

# Fight against corruption



**Iraqi Delegation**  
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# **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

# 1-1 The context

- ◆ In the nineties, increase in cases of corruption involving politicians and companies
- ◆ Main reasons
  - 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 agenceie for Prevention of Corruption.

# 1-2 Service with national competence

- ◆ Duty: prevention of corruption
- ◆ Characteristics:
  - Independent
  - Permanent
  - Interdepartmental composition



# Independent

- ◆ 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,
- ◆ Professional 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

- ◆ Occasionnaly
- ◆ But usualy in the annual report which is adressed to the Prime Minister as well to the Minister of Justice.



SERVICE CENTRAL DE PRÉVENTION DE LA CORRUPTION

# RAPPORT

2006

**Évaluer la corruption**

*Lobbying*

**Manipuler le logiciel  
de comptabilité**

**Risques et dérives  
dans l'urbanisme**

La **documentation** Française



# 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, « équipement »), 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...

# 2-1 Internal controls

- ◆ 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 objectifs

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

## How?

- ◆ Centralisation and processing informations
- ◆ Specific investigations