Fight against corruption

Iraqi Delegation
Paris, July 10, 2008
The French bodies in charge of fighting corruption
En France, many bodies are in charge to:

- **prevent corruption**: SCPC
- **detect corruption**: internal and external controls, Tracfin
- **punish corruption**: boards of investigation, criminal justice, PIAC
1- The French bodie in charge of preventing corruption:

The French agencie for prevention of corruption (Service Central de Prévention de la Corruption: SCPC):

- Attached to the Minister of Justice,
- Is in charge of centralizing the necessary information for detection and prevention.
The SCPC was created by the law 93-122 of January 29, 1993

Preventing corruption and transparency in business and Government of electoral campaigns and political parties, transparency in the economic activities, control of decision-makers of local authorities
In the nineties, increase in cases of corruption involving politicians and companies

- economic crisis
- Weakening of State controls
- Increase in decision makers
In reaction of this worrying situation, two manifestations of the State power:

- Public procurement law of the 3/01/1991:
  - creation of the MIEM;
  - Creation of the offence of « favouritism »
- 29 January 1993 Act (Loi Sapin)
  - concerning the preventing of corruption and the transparency in economic and public procedures;
  - Establishes the French agency for Prevention of Corruption.
1-2 Service with national competence

- Duty: prevention of corruption
- Characteristics:
  - Independent
  - Permanent
  - Interdepartmental composition
The SCPC is headed by a high ranking magistrat appointed by the President of the Republic, for 4 years...

...it reports to the Ministry of Justice

The SCPC:
- recruits its members
- Enjoys an autonomous budget
- Establishes the direction of its actions and studies
- Publishes an annual report
Permanent

- Studying corruption needs a long lasting action.
Interdepartemental composition

This issue needs a multidisciplinary approach addressing criminal law, commercial law, public procurement, competition, fiscal, accountability, etc.

=> The service is composed by:
- the head of the service, high ranking magistrat from judiciary;
- Advisors coming from judiciary, Court of audit, Ministry of Interior, Ministry of Defense, Ministry of Finances, Ministry of Public Works.
Area of competences

- Active and passive bribery (public and private),
- Trading in influence committed by public officials or individuals,
- Illegal taking of interest,
- Breach of freedom and fairness in public procurement (inequality in public procurement procedures),
- Misappropriation of public funds by public officials,
- Bribery of Foreign Public Officials in International Transactions (OECD)
1-3 Assignments:

- Centralisation of data related to corruption and similar crimes,
- Professionnal advices,
- Recommendations,
- Cooperation conventions
- Actions of training
- International action.
Centralization of data:

- The SCPC is the only corruption monitoring center which collects and processes information on corruption,
- It is more a non-scientific, intuitive estimate than a national mapping process indicating scale and specific sectors.
Method of working:

- Research of systems and not of cases,
- Problems concerning cases reported by individuals,
- Inventory of risk areas
Professionnal advices:

- Judicial authorities,
- Ministers and prefects,
- Financial courts,
- Elected officials exercising executive powers;
- Publics control bodies,
- Administrative commissions
Recommendations

- Occasionnally
- But usually in the annual report which is addressed to the Prime Minister as well to the Minister of Justice.
Évaluer la corruption

Lobbying

Manipuler le logiciel de comptabilité

Risques et dérives dans l’urbanisme
Examined sectors of activities:

- Lobbying and trading in influence
- Sport
- International business
- Decentralisation
- Control of legality
- Public procurements
- Health
- Advertising companies
- Derivatives and merchandising
- Sects
- Data processing contracts
- Domestic retail trade, craft industry and commercial services
- Consultancy and intermediary

- Mass marketing
- Professional training
- Publicity
- Internal auditing
- Pantouflage (Revolving doors)
- Adoption and populations in distress
- Exclusion
- Globalisation and nebulous charities
- Private safety
- Cleaning companies
- OECD convention
- Correctness of accounts
- Illegal interest taking
- Favouritism
- Associations
Action of training

✓ National School of Administration
✓ National School of Magistrates
✓ School of Police, « Gendarmerie » and Customs
✓ Inspectorates
✓ Competition and Consumption Dept.
✓ Training Centre for Public Territorial Agents
✓ Universities…
Training modules for:

- **Control services**: to detect fraud or corruption (ie Ministry of Défense),
- **Administrative departments**: Implement preventive and effective internal control mechanisms- identifying a system of reference, a typology of risks, improving internal control (ie Ministry of Public Works and Housing)
Cooperation conventions with private sector:

- Signing conventions:
  - with public companies: EDF, SNCF
  - with private companies: EADS, Thalès, Veolia Environnement.

