



**RÉPUBLIQUE
FRANÇAISE**

*Liberté
Égalité
Fraternité*

AFA
Agence Française Anticorruption



**Annual
Report
2020**

Foreword



Judge Charles Duchaine
Director of the French Anti-Corruption Agency

The year 2020 was, above all, the year that saw the launch of the first multi-year plan to fight corruption. The plan was published on 9 January. It testifies to the government's commitment to fight corruption through prevention as well as through prosecution and penalties. The plan led AFA to initiate a joint diagnostic survey involving different ministries for a non-audit assessment of the current state of their corruption prevention systems. This preliminary diagnosis is needed to raise central government players' awareness of the compliance obligations incumbent on them under the terms of Article 3(3) of the 9th December 2016 Act. It sets the benchmark to be used at the end of the plan to measure the progress achieved over three years.

The ministries' participation cannot be limited to this organisational measure. They must each exercise their own powers in a concerted action carried out under the government's oversight and produce a strong operational commitment to sharing, analysing and using information.

Corruption is often invisible, however, action to fight corruption must be spoken about as well as carried out. In other words, it must be done and visibly implemented.

The commitment of senior management, which testifies to this determination to fight corruption in government or in business, is a prerequisite for real and effective action. It gives everyone concerned the strength and the courage to stand up against illegal practices and to denounce them when necessary.

This commitment at the top can disseminate a culture within an entity where corruption is rejected. It is also necessary for raising the awareness required for any successful action.

The French Anti-Corruption Agency will continue to provide support to raise awareness and help these players define and implement their systems. Under the terms of Article 3(1) of the Act, AFA may play its full part in the coordination of their actions to prevent corruption, as well as action to detect it.

The pandemic overshadowed the year for the French Anti-Corruption Agency in 2020, as it did for everyone else. The pandemic led the Agency to review its working methods and to grant some respite for the organisations on the front lines of the crisis, such as health services.

The situation naturally led to a drop in activity, despite the best efforts of the Agency's personnel. I would like to take this opportunity to pay them tribute. Their efforts were backed up by those of the Economy and Finance Ministries' Secretariat General, which quickly produced the IT resources the Agency personnel needed to continue their activity remotely.

It is unlikely that the need for social distancing, which hampered the most necessary human relationships, has been a hindrance for illegal dealings and collusion. On the contrary, emergencies have always led governments to relax their procedures quite legitimately to meet the urgent basic needs of the population or to promote economic recovery, thereby providing even greater opportunities for some to bend the rules.



Corruption is often invisible, however, action to fight corruption must be spoken about as well as carried out. In other words, it must be done and be seen to be done.

The Network of Corruption Prevention Authorities (NCPA) was created in October 2018 to promote information gathering, management and exchanging, as well as sharing of best practices, by anti-corruption authorities. AFA assumed the presidency of the network in 2020. In May 2020, the network, which then had 24 member countries, published a statement on corruption risks during the global pandemic.

Despite the crisis, which abruptly ended the Agency's on-site audits and its hosting of foreign delegations, international activity was still intense and saw the recent publication of the analysis report of the global mapping of anti-corruption authorities. The global mapping project started in 2019 in partnership with the Council of Europe's Group of States against Corruption (GRECO), the OECD and the NCPA. It was based on contributions from 171 national authorities responsible for preventing and fighting corruption in 114 countries and territories.

AFA's participation in the OECD task force set up to propose indicators to the governments that joined the 2017 Recommendation of the Council on Public Integrity and its contribution to the preparations for Phase 4 Evaluations under the OECD Anti-Bribery Convention, also involved a substantial amount of work.

These various activities gave us a measure of the importance of concerted and coordinated action by different institutions. We cannot fight corruption alone.

AFA's advisory activities continued remotely, using audio and video. The year 2020 also saw a revision of the AFA guidelines first published in December 2017. This major undertaking involved public consultations and kept all of the Agency's staff members busy. The guidelines needed to be revised in light of the lessons learned after slightly more than three years of advisory and audit activities.

The audits had to be adapted as well, not just because of the pandemic, but also in line with our desire to adjust our methods to medium-term changes in risks that are more closely connected to the business cycle or different business sectors and that have been less accurately captured by our audits up until now. The adjustments are required in the perspective of the major sporting events and AFA's involvement in them for the auditing of the corruption prevention systems implemented by the enti-

ties responsible for planning, organising and running the events or for reconfiguring the sites.

Four years after the of 9th December 2016 Act came into force, all of its provisions have been implemented with some degree of success in my view, even though the Agency has yet to receive the human resources that it was promised. The shortcomings in the text that AFA pointed out in the early months have become obvious after four years.

The Act, despite its business focus, does not deal with the situation of foreign groups that conduct some of their business in France, which puts French groups at a competitive disadvantage.

Nor does the Act make it possible to force public sector entities to act, even by means of injunctions, or to audit certain structures, such as public interest groupings, local public corporations, associations seeking public donations, or certain government funded foundations or establishments that legal proceedings have shown to be particularly vulnerable to risks of misusing of public funds.

The Act does not confer any right to communicate on AFA, which isolates the Agency in the performance of its duties by preventing interaction with other central government departments.

We are counting on similar findings from the evaluation of the "Sapin 2" Act instituted by the National Assembly's Legislation Commission on 16th December 2020 for the purpose of conducting a comprehensive review of the main achievements of the Act and, if necessary, proposing avenues of improvement.

Judge Charles Duchaine

Director of the French Anti-Corruption Agency

Contents

1. PRESENTATION	7
Tasks and Actions	8
Organisation Chart and Resources	9
Converging career paths: A variety of backgrounds at AFA	10
AFA's governing bodies: The Strategic Council and the Sanctions Committee	11
Cooperation with French authorities	12
National Multi-Year Plan to Fight Corruption	13
Spotlight on: Supporting the deployment of anti-corruption systems in all ministries	14
Spotlight on: National diagnostic survey on the maturity of businesses' anti-corruption systems	15
Corruption statistics in France	16
Corruption maps	17
2. AUDITS	19
Key figures	20
Management of reports received and issued by AFA	22
Audits of business entities	23
Audits of public sector entities	25
Spotlight on: The 2024 Paris Olympic Games: AFA and risk prevention	26
Audits of compliance remediation programmes	27
3. ADVICE	29
Guidelines: 2020 update	30
Guides published in 2020	32
Spotlight on: A guide on managing corruption risk in the public procurement cycle	33
Awareness-raising and training actions	34
Spotlight on: AFA and IGPDE anti-corruption awareness-raising and training for central government civil servants	35
In their own words	36
Supporting businesses' ownership of the anti-corruption framework	37
Spotlight on: Awareness-raising for small businesses	38
Supporting public sector entities and business entities for the dissemination of the anti-corruption framework	39
In their own words	40
4. INTERNATIONAL ACTION	41
Multilateral events and institutions	42
Spotlight on implementation of the OECD Recommendation on Public Integrity	42
Network of Corruption Prevention Authorities	43
Spotlight on the Datacros prototype	43
In their own words	44
Bilateral cooperation	45



1. PRESENTATION

Tasks and Actions

The Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9th December 2016, known as the “Sapin 2” Act, created the French Anti-Corruption Agency (AFA).

It is directed by a magistrate who is independent from the judicial hierarchy and appointed by a decree from the President of the Republic for a non-renewable six-year term. The current Director, Charles Duchaine, was appointed on 17th March 2017.

Tasks

AFA has nationwide jurisdiction and is placed under the joint authority of the Minister of Justice and the Minister for the Budget. Its mission is to help private-sector and public-sector entities prevent and detect corruption, such as bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.

Actions

AFA is the key player for policies to prevent corruption. Its audit and advisory activities contribute greatly to the dissemination of a culture of integrity in business and government.

AFA audits the quality and effectiveness of the anti-corruption systems implemented by

government and business entities that meet two thresholds (500 or more employees and revenues greater than €100m). It also audits the execution of court ordered compliance remediation plans under the terms of deferred prosecution agreements (DPAs) or supplementary sentences.

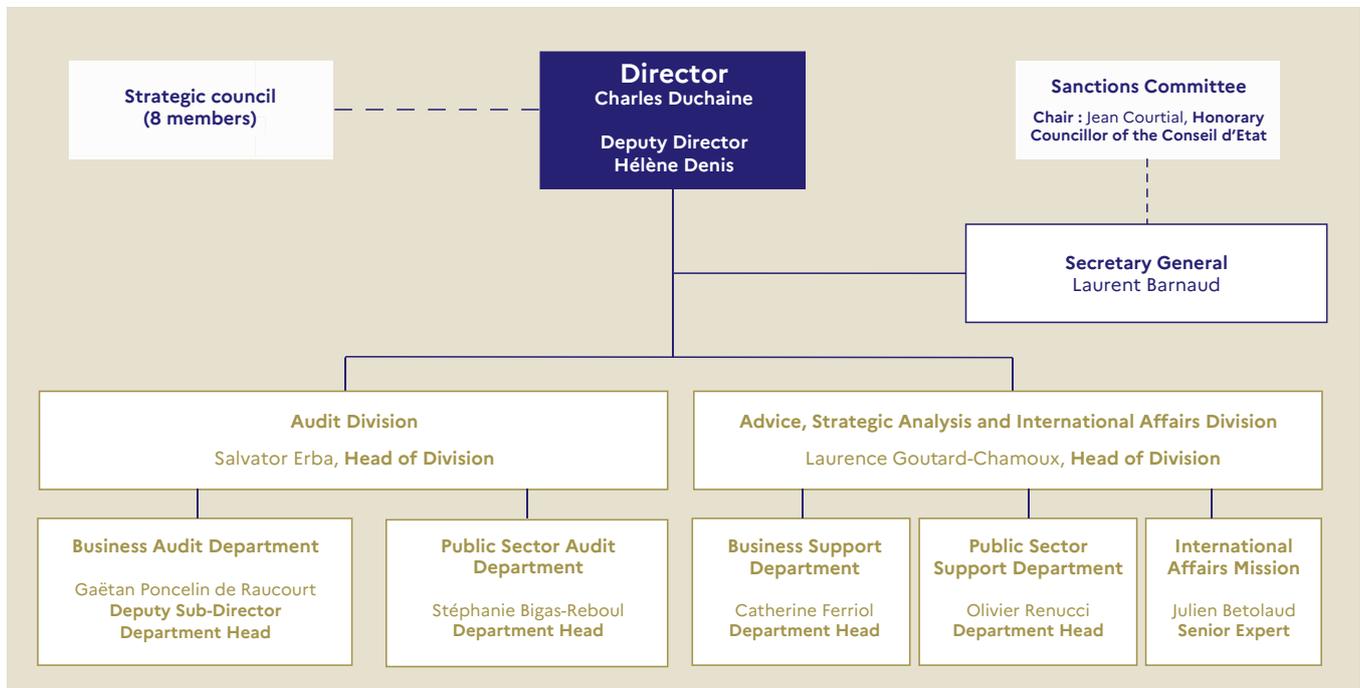
AFA’s advisory tasks consist of updating the anti-corruption framework set out in published guidelines and manuals, of delivering awareness-raising and training for the public, and providing advice and technical support. AFA also performs administrative coordination tasks, centralising and disseminating information that can be used to prevent and detect corruption. For this purpose, AFA acts within its remit to help define the policy positions of the relevant French authorities within international organisations. It also proposes and implements coordination, advisory and technical support actions for foreign authorities.



