

**SURVEY OF ANTI-CORRUPTION MEASURES IN THE PUBLIC SECTOR IN OECD
COUNTRIES: FRANCE**

1. What anti-corruption mechanisms exist for the public sector in your country?

a) *Legislation proscribing corrupt activities and establishing sanctions*

Criminal legislation on corruption:

- Penal Code (*Code Pénal*): Articles 432.10 to 432.14 (misappropriation of public funds, abuse of authority, passive corruption, insider trading, interfering with the public procurement process); Articles 433-1 and 433-2 (active corruption and trafficking in influence), law of 24 July 1966, articles 437 and 425-4 and, for concealing such offences, article 321-1 of the Penal Code.

Employment Code (*Code du travail*): L. 152-6 Civil legislation on corruption:

- Civil Code (*Code civil*) regulating contractual responsibilities and contract validity.

Other legislation on corruption:

- Law no. 88-227 of 11 March 1988 on financial transparency in political life;
- Law no. 90-55 of 15 January 1990 on limiting electoral spending;
- Law no. 91-3 of 3 June 1991 on transparency and conformity of public procurement procedures and on rules requiring certain contracts to be made public and open to competition;
- Law no. 93-122 of January 1993 on prevention of corruption and transparency in economic life and in public procedures (+ implementation decree no. 93-232 of 22 February 1993).
- Law no. 95-127 of 8 February 1995 on the financing political life;
- Law no. 95-63 of 19 January 1995 on the disclosure of assets and rules on conflict of interest applicable to members of Parliament and of the *Conseil Constitutionnel*.

b) *Other anti-corruption regulations or orders*

Codes of conduct with disciplinary sanctions proscribing corrupt activity appear in the general civil service regulations and codes of conduct are drawn up by individual government departments.

c) Oversight by the legislature or parliament (directly or through scrutiny committees)

While there do not really exist any parliamentary control structures as such, Parliament can nominate at any time, depending on events, a select committee to deal with an issue involving corruption.

d) Investigation systems or bodies with powers to investigate corrupt activity

Independent facilities (*i.e.* external to ministries or agencies) with authority can investigate certain public bodies or functions:

- *Cour des comptes* (court of auditors)
- *Chambres régionales des comptes* (regional auditing chambers)
- *Mission interministérielle d'enquête sur les marchés* (interministerial investigation unit on public procurement)
- *Commission centrale des marchés* (central procurement committee)
- *Service central de prévention de la corruption* (central anti-corruption service, or SCPC)

There are also investigation systems within public sector bodies or ministries such as general inspectorates, ministerial auditors and department inspectorates.

e) Supreme financial audit authority

The relevant bodies are:

- *Cour des comptes*;
- *Chambre régionale des comptes*;
- *Service central de prévention de la corruption (SCPC)*.

f) Ombudsman

The Ombudsman (*Médiateur*) has no individual responsibilities with regard to the prevention of corruption. His role is to record people's grievances and to give opinions to government.

g) Bodies to enforce sanctions and prosecute corrupt activity, e.g. specialised prosecutors, investigators, courts, tribunals, etc.

The criminal police have economic and financial investigation sections.

Articles 704 and 705 of the Code of Criminal Procedure provide for specialised public prosecutors.

There are special economic and financial tribunals listed in Decree no. 94-259 of 25 March 1994 which also sets out their jurisdiction.

The relevant Minister, acting on advice from the Disciplinary Board, has disciplinary powers.

If a member of government is involved in a case of corruption, the case is investigated and heard by the Court of Justice of the Republic.

h) Human resources management procedures intended to prevent corruption

Access to public service is only by competitive examination and recruitment is governed by the general public service regulations.

The recruitment procedure can include a criminal record search and possible vetting by *Renseignements généraux* (the security branch of the police force).

General public service regulations and regulations governing the judiciary, allow for disciplinary or removal mechanisms for public servants involved in corrupt activity.