- In which purpose?
  - Exchange of informations;
  - Codes of Ethics, code of conduct;
  - Training.
International action:

- SCPC is the reference on the prevention of corruption for the following bodies:
  - The UN Organization;
  - The Council of Europe (Group of States against corruption: GRECO);
  - OECD;
  - The European Union

=> SCPC actively participates to the works of these organizations and provides expertise.

- Hosting foreign delegations (14 in 2007)
1-4 Means

- Personnal,
- Material,
- legal
Personnal:

- **Interministerial:**
  => 7 advisors: 2 magistrates, 2 senior civil servants (competition, << equipement »), 2 (police, gendarmerie) officers, 1 tax officer
- Head by a high ranking magistrate
Material means:

- Budget: 330 000 €
- Independant public authority
Legal means:

Decision of the Constitutionnal council of January 29, 1993
- no administrative investigation powers,
- No authority to send notifications and to conduct cross-examination,
- No authority to be given documents by the other departments
2- The French bodies of detection:

- In France, a lot of public organs can get informations about illegal practices...
- Some forms of control are exercised within ministries, other forms of control are external...
Ministerial inspectorates:
- IGF (Inspection Générale des Finances);
- IGA (Inspection Générale de l’Administration)...
Contrôle Général économique et Financier (CGFI)
2-2 External controls:

- These controls are external, but come under the authority of official government bodies,
- They can be administrative or jurisdictional
Administrative controls:

- by prefects (legality controls);
- by financial administrations (General Directorate for competition, Taxes...);
- by interministerial monitoring units/services:
- by independant agencies:
  
  For example, AMF

  For example, the MIEM (Interministerial unit for procurement investigations)
Jurisdictional controls:

- Administrative courts;
- French audit courts (Cour des comptes and Chambres régionales des comptes): accounting audits for officials with power to authorise expenditure.
Parliamentary controls:

- Standing or ad hoc Parliamentary boards of enquiry
- For ex:
  - Credit Lyonnais
  - Jeux et paris.
2-3 A specialized organ: Tracfin

- Tracfin:
- Set up in 1990
- Attached to the Minister of Finances
- In charge to fight against money laundering
Legal competences:

- Collecting and processing informations on illegal money;
- Fighting against laundering and financing terrorism
Legal means:

- Recording suspicions from banks and some professions (lawyers, estate agents...);
- Submitting the criminal justice in case of presumption of offence
3- The French bodies of enforcement:

- Specialized bodies are in charge of financial affairs:
  - investigation bodies,
  - Criminal courts
3-1 Boards of investigation:

- Local structures of the Police and the Gendarmerie,
- National structures of the Ministry of Interior:
  - Office Central de Répression de la Grande Délinquance Financière (OCRGDF) => laundering
  - Brigade Centrale de Lutte contre la Corruption (BCLC)
Brigade Centrale de Lutte contre la Corruption (BCLC)

- Set up in 2004,
- Interministerial,
- Legal competence:

Investigations about corruption, breaches of integrity, illegal use of corporate funds, accountability fraud.
Means:

- Investigations;
- European cooperation,
- Training,
- International action.
3-2 Criminal Justice

- Since 2004, the economic infractions, if they are complex, can be judged by Special Courts within the Courts of Appeal of the Tribunaux de Grande Instance (TGI).
- Moreover, some jurisdictions gained an experience, such as the TGI of Paris and Nanterre.
Jurisdictions whose main remit is not to impose sanctions for corruption-related offences have to refer to the criminal courts any offences they may detect:

- **Cour de Discipline Budgétaire et Financière (CDBF);**
- **Conseil de la Concurrence,** the competition authority, which tracks and punishes anti-competitive practices.
But it may be difficult to punish corruption…

- Hidden acts
- Complexity
- No complaint
- No witness
- Time of regulation of public action…
Recent data about fighting corruption:

- Corruption (active, passive, trading in influence...): 150-170 sentences per year;
- « Favouritism »: 25-50 sentences per year.
3-3 The effectiveness of the sanctions

- PIAC = Plate-forme d’identification des avoirs criminels
- Set up in 2005
- Interministerial
The PIAC has two objectives

- Identification of criminal properties
- Implementation of confiscation and seizure measures

How?

- Centralisation and processing informations
- Specific investigations