The information disseminated by AFA can be found on its website:
www.agence-francaise-anticorruption.gouv.fr/fr



Organisation Chart and Resources



Resources

The Agency has a multidisciplinary team to perform its statutory tasks. As of 31st December 2020, the team was made up of 57 members (54 full-time staff members and 3 members seconded from other administrations).

The skills needed to perform a great variety of tasks led AFA to select technical specialists 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, civil servants from interministerial bodies, civil servants from the economic and financial minis-

tries (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.

Converging career paths: A variety of backgrounds at AFA



From left to right: Karine Dejumne, Inspector, Public Sector Audit Department and Claire Andrieux, Deputy to the Head of the Business Support Department.

What are the major milestones for your career?

Karine Dejumne : I am a Divisional Inspector of Public Finance. I have been on secondment for fifteen years now. I have performed different internal audit and control functions (Internal Control Officer and Internal Auditor in a ministerial department) and conducted external audits for several sections of the French Court of Auditors. I came to AFA on 1 September 2020.

Claire Andrieux : I joined AFA in 2018, after a career in the private sector. I performed audit functions at Deloitte and held different positions in management control before becoming sales manager at a subsidiary of Faurecia. Following my experience running a small company with 17 employees, I became a National Analyst for the Business Credit Mediation Office.

What are your reasons for joining AFA?

KD : I joined AFA its action, meaning the fight against corruption. I was particularly interested in being part of a new structure that operates in an area that has become decisive and involves major national and international issues.

And, on a more personal level, I like working in a diverse and open professional environment.

CA : Public service work procures a very satisfying feeling of contributing to the general good, a feeling that I had in my previous job. I wanted to maintain and even strengthen this feeling by working for AFA and contributing to the fight against corruption. My previous experience in the private sector led me naturally to seek work in the Agency's Business Support Department. By working to achieve a good understanding between AFA and businesses, I hope to do my part to facilitate the implementation of corruption prevention and detection systems that protect French businesses.

Which work-related memory from 2020 stands out the most?

KD : I can think of several, not just one. All of them are linked to the pandemic and its impact on the organisation of our work: working from home every day, wearing a mask in a job interview, conducting an audit by video.

CA : Drafting AFA's new guidelines required us to conduct a real exercise in gathering and synthesising operational feedback from all AFA personnel. This led to many occasions for discussion and collaboration with my colleagues responsible for advising public sector entities and with those responsible for conducting the Agency's audits. It was inspiring and stimulating.

AFA's governing bodies: The Strategic Council and the Sanctions Committee

The Strategic Council

TASKS

The Strategic Council, which is chaired by the Director of AFA, meets at least once a year to discuss the Agency's overall strategy and any topics relating to its tasks.

MEMBERS

The Council is made up of the Chair and 8 members appointed for three-year terms that can be renewed once. The members are appointed by the Minister of Justice, the Minister for the Budget, the Minister for Foreign Affairs and the Minister of the Interior .

The members of the Strategic Council are selected on the basis of their financial and legal expertise, as well their experience with fighting corruption.

The meeting that was initially scheduled for 3 December 2020 had to be postponed because of the pandemic.



The Sanctions Committee

TASKS

If an audit reveals a breach, the Director may refer the case to AFA's Sanctions Committee, which may impose one or more of the sanctions mentioned in Article 17(IV) of the Act of 9th December 2016:

- directing the company and its representatives to adapt internal compliance procedures aimed at preventing and detecting bribery or influence peddling,
- imposing fines of up to €200,000 on the individuals implicated or fines of up to €1,000,000 on the legal entities implicated,
- ordering publication, dissemination or posting of the Committee's decision.

MEMBERS

The Committee is made up of 6 members appointed by decree to a five-year term:

- 2 senior members of the Conseil d'Etat appointed by the Vice-President of that body on 31st December 2020: Mr Jean Courtial, who chairs the Committee and Ms Pâquita Morellet-Steiner;
- 2 Justices of the Court of Cassation appointed by the Chief Justice of that Court on 31st December 2020: Ms Dominique Guirimand and Mr Jacques Buisson;
- 2 senior officials of the French Court of Auditors appointed by the Chief Officer of that body on 31st December 2020: Ms Anne Froment-Meurice and Mr Yves Médina.



If an audit reveals a breach, the Director of the AFA may refer the case to the Sanctions Committee

¹ Article 3 of the Decree of 14 March 2017.

Cooperation with French authorities

AFA's action is coordinated with that of institutional actors fighting corruption in France and those who support the fight. Cooperation agreements are used to initiate constructive working partnerships between the Agency and key players in pursuit of the following objectives:

- **Disseminating anti-corruption culture and raising public awareness:**

AFA continued its work with training and management institutions under the terms of such agreements, including the National School for the Judiciary (ENM), the Institute for Advanced National Defence Studies (IHEDN) and the National Centre for Local Civil Service (CNFPT).

- **Sharing best practices:**

AFA signed a cooperation agreement with the French Financial Markets Authority (AMF) in 2020.

The Agency did various work with ministerial audit departments with the implementation of cooperation agreements signed with the Inspectorate General of the Administration (IGA), the General Economic and Financial Supervisor (CGefi) and the Central Government Internal Audit Harmonisation Committee (CHAIE).

- **Sharing information and expertise for targeted advisory and audit actions:**

In 2020, AFA signed a cooperation agreement with the Central Criminal Investigation Directorate, where AFA's main contact is the Central Office for the Fight against Corruption and Financial and Tax Crime (OCLCIFF).

In 2020, AFA was able to expand the information sharing provided for under the terms of the agreements signed in 2018 with the National Financial Public Prosecutor's Office, the Public Prosecutor's Office of the Paris Specialised Inter-regional Court, and the Public Prosecutor's Offices of the Economic and Financial Crime Units in Nanterre and Bastia. Sharing information with prosecutors about audits initiated by AFA in their jurisdictions, facilitates their access to information that may help their investigations, especially when a deferred prosecution agreement is being considered.

In 2020, AFA and the financial courts engaged in fruitful discussions to enhance the coordination of their respective audits. AFA provided presentations of its tasks on several occasions as part of training sessions organised by the French Court of Auditors and some Regional Court of Auditors.

The Agency also attended the meetings of the Steering Council of the Fight against Money Laundering and Terrorist Financing (COLB), which coordinates the actions of the central government departments and audit authorities concerned by this fight².



Agreements to facilitate the sharing of information and expertise



Signature of a cooperation agreement with the Financial Markets Authority, September 2020.

² Article D561-51 – Monetary and Financial Code - Légifrance (legifrance.gouv.fr).

National Multi-Year Plan to Fight Corruption

A FA is tasked with drafting “a national multi-year plan to fight bribery, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism.”

The Minister of Justice and the Minister for the Budget launched the 2020-2022 National Multi-Year Plan to Fight Corruption jointly on 9th January 2020.

The National plan is based on recommendations from international organisations, such as the UNODC³, the OECD⁴ and the Council of Europe⁵, as well as on other countries’ strategies⁶. The Plan sets out France’s long-term action and underscores its commitment in the eyes of the international community.

The Plan is aimed at all public sector players, as well as businesses, to make anti-corruption strategy a boost for our economic performance. The Plan is based on four pillars covering the following eight priorities:

- **Pillar 1:** Optimising data analysis to improve our understanding and detection of corruption;
- **Pillar 2:** Training and awareness-raising for public employees;
- **Pillar 3-1:** Supporting the deployment of anti-corruption programmes in all ministries by 2022;
- **Pillar 3-2:** Support for the deployment of anti-corruption programmes by major local governments and their establishments by 2022;
- **Pillar 3-3:** Promoting mainstreaming of integrity in sports organisations and events;
- **Pillar 3-4:** Supporting businesses in their efforts to take ownership of the French anti-corruption framework and encouraging them to make anti-corruption compliance a means of boosting their competitiveness;
- **Pillar 3-5:** Enhancing corruption penalties;
- **Pillar 4:** Enhancing France’s international action.

The Fight Plan notably includes promotion of integrity in major sporting events. It deals with corruption prevention in the organisation of the two major international sports events that will take place in France: The Rugby World Cup in 2023 and the Paris Olympic and Para-Olympic Games in 2024.



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



The Plan is aimed at all public sector players, as well as businesses, with the goal of making anti-corruption strategy a boost for our economic performance.

³ ONUDC, Stratégies nationales de lutte contre la corruption, Guide pratique d’élaboration et de mise en œuvre, New York, 2016 https://www.unodc.org/documents/corruption/Publications/2016/16_02885_eBook_nd.pdf

⁴ OECD, Recommendation on Public Integrity: <https://www.oecd.org/gov/ethics/recommendation-public-integrity/>

⁵ Council of Europe, Concevoir et mettre en œuvre des politiques de lutte contre la corruption, Manuel, 1ère édition, mars 2013 <https://rm.coe.int/16806d8ad6>

⁶ For example, the UK anticorruption strategy: 2017 to 2022, 2017: <https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022>



Spotlight on Supporting the deployment of anti-corruption systems in all ministries

The National Multi-Year Plan to Fight Corruption includes the following three measures that concern ministries and their public establishments directly:

- Deployment of a corruption prevention and detection programme by the end of the plan period (2022);
- Stepping up anti-corruption awareness-raising and training for public employees;
- Imposing disciplinary sanctions for breaches of probity.

For the purposes of the Plan, AFA is conducting a two-part interministerial survey of progress on the deployment of anti-corruption measures:

- The first part is a “joint diagnostic survey” of the central administrations, devolved departments and departments with responsibilities at the national level within each ministry;
- The second part is an anonymous online questionnaire to be filled out by national agencies at the behest of their line ministries.

This interministerial survey covers four themes:

- The organisation and activities of the ministry or agency;
- Corruption discovered or perpetrated by ministry or agency employees between 2014 and 2018;
- The players and tools for corruption prevention;
- Implementation of the French anti-corruption system.

This approach should provide an interministerial overview of central government administrations’ knowledge of their anti-corruption obligations under the terms of the Sapin 2 Act or other provisions, such as codes of conduct. It should also reveal actual progress on deployment of the measures.

The survey is an opportunity for each ministry and agency to review the maturity of their anti-corruption system, to undertake any further work needed and to take up AFA’s offer of support if they so desire.