Conflicts of interest provisions include:

- Art. 432-13 Penal Code;
- Decree no. 95-168 of 17 February 1995 on the pursuit of a private activity by public servants who are on leave of absence or have left the public service (implementing circular of 17 February 1995);
- General public service regulations and regulations governing the judiciary which restrict the scope for public servants to hold other posts outside their official duties.

i) Financial management controls intended to prevent or deter corrupt practices

The Procurement Code sets out guidelines for public procurement activities.

Line management financial controls include prior authorisation for financial transactions and flat-rate reimbursement of mission costs, aimed at preventing the abusive use of official staff travel.

j) Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity

Line management controls within ministries include inspectorates and finance courts.

Citizens may lodge complaints aimed at disclosing corrupt activity with the Public Prosecutor. There is also scope to sue for civil damages.

Corruption risk assessment policy is developed by Ministerial policy and interministerial policy through the SCPC which also holds centralised information on preventing and detecting corruption.

k) Transparency mechanisms (e.g. independent public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity)

There is a general obligation on public institutions and departments to publish regular reports on their work and budgets.

There is provision for conflicts of interest to be disclosed and resolved in the general public service regulations and in the Penal Code. A declaration of assets is required from any person handling public monies.

There is a duty for subordinates who discover corrupt activities to report them to line managers and, under Art. 40 of the Criminal Procedure Code, there is an obligation to inform the Public Prosecutor.

l) Guidance and training for public officials or politicians (e.g. codes of conduct, ethics awareness training)

Statements of standards of conduct and public sector values are provided in Rule 1 of the general public service regulations and the specific codes of individual ministries. Rule 1 is also the basis for standardised induction training for public officials. Continuing training, which includes ethics and values awareness, occurs within each administration.

Line managers and the *Service central de prévention de la corruption* (SCPC) are available to advise on problem cases or conflicts of interest.

m) Other measures intended to control, detect or deter corruption

MEASURES	CORRUPT ACTIVITY
Provisions in the Electoral Code: restrictions on expenditure; funding transparency.	Electoral fraud
Transparency of financial mechanisms	Financial fraud
More training provision for public servants	Bribery
Raising awareness among public servants	Secret commission
Prior controls; separation of certifying officers and accountants	Misappropriation of public funds
<i>Commission des opérations de bourse</i> (Stock Exchange Commission); <i>Commission bancaire</i> (Banking Commission).	Insider dealing using government information
Publication of decisions; recourse to administrative courts	Bias in official decisionmaking
Obligation to recruit by competitive examination; parity commissions	Bias in staff recruitment or appointment
General public service regulations	Conflicts of interest
Regulations governing the judiciary	Interfering in the legal process

2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?

3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?

Supervision and evaluation arrangements do exist. They fall mainly within the scope of the *Service central de prévention de la corruption*. This is an innovative experiment viewed with interest abroad (there are plans to work in co-operation with several countries).

The SCPC plays a supervisory role by virtue of its very nature, its interministerial membership, its multidisciplinary approach. Its administrative evaluation role is undertaken by a Standing Administrative Liaison Committee within the SCPC.

4. What if any new actions against corruption in the public sector is your country currently considering?

While there have not really been any new measures as such, recent European Community and international texts in this area have been incorporated in domestic legislation:

- Convention on the protection of the European Communities' financial interests, adopted by the Council on 27 February 1996;
- Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, adopted by the Council on 26 May 1997;
- OECD International Convention on Combating Bribery of Foreign Public Officials.

5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?

The main obstacles to combatting corruption in the public sector could include:

- irrelevance of some controls;
- multiplicity of support, funds and subsidies (at local, departmental, regional, national and European level);
- opening-up of the public sector;
- complex legislative and regulatory controls;
- development of mixed-economy and third-sector structures with less public accountability.

A policy position was stated by the Justice Minister, Elisabeth Guigou, on 8 December 1997, at the opening of the international symposium on corruption in democracies, organised at Interpol headquarters in Lyon.

Mrs. Guigou emphasized the French Government's commitments with regard to combating financial criminality, saying that she intended to implement measures whereby corruption cases would be dealt with by specialised courts able to hear such cases promptly, and also to increase the resources of such courts. She also said that there would be legislation aimed at ensuring more effective supervision and control by the judicial magistrates.