAL AUTHORITIES



## SPOTLIGHT ON: AUDITS OF THE EXECUTION OF DEFERRED PROSECUTION AGREEMENTS

### Execution audits

“**Execution audits**” are performed on behalf of judicial authorities to ensure that compliance programmes are applied (“**compliance programme audits**”).

These audits may be preceded by a preliminary examination at the request of the judicial authority (“**preliminary examinations for reaching a settlement**”).

In 2019, **AFA conducted two preliminary examinations for potential deferred prosecution agreements (DPAs)** at the request of the National Financial Prosecutor’s Office.

In addition, five execution audit reports on compliance remediation programmes were submitted to the prosecutor’s office. Four were annual reports and one was a final report.

### DPA Guidelines by AFA and the National Financial Prosecutor’s Office

DPAs are an innovative transactional settlement system introduced by the Act of 9 December 2016 and completed by a Decree published on 27 April 2017 and a Circular dated 31 January 2018. Prosecutors first made use of this new tool in November 2017 and eight agreements were concluded between 2017 and 2019.

Yet, these early experiments, feedback from businesses and legal opinion quickly revealed the value of greater predictability regarding doctrine about the use of this tool.

To that end, AFA and the National Financial Prosecutor’s Office (PNF) set up a joint working group that published **joint guidelines** on implementation of deferred prosecution agreements on 26 June 2019.

The guidelines are available online: [https://www.agence-francaise-anticorruption.gouv.fr/files/2019-09/EN\\_Lignes\\_directrices\\_CJIP\\_revAFA%20Final%20%28002%29.pdf](https://www.agence-francaise-anticorruption.gouv.fr/files/2019-09/EN_Lignes_directrices_CJIP_revAFA%20Final%20%28002%29.pdf).

The guidelines present the policies of AFA and PNF regarding the conclusion and implementation of DPAs in their respective areas of competence and within the framework defined by the documents cited above.

They start with the eligibility requirements: sufficient evidence that an offence has been committed, no previous sanctions, implementation of an effective compliance programme, cooperation with the investigation, internal investigations and compensation for plaintiffs.

The guidelines then describe the procedures for calculating the fine, based on the financial gain from the offence, and factors that can increase or decrease the amount of the fine. The guidelines also describe implementation of the compliance programme under the supervision of AFA and the implications of international cooperation. Deferred prosecution agreements make it possible to coordinate settlements negotiated by different prosecutorial authorities, and to implement the blocking statute effectively when the compliance remediation programme is audited by AFA.









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