The survey is an interministerial steering tool to facilitate the deployment of anti-corruption programmes in central government departments. It also provides an account of France’s efforts on public integrity for major intergovernmental organisations (UN, OECD, Council of Europe’s GRECO).

It supplements the previous surveys on the maturity of anti-corruption systems in local government (2018) and in business (2020).

AFA will not produce a league table of ministries, but it would like to reveal trends in the deployment of the various elements that make up an anti-corruption programme. This work will also enable the Agency to highlight the best practices revealed by the ministries’ responses to the questionnaires.



The survey is a steering tool to facilitate the deployment of anti-corruption programmes in central government departments.



Spotlight on National diagnostic survey on the maturity of businesses' anti-corruption systems

For the Pillar 1 of the National Multi-Year Plan to Fight Corruption, which concerns our knowledge of corruption in France, AFA launched a national survey in February 2020. The survey was conducted with the help of industry federations and covered thousands of companies in all business sectors intending to ascertain the maturity of their systems for preventing and detecting corruption.

The survey findings were published in September 2020 and covered all types of businesses, from small to large. Large businesses subject to the compliance requirements under Article 17 of the Sapin 2 Act made up 46% of the survey respondents, while the other 54% were not subject to these requirements.

The findings show that the vast majority of businesses feel that they have a firm grasp of corruption offences and 22% reported that they had encountered a corruption case in the previous five years.

Another 70% of the businesses surveyed report that they have deployed a system to prevent and detect corruption. However, this system seems to be incomplete since only 46% of the businesses account fully for the risk of corruption. In addition, 47% of businesses do not have a corruption risk map, 61% do not

have a third-party due diligence procedure and 44% do not provide specific training or awareness-raising. The position of the compliance officer needs strengthening as well.

Some business sectors are particularly well represented by the businesses responding to the survey. The representativeness of the survey respondents is a decisive factor for facilitating information-sharing with these sectors.

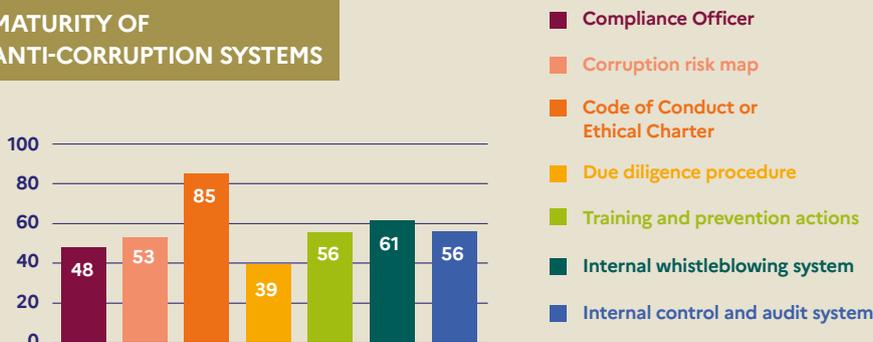
More specifically, many of the small and medium-sized enterprises (SMEs) and intermediate-sized enterprises (ETIs) that are not subject to Article 17 of the Sapin 2 Act feel that they are unlikely to be concerned by corruption. Only half of the respondents in this group had implemented anti-corruption measures, and only a quarter of them had a corruption risk map and a third-party due diligence procedure.

AFA is aware that such businesses may not always have the human and financial resources, or the necessary expertise, to implement effective anti-corruption measures and it will step up its action to support them.



70% of the businesses surveyed reported that they had deployed anti-corruption measures.

MATURITY OF ANTI-CORRUPTION SYSTEMS



Corruption statistics in France

A better understanding of corruption offences through court cases

PROCEEDINGS

In 2019, Public Prosecutors' Offices dealt with 813 corruption offenses, compared to 822 in 2018. These statistics show an increase of 12.6 % compared to 2014. The 813 cases in 2019 involved 1,263 perpetrators, including 242 legal entities.

It turned out that 54.6 % of these perpetrators were not liable to prosecution, mainly for lack of evidence.

Of the 574 perpetrators who were liable to prosecution:

- 44 (8 %) had the proceedings against them discontinued (inconclusive investigations, absence of plaintiff);
- 137 (24 %) benefited from an alternative to prosecution;
- 221 (38 %) had their case referred to an investigating magistrate;
- 172 (30 %) were prosecuted in criminal courts.



In 2019, Public Prosecutor's Offices dealt with 813 corruption cases involving 1,263 perpetrators, including 242 legal entities.

CONVICTIONS

In 2019, 332 corruption offences resulted in individual convictions, mainly for bribery (41 %, 28 % active bribery and 13 % passive bribery), misappropriation of public funds (20.5 %), unlawful taking of interest (15.7 %), favouritism (10.5 %), concealment of offences (8.1 %), influence peddling (3.6 %), extortion by public officials (0.6 %). Nine legal entities were convicted of corruption offences.

The acquittal rate is particularly high in such cases: 21.3 %, compared to a 7.4 % acquittal rate in all cases. The appeal rate is also high, with 31.4 % of convictions going to appeal.

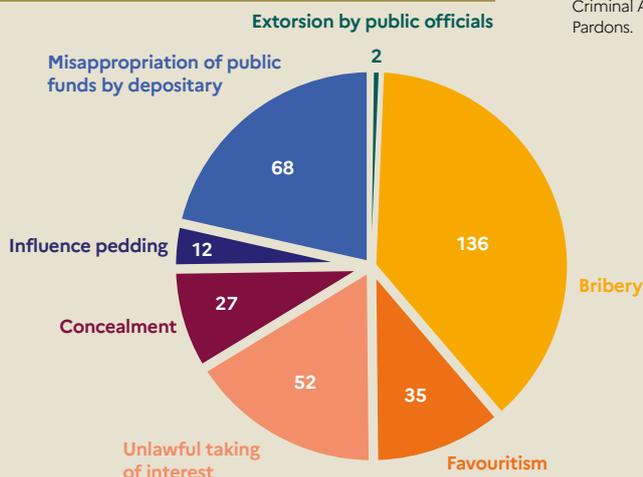
The sentences most commonly handed down for individuals are custodial sentences (71 %), for an average prison term of 14.1 months, plus a fine (49 %), for an average amount of €196,715 (vs. €29,366 in 2018).

The reason for the big jump in the average fine amount in 2019 was the very heavy fines imposed for misappropriation, unlawful conversion or destruction of public property on deposit by the depositary or one of the depositary's subordinates (fines of €5m and €10m) and unlawful taking of interest by an elected official (€5m). The courts also ordered 44 confiscations.

The average fine imposed on legal entities was €16.82m, compared to €242,000 in 2018. The reason for this very large amount is a particular fine of €100m imposed for concealment of gains from unlawful taking of interest by an elected official.

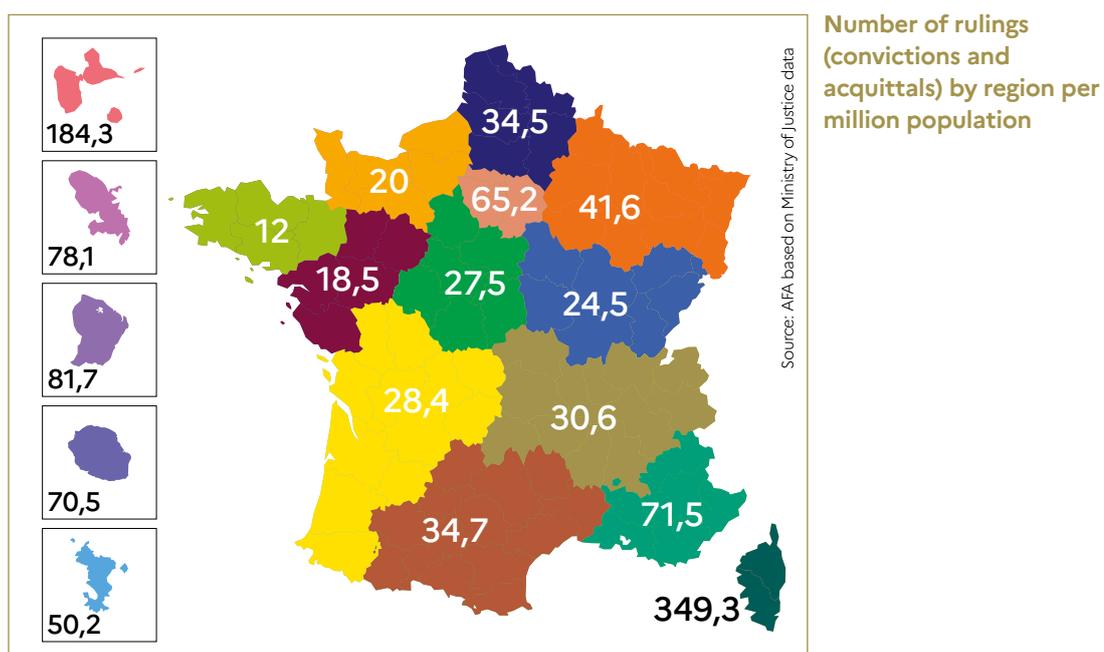
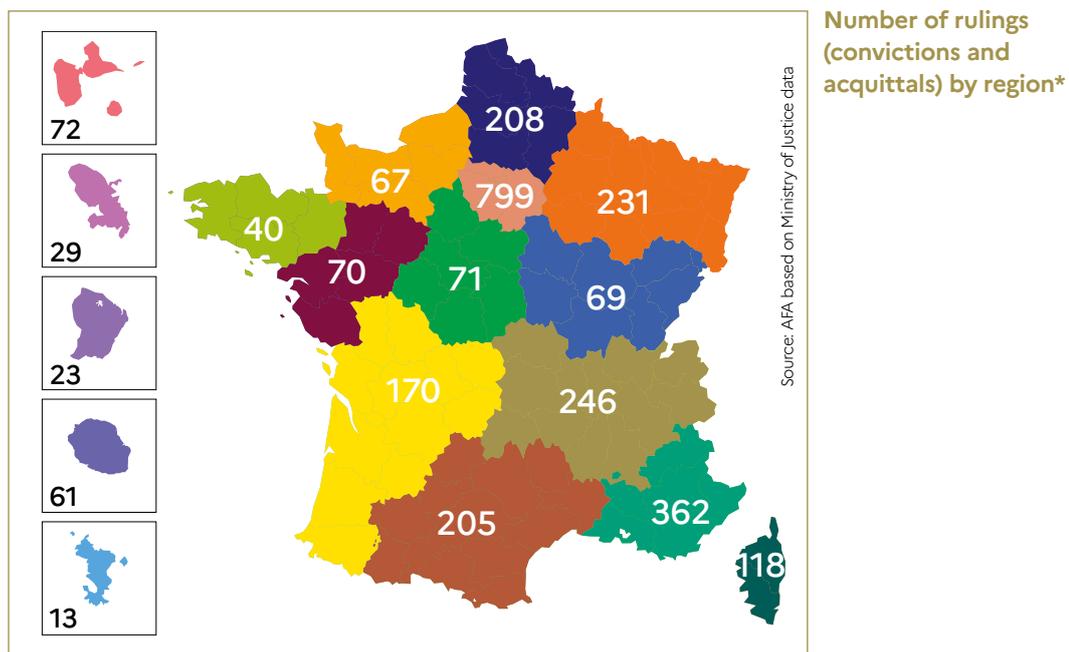
CORRUPTION CONVICTIONS IN 2019 BY TYPE OF OFFENCE*

*The 2019 figures, which are posted to the AFA website, are based on a total of 274 convictions. Source: Ministry of Justice, Directorate of Criminal Affairs and Pardons.



Corruption maps

Criminal court rulings from 2014 to 2019



*The 20 convictions won by the National Financial Public Prosecutor's Office are not included in the rulings by Ile-de-France courts and added back into the national total to account for the national scope of the jurisdiction.



2. AUDITS

Key figures

The audits that AFA conducts under the terms of Articles 3 (3 and 4) and 17 (III) of Act 2016-1691 of 9th December fall into two categories:

- Audits conducted at the initiative of AFA's Director, which concern central government administrations, local governments and their public establishments and semi-public companies, associations and foundations recognised as public interest entities, and certain companies and industrial and commercial public undertakings,
- Audits to ensure execution of administrative sanctions or implementation of compliance remediation programmes imposed by a court or under the terms of a deferred prosecution agreement (DPA).



In 2020, AFA undertook 30 new audits.

Both types of audits are aimed at ensuring the existence, quality and effectiveness of the anti-corruption systems deployed by the audited entities, meaning the measures and procedures aimed at preventing and detecting corruption.

On the operational level, both types of audits are conducted using the following procedures:

- 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 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 by AFA's Sanctions Committee aim to ensure compliance with the remediation orders issued ("compliance remediation order audits") or to ensure implementation of court-ordered compliance remediation pro-

grammes ("compliance remediation programme audits"). The courts may require preliminary examinations to be completed before conducting compliance remediation programme audits ("preliminary examinations for reaching a settlement") to determine the usefulness of the measure under consideration and to define its scope.

In 2020, AFA undertook 30 new audits, including:

- **1 compliance remediation programme audit under the terms of the deferred prosecution agreement between Airbus SE and the National Financial Public Prosecutor's Office,**
- **29 audits initiated by the Agency.**

The potential impact of audits on the dissemination of best practices in the audited entity's sector, industry or category guided the choices concerning all of the comprehensive and thematic audits conducted at AFA's initiative in 2020. All of the audited entities were businesses in high-risk sectors or public sector entities in especially vulnerable categories and 17% of them were audited following a whistleblower report that was deemed credible. Of the businesses audited, 60% were doing business in high-risk countries.

Since AFA's creation in 2017, it has conducted 125 audits and examinations, including:

- 84 audits and examinations of business entities and 41 audits of public sector entities.
- 11 audits and examinations relating to the execution of remediation measures and DPAs and 114 audits at AFA's initiative, including 75 comprehensive audits, 23 thematic audits and 16 follow-up audits.

AUDITS OF BUSINESS ENTITIES

AFA initiated 19 audits of business entities in 2020.

These included:

- 4 comprehensive audits;
- 11 thematic audits of the leading companies in two business sectors;
- 4 follow-up audits of entities audited in 2018.

These audits concerned companies with turnover ranging from €1.4bn to €200bn, and workforces ranging from 2,700 to 179,000 employees. On the audit start dates, these companies had between 4 and 2,500 subsidiaries, with an average of 69% foreign subsidiaries.

No acts that could constitute obstruction of AFA audits were reported.

AUDITS OF PUBLIC-SECTOR ENTITIES

AFA initiated 10 audits of public sector entities in 2020, including:

- 8 comprehensive audits (2 central government agencies, 2 universities, 4 municipalities: 3 metropolitan areas, 1 municipality with a population over 100,000),
- 2 follow-up audits of public sector entities audited in 2018.

The ten audits started in 2020 concern public sector entities with budgets ranging from €12m to €9.5bn. Five of them have a budget in excess of €1 billion, four have a budget between €100 million and €1 billion, and one has a budget of less than €100 million. The workforces of these public sector entities range from 130 to more than 50,000 employees. Six of these entities' head offices are in regions outside of the capital.

The Covid-19 pandemic had an impact on AFA's audits. The audit procedures were adapted to the audited entities constraints as far as possible.

No acts that could constitute obstruction of AFA audits were reported.

Management of reports received and issued by AFA

Afa has a statutory duty to assist the competent authorities and concerned persons in preventing and detecting corruption. As part of this duty, AFA receives and processes messages from individuals. Most of these messages are received through the e-mail address afa@afa.gouv.fr. These messages, which may be sent anonymously, report situations that implicate individuals or entities in the private and public sectors. These reports may warrant a specific response from AFA's Director or be submitted to another department, administration or judicial authority for information or action under the terms of Article 40 of the Criminal Procedure Code. In rare cases, such reports may trigger an audit at AFA's initiative in view of the information revealed. One report in 2020 led AFA's Director to launch an audit of a public sector entity under the terms of Article 3(3) of Act 2016-1691 of 9th December 2016.



AFA processed nearly 300 reports in 2020.

Management of reports received by AFA

In 2020, 298 reports were sent to AFA.

Of these reports, nine were submitted to the competent authorities or government departments. Five were sent to the competent Public Prosecutors' Offices:

- 4 reports relating to ongoing criminal proceedings were submitted to the competent prosecutors for information or action.
- 1 of the reports received was deemed serious enough to warrant submission to the competent Public Prosecutor's Office under the terms of Article 40 of the Criminal Procedure Code.

Reports submitted by AFA under the terms of Article 40 of the Criminal Procedure Code

In addition to the report mentioned above, AFA submitted two other reports about the information revealed by its audits to the competent Public Prosecutors' Offices under the terms of Article 40 of the Criminal Procedure Code. These reports were submitted under the terms of Article 40 of the Criminal Procedure Code to the National Financial Public Prosecu-

tor's Office and the Public Prosecutors' Offices of Bordeaux and Basse-Terre. The information reported related to such potential instances of corruption as bribery, favouritism, unlawful taking of interest, extortion by public officials, and complicity and concealment of these offences.

Per the dispatch of 21st 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, two reports have given rise to preliminary investigations by specialised investigation departments.

AFA's Director has submitted 14 reports under the terms of Article 40 of the Criminal Procedure Code since 2017. These reports were submitted to the National Financial Public Prosecutor's Office and the Public Prosecutors Offices of Paris, Lille, Bordeaux, Marseilles, Nanterre and Basse-Terre.

The reports mentioned possible corruption offences, such as bribery in France and other countries, influence peddling, misappropriation of public funds, favouritism, unlawful taking of interest, extortion by public officials, and complicity and concealment of such offences, along with tax fraud, criminal bankruptcy with misappropriation of assets, aggravated breach of trust, fraud, misuse of corporate funds, handling forged works of art and art forgery.

Of the seven reports concerning public sector entities, six dealt with information detected by AFA's audits relating to public procurement measures and procedures and management of travel and entertainment expenses.

More than half of the reports concerned business entities (four out of seven) and were not sent to AFA in the context of any audit.

Audits of business entities

Afa has seen that businesses' anti-corruption systems still have some room for improvement three years after the Act came into force. However, it has also found growing compliance with the requirement to implement specific measures and procedures under the terms of Article 17 of the Act.

Even though there has been some progress, the commitment of senior management is lacking in several cases, especially at the outset of the audit. Too often, this commitment is limited to signing the preface to the code of conduct. Consequently, oversight of the design and deployment of the system still seems to fall short in too many cases.

In too many cases, haphazard methodology still plagues some measures under the anti-corruption system, such as risk mapping, third-party due diligence and accounting controls that need to be even more rigorous. Implementation of anti-corruption systems should be perceived and considered with a more systemic focus. This means they need to coordinate different measures, such as training, third-party due diligence and accounting controls with the corruption risk map.

AUDITS INITIATED BY AFA AND REMEDIATION AUDITS

AFA audits businesses on its own initiative or to ensure compliance with remediation measures. These audits are aimed at ensuring the existence, quality and effectiveness of the anti-corruption systems, meaning the measures and procedures that businesses deploy to prevent and detect bribery and influence peddling, as defined by Article 17 of the Sapin 2 Act for the audits initiated by AFA or by Article 131-39-2 of the Criminal Code for audits of compliance remediation programmes.

Anti-corruption systems are based on three inseparable pillars:

- A commitment by senior management to:
 - support the anti-corruption system, with a personal statement, to oversee the inception, design, validation and deployment of the system, and to take part in the implementation of some of the relevant measures and procedures,
 - allocate adequate resources, in particular for the compliance function and for the internal control and audit systems;
 - apply the appropriate sanctions, when necessary;
- ensure that the entity is fully aware of its bribery and influence-peddling risks through a risk-mapping exercise using a methodology that ensures accurate assessment and prioritisation of the identified risks based on an in-depth analysis of the entity's processes;
- deploy a risk-management system to prevent, detect and sanction bribery and influence peddling through appropriate and effective measures and procedures.



The number of businesses that simply do not have any of the mandatory measures or procedures is trending toward zero.

Even though breaches are still found relating to non-compliance or a lack of effective deployment of the mandatory measures and procedures, the number of breaches found where businesses simply do not have any of the measures or procedures required under Article 17 of the Act is trending toward zero. The proof:

- None of the audits completed after the second quarter of 2018 has found any breaches for lack of an internal whistle-blowing system.
- None of the audits completed after the second quarter of 2018 has found any breaches for lack of disciplinary rules.
- None of the audits completed after January 2019 has found any breaches for lack of a corruption risk map or a code of conduct.
- None of the audits completed after the third quarter of 2019 has found a breach for lack of a training system for the most vulnerable executives and employees.
- None of the audits completed after the second quarter of 2020 has found any breaches for lack of a third-party due diligence system.

However, audits completed after January 2019 have found that the deployment of accounting controls was the weakest, with 38 % of these audits finding a breach for the lack of this deployment, along with the deployment of the eighth and last measure of the system relating to the internal auditing and assessment of the anti-corruption system. One third of the entities audited during this period had not implemented, or even defined such measures (33 % of the audits completed after January 2019 found a breach for lack of this measure).

Progress on anti-corruption compliance is very uneven, even between companies in the same business sector, as was seen in the twelve audits initiated at the end of 2019 and implemented in a specific business sector in 2020.

Four entities had virtually no anti-corruption system on the audit date (33 % of the entities audited) and two entities were in the process of deploying their anti-corruption system (17 % of the entities audited). In general, these entities were the smallest of the audited entities and had the smallest allocation of resources for compliance.

The four largest companies in the sector had anti-corruption systems, but the quality varied according to the level of commitment from senior management.

AFA also found that companies receiving a warning after their audit were very likely to comply with AFA's recommendations to them.

This trend was revealed by the earliest follow-up audits. The vast majority of the breaches identified by the initial audit had been resolved by the end of the follow-up audit. The recommendations issued after the initial audit had been implemented in 43 % of the cases, or were in the process of being implemented in 44 % of the cases. Only 13 % of the recommendations had not been implemented. All of these recommendations concerned just one of the seven companies subjected to a follow-up audit since AFA's creation.

Audits of public sector entities

Public sector entities' weak progress on managing corruption risks

Audits of public sector entities, including both central government administrations and local governments, show that there is still a great deal of room for improvement as far as preventing and detecting corruption is concerned.

Generally speaking, the measures taken, if any, are few and far between and incomplete. They are rarely backed by any genuine commitment from senior management or by any rigorous preliminary risk assessment:

- Fulfilment of legal requirements with regard to compliance (appointment of a compliance officer, system for handling whistleblower reports, disclosure requirements, holding multiple jobs, recusal requirement, compliance audits of mobility between public and private sector positions, etc.) is still uneven;
- Risk management culture is underdeveloped:
 - very few public sector entities have a specific and comprehensive code of conduct that covers the requirements for accepting gifts and hospitality;
 - Risk mapping is rare, unless it is required (to receive European Union funds) and there are few internal budget and accounting control procedures;
 - Internal budget and accounting control, and more generally, internal control and internal auditing are underdeveloped;
 - If there is action to fight fraud, it sometimes overlooks the risk of fraud with internal accomplices.
 - Prevention of conflicts of interest is underdeveloped. The statutory compliance requirements are very seldom backed up by internal rules and procedures to promote enforcement.

Partial implementation of AFA's recommendations to public sector entities

The first six follow-up audits conducted to assess the implementation of the recommendations that AFA made following its initial audits of public sector entities, and to associations and foundations recognised as public interest entities show that implementation is incomplete. Even though 39 % of the recommendations were implemented, 37 % were still in the process of implementation, 10 % were partially implemented and 14 % were not implemented.

This shows us that public sector entities' progress on implementation of anti-corruption systems has been slower than that of business entities. We cannot rule out the possibility that this trend could be linked to the fact that only businesses and industrial and commercial public undertakings subject to Article 17 of the Act of 9th December 2016 are subject to the rules and administrative sanctions for noncompliance set out in the Act.



Spotlight on: The 2024 Paris Olympic Games: AFA and risk prevention

Article 30 of Act 2018-202 of 26th March 2018 on the organisation of the 2024 Olympic and Paralympic Games gives AFA, alongside the French Court of Auditors and the General Economic and Financial Audit Department, a specific role in the supervision of the corruption risk control systems implemented by the entities involved in the preparations, organisation, scheduling and management of the Games.

Major sporting events incur corruption risks, even when they are held in countries with sound prevention systems in place. These risks could lead to criminal prosecutions or tarnish the image of the Games, as shown by the corruption cases involving successive chairs of the Brazilian and Japanese Olympic Committees. Several scandals have dogged the organisation of the Games, since the Salt Lake City Olympic Games, and the suspicions of conflicts of interest surrounding the London Olympic Games.

The French Anti-Corruption Agency is performing its duties, including audits of the entities involved in the Olympic Games.

AFA has developed a specific audit plan to ensure that the entities and businesses involved deploy appropriate and effective anti-corruption systems. These entities and businesses have different risk profiles, depending on their say in the decision-making, financing and execution of the operations. The risks also concern the entities managing the projects, financing the operations and awarding the contracts.

Two types of audits are conducted in this context:

- Audits of public sector entities and businesses initiated by AFA to assess the existence, quality and actual deployment of effective corruption prevention and detection systems.
- “In itinere” audits initiated by AFA, not only to assess anti-corruption systems, but also to guide certain entities in the design, validation and deployment of measures and procedures that still need to be implemented, following procedures inspired by

compliance remediation programmes set out in deferred prosecution agreements. After the initial audit of such entities, they are asked to produce plans of action. AFA provides them with guidance by ensuring that their plans are appropriate and they are implemented effectively and efficiently.

As of 31st December 2020, AFA had already initiated two in itinere audits, three audits of local governments that were managing projects related to the Games, 12 audits of the leading companies in the construction sector, most of which were directly or indirectly called upon to take part in the operations as contractors, partners, group leaders or members, or subcontractors.

The audits identified some weaknesses, which were mostly akin to those that AFA frequently finds. The awareness of the corruption risks that these entities incur seems to be insufficient. Risk management systems are still incomplete or not fully deployed.

Over the next three years, AFA will continue to audit the anti-corruption systems of the entities involved in the 2024 Paris Olympic Games. Its audit findings and recommendations could help guide the design, validation, deployment and supervision of these systems.



As of 31st December 2020, AFA had initiated 17 audits related to the 2024 Olympic Games.

Audits of compliance remediation programmes

In 2020, AFA started to audit the compliance remediation programme provided for under the terms of the deferred prosecution agreement between Airbus SE and the National Financial Public Prosecutor's Office.

On 29th January 2020, the National Financial Public Prosecutor's Office and Airbus SE signed a DPA, which suspended the prosecution of offences including bribery of foreign public officials, misuse of corporate funds, breach of trust, fraud, concealment of these offences and forgery. On 31st January 2020, Airbus SE signed DPAs with the United States Department of Justice and the United Kingdom's Serious Fraud Office.

The terms of the concerted settlement between Airbus SE and the three national jurisdictions appointed AFA as the sole monitor of the group's compliance remediation with regard to the anti-corruption rules.

The National Financial Public Prosecutor's Office contacted AFA before the agreement was drafted and during the negotiations phase to ask about the contents of a potential compliance remediation programme.

DPAs have proven to be effective in helping businesses that are parties to them to achieve compliance.

The first four audits of compliance remediation programmes that started in 2018 and ended in 2020 show that DPAs are a powerful means of engaging the entities that sign them in a sincere approach to compliance.

By the end of the DPA, entities subject to compliance remediation programmes had actually implemented virtually all of the actions set out in the action plans validated by AFA and had met the deadlines set when defining the programme.

Furthermore, all of the entities cooperated satisfactorily during the whole compliance remediation programme. By the end of the compliance remediation programme, the entities each had a preliminary draft of their updated and validated corruption risk map, their procedures and other guides updated based on the risk map, a code of conduct and a training system for the managers and employees most vulnerable to bribery and influence peddling risks. The entities also had at least a first draft of their third-party due diligence system, an operational internal whistleblowing system and plans for internal and external accounting control procedures, to ensure that the accounts are not used to conceal bribery or influence peddling.

Consequently, the final audits gave rise to only minor recommendations, primarily aimed at perfecting anti-corruption systems that were already designed correctly.

In 2020, based on the three final reports submitted to them, the Public Prosecutors' Offices that had entered into the DPAs ended the proceedings in all three cases.



3. ADVICE

Guidelines: 2020 update

Under the terms of Article 3(2) of the Sapin 2 Act, AFA “drafts Guidelines for Public and Private Sector Entities for Preventing and Detecting Bribery, Influence Peddling, Extortion by Public Officials, Illegal Taking of Interest, Misappropriation of Public Funds and Favouritism.

These Guidelines are adapted for the size of the entities concerned and the nature of the risks identified. They are updated periodically in consideration of changes in practices and the updates are published in France’s Journal officiel”.

The Guidelines are not legally binding, but AFA refers to them when providing advice or conducting audits. Furthermore, the Guidelines are a component of the national anti-corruption framework, along with the Sapin 2 Act, the related implementation decrees and the guides published on the AFA’s website. AFA published its first guidelines in the Journal officiel on 22nd December 2017.

Drawing on the lessons learned from three years of providing advice and conducting audits, AFA has updated its original guidelines. The update was the subject of a nationwide consultation held from 16th October to 16th November 2020.

More than forty contributors took part in the consultation, helping to amend and enrich the preliminary draft. The new Guidelines were published in the Journal officiel on 12th January 2021 and on the AFA’s website: <https://www.agence-francaise-anticorruption.gouv.fr/files/files/Recommandations%20AFA.pdf>

Review and outcomes of the 2017 Guidelines

The 2017 Guidelines undertook to explain the eight measures and procedures set out in Article 17 of the Sapin 2 Act: a code of conduct (incorporating the measure relating to the disciplinary rules), risk mapping, an internal whistleblowing system, a third-party due diligence procedure, accounting control procedures, a corruption risk training system, and an internal audit and evaluation system. The measures set out in the Act are completed by a verification

of senior management’s commitment to implementing the anti-corruption system.

The 2017 Guidelines contained only a few “explanations for public sector entities”. The latter were encouraged to adopt an anti-corruption system inspired by the measures for business entities introduced under the terms of Article 17 of the Act. Naturally, public sector entities do not need to implement third-party due diligence and accounting control measures, because they are bound by special rules on accounting systems, management and procurement.

The anti-corruption system was presented in the same order as in the Act, which raised some operational issues, since risk mapping is the fourth item, even though it is the cornerstone for the entire anti-corruption system.

Changes under the new Guidelines

As was the case for the previous Guidelines, the updated version is primarily aimed at helping the entities that are required to deploy an anti-corruption system to comply with the Act. But there are two other objectives. The Guidelines are meant to be universally applicable. Their structure makes them clearer and easier to understand so that every entity can deploy an anti-corruption system that is proportionate and appropriate for its risk profile, taking full account of its specific circumstances. For example, the Guidelines explain that third-parties in risk-free or low-risk categories may not require special due diligence.



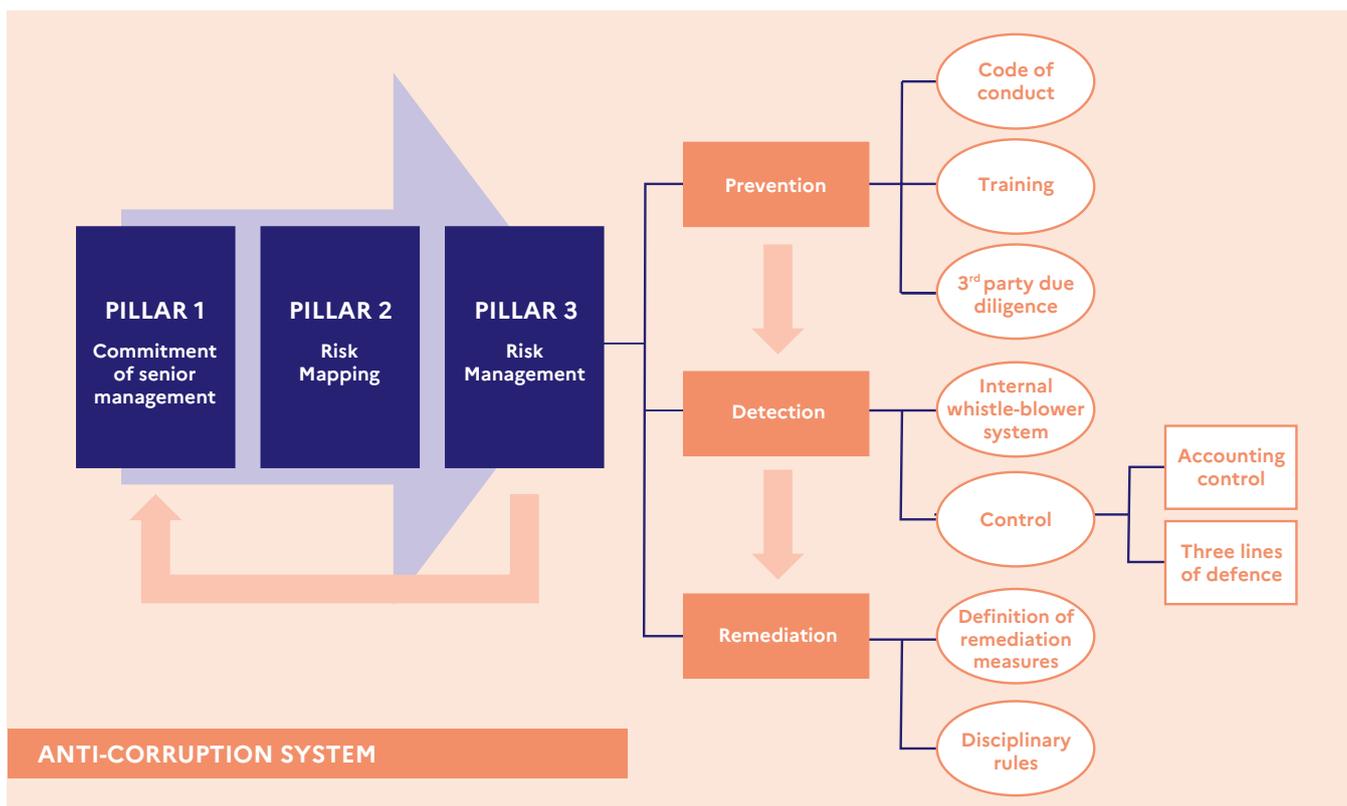
The new Guidelines are for all public and private sector entities

The new Guidelines are for all public and private sector entities and are structured in three parts:

- The first part covers general provisions regarding the anti-corruption system that apply to all entities. These provisions are based on three pillars: a commitment from senior management, knowledge of the entity's corruption risks (risk mapping) and risk management using prevention, detection and remediation measures. The Guidelines enshrine the role of internal control in detecting corruption, and not just as part of accounting controls. The graph below illustrates this anti-corruption system.
- The second part deals with businesses subject to Article 17 of the Act. It includes explanations about the measures and procedures that constitute the anti-corruption system. It introduces a definition of senior management and explanations about supervisory bodies' roles. It provides details about risk mapping, which is a key component of the anti-corruption system, and supplementary methodological information about third-party due diligence and the thoroughness of the diligence required for different risk levels. The Guidelines concerning detection of corruption encourage businesses that are required to implement an internal whistleblowing system to set up a single system

for receiving reports and to define the role of the internal control and accounting control functions. The Guidelines also discuss disciplinary rules, stressing the principle of graduated sanctions.

- The third part deals with public sector entities subject to Article 3 of the Act. These Guidelines address the great variety of public-sector entities and the varying levels of maturity achieved by their anti-corruption systems. After defining and presenting the responsibilities of senior management, the Guidelines explain in detail the recommended corruption risk mapping method. The Guidelines deal with prevention by listing expectations with regard to an anti-corruption code of conduct and stress the role of anti-corruption training and awareness-raising system. The Guidelines explain third-party due diligence and how it is connected to public procurement rules. The Guidelines on detection and remediation stress the need to focus existing systems on fighting corruption. The appendix to the Guidelines provides examples of high-risk situations that are relevant for most public-sector entities, including subsidy payments, human resources management and the purchasing process.



Guides published in 2020

AFA strives to meet public and private-sector entities' needs by publishing practical guides with advice on the issues that concern them. The guides are designed to be as instructive and practical as possible, including case studies, illustrations, graphs, etc. AFA published three guides in 2020.

Guide on managing corruption risk in public procurement

The Department for Public Procurement and AFA published a guide in June 2020 that sets out AFA's guidelines for the public procurement process (see opposite page for details).

Practical Guide on anti-corruption due diligence for mergers and acquisitions

AFA published a practical guide in January 2020 on anti-corruption due diligence for mergers and acquisitions.

This guide aims to raise businesses awareness of the corruption risks inherent in such deals and the significant financial, legal and operational impact of corruption.

The guide stresses the important issues relating to anti-corruption due diligence in mergers and acquisitions, particularly in terms of the liabilities transferred from the absorbed or acquired company to the absorbing or acquiring company and the risks incurred at every step in the merger or acquisition process. It also deals with the procedures for integrating the target company into the acquiring or absorbing company's anti-corruption system.

This guide was updated in February 2021 to account for the decision of the French Court of Cassation handed down on 25th November 2020 regarding the criminal liability of an

absorbing company for actions committed by the absorbed company during merger and acquisition operations.

Practical guide on gifts and hospitality policy for private and public sector corporations and non-profits

In September 2020, AFA published a guide on gifts and hospitality policy for private and public sector corporations and non-profits.

The guide stressed that, even though gifts and hospitality are an ordinary part of doing business, companies may incur the risk of criminal prosecution under some circumstances.

Gifts and hospitality could be construed as bribery or influence peddling if the ultimate purpose is to induce a person to act or refrain from acting under their legal, contractual or professional obligations.

AFA's guide is intended to provide businesses with the tools for framing and implementing a policy on gifts and hospitality based on an analysis of the purpose, value and frequency of gifts and hospitality.



Guides for business entities are submitted for public consultation before publication.



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





Spotlight on: A guide on managing corruption risk in the public procurement cycle

A high-risk area

In 2018, the annual value of some 150,000 government contracts in France came to €101bn. The OECD⁷ stresses that this essential economic activity is particularly vulnerable to misappropriation, fraud and bribery. This is especially the case when public procurement is diverted from its objective of serving the general interest to serve the personal interest of an individual or a group of individuals.

Public procurement regulations contribute to maintaining integrity and breaches of these regulations are liable to constitute at minimum the offence of favouritism. These breaches may implicate all public procurement players: government players acting on behalf of buyers (specification setters, purchasing managers, decision-makers, supply managers) and businesses.

The need for a topical guide for risk prevention

Under the circumstances, it seemed necessary to focus on this issue, without overlooking the need to encompass all of an entity's activities and procedures in the anti-corruption system.

The fight against corruption in public procurement contributes to the prevention of four series of risks associated with corruption offences: risks of criminal prosecution; operating, economic and financial risks; reputational risks for public services; human resources risks (staff turnover, disciplinary sanctions, damage to industrial relations).

An approach that cuts across all three branches of the civil service

The Department for Public Procurement and AFA published a guide that sets out AFA's guidelines for the public procurement process. The guide was published in June 2020 and posted to the AFA's website. It is the product of a collaboration between purchasing managers and compliance officers from central government, local government and hospital entities. The guide

contains five chapters, a toolbox and four technical appendices. The purpose of the guide is to support public sector entities in framing, implementing and deploying a corruption prevention system.

A key tool for enhancing the professionalism and performance of public procurement

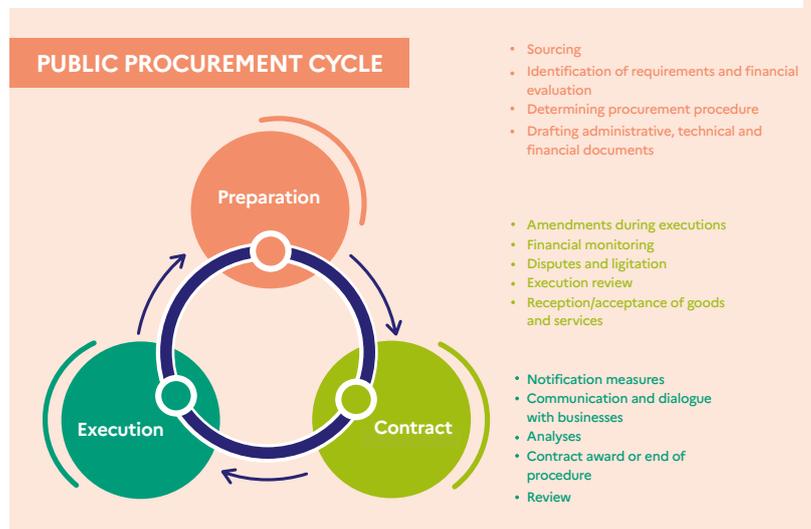
The guide reviews the reflexes to have in high-risk situations. It also encourages all public procurement players to take part in drafting an anti-corruption framework that is suited to their entity's structure, thereby creating the right conditions for balanced relationships with businesses. It is not a guide to prohibitions relating to public procurement. Instead, it is a critical tool for enhancing the professionalism and performance of public procurement.

The guide addresses the entire public procurement process, from preparation to execution.

The guide may go beyond public procurement itself to provide useful information for producing a corruption prevention plan.



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



⁷ OECD: Organisation for Economic Cooperation and Development

Awareness-raising and training actions

Awareness-raising actions for public sector entities

AFA works with public sector entities to promote a comprehensive approach to corruption risks that addresses all of their decision-making processes. Processes for public procurement, distributing subsidies, human resources management and individual administrative decisions are all fully involved in the fight against corruption.

In 2020, as was the case in 2019, awareness-raising actions relied on online teaching tools, such as the quiz on corruption, which more than 6,000 participants used to test their knowledge.

Awareness-raising also relies on targeted actions for public sector entities that are AFA's partners in central government circles and in local governments. Other more targeted actions addressed issues in sports and in subsidised housing. A total of 18 such actions were carried out in 2020.

Awareness-raising actions for business entities

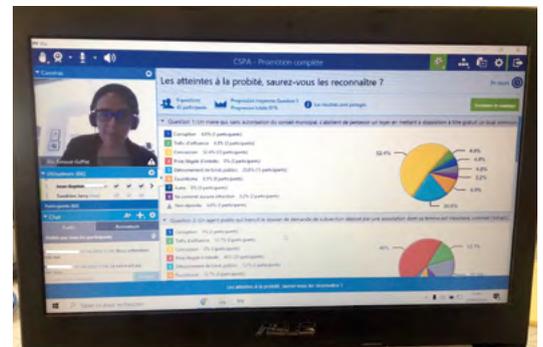
Awareness-raising actions for business entities promote their ownership of issues relating to the fight against corruption and the French anti-corruption framework.

These actions are tailored to the needs of the target audience and may range from a general presentation of anti-corruption issues, the Act and the system to technical workshops for professionals focusing on specific topics, such as internal whistleblowing systems, or business gifts and hospitality.

Awareness-raising for business entities takes the form of workshops that are organised jointly with industry federations and associations and presentations at business events, such as conferences or seminars. AFA engaged in 19 awareness-raising actions in 2020.



Sixty training and awareness-raising actions were carried out in 2020.



Training during a pandemic

AFA has striven to continue its training on corruption prevention during the pandemic and despite the difficulties that it creates.

Twenty initial and continuing training actions were carried out, mostly online, for civil service schools and training institutions, universities and specialised schools, such as:

- the National School for the Judiciary, where a five-day training session entitled "Preventing, Detecting and Fighting National and International Corruption" was organised for foreign judges and civil servants;
- the French Bar School and the Cercle Montesquieu (corporate legal officers' association) where a training session on "Preventing Corruption" was organised.

AFA made full use of new technology to continue its free MOOC (Massive Open Online Course) on preventing corruption in local government. More than 22,000 people have taken this course since it started in 2018.



Spotlight on: AFA and IGPDE anti-corruption awareness-raising and training for central government civil servants



The Institute for Public Management and Economic Development (IGPDE) is a department of the Ministry for the Economy, Finance and the Recovery with responsibilities at the national level. It plays a major role in continuing training for civil servants employed by that Ministry in its central administration, networks and agencies. However, the Institute also offers training to employees in other ministries in areas that relate to the core responsibilities of the Ministry for the Economy, Finance and the Recovery. The high-quality collaboration between AFA and IGPDE on anti-corruption awareness-raising and training for central government civil servants has been very constructive.

Three joint actions in 2020:

- 1.** The Institute's 2020 catalogue of training courses now includes a one-day session led by AFA called "Introduction to Anti-Corruption". The morning part of the session covers corruption offences, the risks incurred in public management and expectations regarding the contents of an anti-corruption plan, followed by a presentation of AFA. In the afternoon, trainees practice corruption risk mapping and framing a code of conduct. The session was held on 2nd October 2020 with the trainees physically present. This session is in the 2021 course catalogue and scheduled for 15th October 2021.
- 2.** AFA produced several webinars in 2020. This format has become an essential training medium during the pandemic and its

use by the IGPDE has grown considerably as well. In November 2020, the IGPDE invited AFA and the Department for Public Procurement to record a webinar presenting their public procurement guide called "Managing Corruption Risk in the Public Procurement Cycle" published in June 2020. This one-hour webinar can be viewed on the IGPDE website.

- 3.** At the end of 2020, joint work started on creating a teaching tool aimed at all central government civil servants that takes an immersive and gamified approach to introduce them to anti-corruption issues. AFA is preparing a "serious game" in which the player takes the part of a project manager who encounters many situations involving corruption risks. The players must choose between several solutions to discover what the recommended conduct is and which tools can help them make the right choices. IGPDE's experience with innovative teaching methods and managing complex training projects has been invaluable for AFA in carrying out its project. The planned launch date for the game is at the end of 2021. It will be available on the IGPDE's e-learning platform.



In their own words



Fabrice PERRIER,
Legal Officer,
French Insurance Association



The French Insurance Association's anti-corruption working group asked AFA to organise a workshop on third-party due diligence in the insurance industry. Our industry features a wide diversity of third parties, as well as strict regulations and supervision, which require thorough knowledge of customers and certain third parties. These requirements, along with the Sapin 2 Act, contribute to preventing corruption.

The workshop was held on 15th October 2020. AFA's contribution showed attendees how to integrate specific and necessary corruption prevention measures effectively into other prevention systems that organisations have already implemented. Integrating the fight against corruption into existing compliance systems, once the specific corruption risk has been clearly identified and assessed using risk-mapping exercises, for example, may contribute to sound business management and the effectiveness of the measures implemented.

The sheer volume of third parties, the diversity of dealings that insurers may have with them and the level of information required all constitute a major challenge for implementing successful due diligence with regard to corruption risks.

IRM | institut du risk
management

Alexandra GLEMEE,
Deputy Director,
Risk Management Institute



In 2020, the Actuaries' Institute and the Risk Management Institute came up with a course for a certificate of "Non-Compliance Risk Management in Insurance". The 12-day course is aimed at insurance professionals with the goal of teaching compliance basics with regard to both regulatory requirements and strategy so that they can implement compliance audits of the main areas that the compliance function in an insurance or reinsurance organisation must cover.

We asked AFA to lead a one-day session on fighting corruption. AFA's participation in this course is very important for us and we are very grateful that AFA stepped up to meet our request. We are sure that the training course on managing non-compliance risks meets the professionals' operational needs by providing a well-rounded view of compliance.

AFA's participation taught our trainees about the requirements under the Sapin 2 Act in an international context so that they are able to implement effective anti-corruption systems in their companies. The trainees also showed great interest in AFA's contribution through their active participation during the training.



Supporting businesses' ownership of the anti-corruption framework

An anti-corruption system that protects businesses

Under Article 17 of the Sapin 2 Act, businesses with 500 or more employees and turnover of more than €100m are required to implement a system to prevent and detect bribery and influence peddling. It is in the best interest of smaller businesses that do not meet these thresholds to follow the same rules on a voluntary basis. This will prevent them from committing offences that could lead to serious criminal charges against managers and entail heavy financial costs or tarnish their image or reputation.

Anti-corruption compliance enhances competitiveness

Certitude about the integrity of a business always makes the other businesses it deals with feel more secure and provides reassurance for those planning to enter a contract with it. This means that anti-corruption compliance enhances competitiveness and could be of interest for businesses that are too small to be bound by Article 17 of the Act.

With this in mind, the National Multi-Year Plan to Fight Corruption includes a measure for businesses of all sizes to provide support for their voluntary efforts to take ownership of the French anti-corruption framework. In addition to preventing and detecting corruption within a business, the measures under such systems may lead to significant improvements in internal processes, thereby making the company's governance and organisation more efficient.

Support for businesses

The Multi-Year Plan calls for *“working with trade associations to help businesses prevent corruption risks and the ensuing loss of business value by disseminating the French anti-corruption framework and by providing training that is appropriate to their size, their resources and their business sector.”*

AFA's day-to-day work on support for businesses is fully in line with this. AFA has set the objective of improving support for SMEs and ETIs. More and more of these businesses are attending the workshops hosted by the trade associations that AFA has been working with on a regular basis. The workshops provide an opportunity for explaining anti-corruption issues to small businesses, along with the different measures that they can implement to protect themselves from corruption risks.



AFA has stepped up its efforts to support small businesses.



Spotlight on: Awareness-raising for small businesses

AFA very soon realised from its dialogue with trade associations that small businesses are having problems managing their relationships with their largest customers. The latter, being subject to the requirements of Article 17 of the Sapin 2 Act, demand that small businesses provide evidence of their integrity in fulfilment of their third-party due diligence requirements. Small businesses also seem to have a very limited idea of the risks related to corruption. In any case, small businesses have real problems adopting and deploying the anti-corruption framework because of their limited resources.

In the first two years of its existence, AFA focused its action on large corporations, working through trade federations in particular. In 2020, it decided to enhance and broaden its advice for smaller businesses and developed a programme of events at the local level to raise the awareness of these businesses about anti-corruption issues and taking ownership of the French framework. The pandemic disrupted the programme. Nevertheless, an early event did take place

thanks to the support and responsiveness of the small business association and Chamber of Commerce and Industry in Lyon. They were able to transform an event that had originally been planned as an in-person seminar into a webinar in a very short time.

On 14th May 2020, 65 local businesses were able to have a discussion with AFA on the topic of "anti-corruption Sapin 2 Act: impact on relationships between small businesses and their largest customers". The agenda was drawn up following a preliminary survey of the attendees' questions. This made it possible to work with the businesses on the definition of anti-corruption and the related issues, and to explain how a company anti-corruption programme works. The attendees were then able to discuss in greater detail about the role of the compliance officer in a company, the "gifts and hospitality" policy and corruption risks in the event of a takeover.



AFA hosted workshops with businesses in the Lyon region in May 2020.

Supporting public sector entities and business entities for the dissemination of the anti-corruption framework

AFA endeavours to respond with its legal and methodological expertise to the questions that businesses and public sector entities have about the corruption prevention and detection system that they aspire to or are in process of implementing.

Legal referrals

AFA endeavours to answer the various questions related to understanding the anti-corruption system, as well as to the legal aspects of enforcing the Sapin 2 Act and, more broadly, about corruption offences. AFA dealt with 91 referrals in 2020.

Tailored support for public sector entities and business entities

Under the procedures laid out in Support Charters⁸, AFA may provide tailored support based on three 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 support is free for a period ranging from a few months up to a year. The tailored report provided by AFA is independent from its audit activities and does not involve certification or seals of approval.

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

In 2020, AFA provided support for nine public sector entities (a sports federation, an industrial and commercial public undertaking, three ministries, two local governments, a public housing authority and a water supply syndicate) and four business entities.



All of the figures are available on the AFA website.

MOST FREQUENTLY ASKED QUESTIONS FROM BUSINESSES IN 2020 (PERCENT)



⁸ The Support Charters for Public Sector Entities and Business Entities: <https://www.agence-francaise-anticorruption.gouv.fr/fr/lafa-vous-conseille/vous-etes-acteur-public>; <https://www.agence-francaise-anticorruption.gouv.fr/fr/lafa-vous-conseille/vous-etes-acteur-public>

In their own words



Yanis WENDLING,
Director of the General Inspectorate: Support for the Seine-Saint-Denis
Département Council.



How is corruption prevention handled by your entity?

Corruption prevention is a priority for the Seine-Saint-Denis Département Council. Proper management of ethical and financial risks is a powerful tool for improving the quality of the services delivered to users. Fighting corruption raises questions about the organisation and the effectiveness of internal control systems. The General Inspectorate's tasks include leading consolidation of internal control using a risk-based approach. It is also in charge of running the anti-corruption plan.

Why did you reach out to AFA?

The AFA Guidelines are an official standard. Even though the Département had introduced its own approach long before AFA was created, the Guidelines provided an opportunity to review the priorities and procedures for implementing our actions.

We thought it would be very helpful to talk with AFA to understand what it expected and to benefit from its feedback.

This first contact with AFA immediately revealed the valuable benefits of such a dialogue and led our President to request the support of the Agency for collaboration in the longer term.

How did the work with AFA go? What was the focus?

In order to identify the topics for discussion, we drew up a formal inventory of previous actions, future projects and ongoing projects. AFA's input made it possible for us to refine our assessment of what needed strengthening or adjustment. More specifically, third-party due diligence is a long-term undertaking because it involves all public procurement contract holders, subsidy recipients, medical and social establishments, and many other categories of third parties.

Our discussions on these topics helped us to gain a clearer understanding of how to schedule the work to be done and how to coordinate it with other ongoing projects. We decided to start with public procurement contract holders and establish a map of the relevant risks.

AFA has enabled us to ensure that all legal compliance risks have been identified and prioritised.

We also had a very productive discussion on how to address our code of conduct for civil servants and elected officials. AFA's feedback gave us the benefit of practices in other organisations, thereby improving the educational value of our presentation of corruption risks by including the most relevant examples.





4. INTERNATIONAL ACTION

Multilateral fora



AFA participated in 34 international events in 2020.

Contributing to the work of international organisations

As part of its remit, AFA contributes to the definition and implementation of the French authorities' positions on international issues. For this purpose, AFA is involved in work related to fighting corruption. In 2020, AFA participated in 34 international events. Most of them were held remotely because of the pandemic. More specifically, AFA attended the meetings of the anti-corruption working groups of the United Nations, the OECD and the G20, as well as the International Partnership against Corruption in Sport (IPACS).

Webinar for the launch of the OECD Public Integrity Handbook in July 2020.



Evaluations of France

AFA also participates in the evaluation of France's efforts on preventing corruption and implementing international guidelines. In 2020, AFA contributed to:

- the continuing evaluation of France in the second review cycle under the terms of the United Nations Convention against Corruption;
- the follow-up of the recommendations to France from the Council of Europe's Group of States against Corruption (GRECO) in its report on the Fifth Evaluation Round on preventing corruption in top executive functions and in law enforcement agencies;
- discussions with the European Commission on the drafting of the chapter on France in the annual report on the rule of law in the EU;
- preparations for the phase four evaluation of France under the terms of the OECD Anti-Bribery Convention.



Spotlight on implementation of the OECD Recommendation on Public Integrity

In 2020, AFA paid special attention to the OECD Recommendation on Public Integrity. This Recommendation was adopted in 2017 to provide the Adherents with a blueprint for enhancing integrity, transparency and accountability in the public sector on the basis of 13 key principles. The Recommendation is backed up by a handbook that provides practical guidance and identifies the challenges of implementing the principles.

AFA contributed to the drafting of the OECD Public Integrity Handbook by putting forward examples of best practices from the French anti-corruption system. AFA took part in the launch webinar, alongside the High Authority for Transparency in Public Life, the National Office for the Fight against Fraud and Corruption of Senegal, and the Moroccan Ministry for the Economy, Finance and Administrative Reform, and the Ethics Directorate of L'Oréal.

AFA is also a member of a task force, composed of delegates to the Working Party of Senior Public Integrity Officials (SPIO), which aims to create indicators to assess the effective implementation of the Recommendation. It coordinated France's responses for the indicators on risk management and the quality of the public integrity strategic framework in conjunction with many of its institutional partners. This exercise gave rise to in-depth technical discussions with the OECD and other relevant French authorities.

Network of Corruption Prevention Authorities

The Network of Corruption Prevention Authorities (NCPA) was launched in 2018 with the support of the Council of Europe. The aim of the Network is to provide anti-corruption authorities from around the world with a forum dedicated to the discussion of issues of common interest. In 2020, AFA assumed the Presidency of the Network, which saw continued development. The following events and accomplishments took place throughout the year:

- Five new members (Chile, Egypt, Ecuador, Georgia and Kazakhstan) and one observer (the Balearic Islands) joined the Network. The NCPA now has 30 members, one observer and four partners;
- Cooperation between anti-corruption agencies and supreme audit institutions was strengthened;
- The Network entered four partnerships with

the East African Association of Anti-Corruption Authorities (EAAACA), the Basel Institute on Governance, the Program on Corporate Compliance and Enforcement (PCCE) of the New York University School of Law and Transcrime;

- Three plenary meetings were held;
- A joint statement was issued on the role of corruption prevention in the global response to Covid-19;
- The dissemination of the results of the global mapping of anti-corruption authorities conducted by AFA, in partnership with the OECD, GRECO and the NCPA, with data from 171 entities in 114 countries and territories;
- AFA launched a project to identify the best practices for anti-corruption training in the public and private sectors;
- Practical guidelines were prepared to help businesses confronted by the issue of facilitation payments.



NETWORK OF CORRUPTION
PREVENTION AUTHORITIES



AFA assumed the presidency of the NCPA in 2020.



Spotlight on The Datacros prototype



The NCPA entered into a partnership with Transcrime for the Datacros project. The Datacros prototype is being developed by an international consortium coordinated by Transcrime, a research centre on transnational crime of the Università Cattolica del Sacro Cuore in Milan, working in partnership with AFA, the Cuerpo Nacional de la Policia of Spain and the Investigative Reporting Project of Italy (IRPI). The tool aims to shed light on ownership links among a set of firms to identify several risk indicators, such as:

- collusion patterns;
- ownership structures;
- relationships with politically exposed persons (PEPs), including those active at the local level;
- unusually complex and offshore ownership structures and their relationships with jurisdictions that are non-cooperative or that do not apply the same transparency standards.

The purpose of Datacros is to support a wide range of stakeholders by facilitating police, customs and competition authorities' investigations and by enhancing the prosecution capacities of judicial authorities in corruption and money-laundering cases, especially cross-border cases. The tool can also help public sector entities assess collusion risks in public procurement.

In their own words



Antonio BOSISIO,
Researcher at Transcrime – Università Cattolica del Sacro Cuore



1. How would you describe your cooperation with AFA?

The cooperation of Transcrime with AFA started in 2019 with the beginning of Datacros project. The partnership has been very valuable for our activities. From our point of view as researchers in the criminology domain, it is pivotal to exchange ideas and receive feedbacks from practitioners with a long-standing expertise in preventing corruption. Even though the Covid-19 pandemic has drastically limited the possibility to travel and meet in person, we are grateful to the colleagues of AFA for having guaranteed a smooth and effective exchange throughout the whole project duration.

2. What are the outcomes of AFA's participation in the Datacros project?

AFA has been a fundamental partner in the Datacros project, a rather applied and development-intensive research project co-funded by the European Commission. Indeed, the main output of the project is a prototype analytical platform which supports corruption risk assessment by detecting anomalies in the ownership structure of legitimate companies registered in the European Union. AFA has contributed to the project activities by providing the project consortium with the point of view of an anti-corruption agency, by sharing experience and best practices with other stakeholders (law enforcement agencies and civil society) on due diligence activities, and by taking part in the discussion on anomaly indicators to identify corruption risk factors. On the practical side, it has provided inputs, requirements and feedback for developing the prototype platform, and it has facilitated a smooth and valuable integration of French open data in the platform.

3. Why did you decide to partner with the NCPA?

The partnership with the NCPA provided a great opportunity for us to receive feedback on our research from a wide network of authorities active in the prevention of corruption, and other stakeholders (e.g. think tanks, NGOs, universities, international organizations) that support the promotion of integrity, compliance, and the fight against corruption. For example, thanks to this partnership, we had the opportunity to present and discuss the Datacros tool in a dedicated meeting with NCPA members and gather valuable feedback on how to improve the platform. Moreover, this partnership will allow to strengthen the partnership between academia and anti-corruption authorities, and remain updated on the latest developments, good practices, and standards in this domain.

4. What are your expectations regarding future collaboration with AFA and the NCPA?

I believe that the successful experience of the Datacros project only represents the starting point of a fruitful collaboration between Transcrime, AFA and the NCPA. First, we expect these actors to be key Partners in the next future for supporting potential developments of the DATAACROS platform, which we are willing to improve and extend to a wider set of end-users (both in the EU and beyond). Moreover, research on corruption is rapidly evolving, and many successful research projects in this field are built on a strong collaboration between academics and practitioners. Therefore, based on this solid partnership, we are looking forward to future collaboration opportunities with these actors in order to advance our knowledge, instruments and good practices for the prevention of corruption.



Bilateral cooperation

AFA contributes to the fulfilment of France's international commitments and to the influence of French technical expertise by implementing cooperation actions. It endeavours to promote a coordinated approach to transnational corruption cases by maintaining close relationships with its counterparts in other countries.



Meeting between AFA and the Federal Public Prosecutor's Office of Brazil, March 2020 (Antônio Augusto/Secom PGR).

Operational cooperation

In March 2020, AFA was invited to present its work at a seminar of the Brazilian School for the Judiciary and met with the various bodies responsible for preventing and fighting corruption in Brazil. Under the terms of a cooperation agreement signed in 2019 between AFA and the Brazilian Office of the Comptroller General, a working meeting was held to discuss coordinated resolution of corruption cases and the promotion of corporate integrity.

In 2020, AFA also forged new operational partnerships and signed four cooperation agreements with:

- The Office of Integrity and Anti-Corruption (PIAC) of the African Development Bank;
- The Office of the Inspector General of Colombia (PGN);
- The Anti-Corruption Commissioner of Québec (CLCC);
- The Palestinian Anti-Corruption Commission (PACC).

Technical cooperation

AFA hosted seven foreign delegations in 2020 for presentations of the French anti-corruption system. It also organised 19 technical meetings

held remotely with authorities and civil society representatives from around the world.

AFA provided technical support for the authorities in Uzbekistan. AFA participated in a virtual round table discussion hosted by the OECD to support the effective establishment of the new Uzbek Anti-Corruption Agency. AFA also shared its experience with anti-corruption compliance in business during a webinar organised by the Council of Europe.

Sharing best practices during a global crisis

In 2020, AFA shared best practices for corruption detection and prevention in events that were adapted for the pandemic, including:

- A webinar on "The other pandemic: corruption in times of coronavirus" hosted by the Office of the Comptroller General of the Republic of Chile (CGR) and the Organisation of Latin American and Caribbean Supreme Audit Institutions (OLACEFS). More than 1,200 participants attended the webinar,
- A webinar on public integrity in a time of crisis hosted by the MENA-OECD Governance Programme and attended by authorities from the Middle East and North Africa,
- A webinar on fighting corruption in public procurement hosted by the Europe Latin America Programme of Assistance against Transnational Organised Crime, led by Expertise France with the support of the EU,
- Two virtual conferences to celebrate the International Anti-Corruption Day hosted by the Serbian Agency for the Prevention of Corruption, in collaboration with the Organisation for Security and Cooperation in Europe (OSCE) and the Palestinian Anti-Corruption Commission.



In 2020, AFA forged new operational partnerships and signed four cooperation agreements.



International conference of the Palestinian Anti-Corruption Commission, December 2020 (PACC).

www.agence-francaise-anticorruption.gouv.fr

Design and content:
Agence française anticorruption

Graphic design and production:
Jouve / Gilles Morin

Photo credits:
Adobe Stock, D.R.
Mars 2021



Contact

Agence française anticorruption
23 avenue d'Italie, 75013 Paris
afa@afa.gouv.fr

For more information, go to:

www.agence-francaise-anticorruption.gouv.fr
[@AFA_Gouv](https://twitter.com/AFA_Gouv)