

Survey on the Effectiveness of Anticorruption Authorities

Background Information

1. Please enter country name in the space below

Spain

2. Name of the agency

Oficina Antifrau de Catalunya (Anti-Fraud Office of Catalonia)

3. Date of establishment

November 5th, 2008

4. Contact Information

Oficina Antifrau de Catalunya. C/Ribes nº3, 08013-
Barcelona (Spain).
Tel.+34935545555;bustiaoac@antifrau.cat

5. Website

www.antifrau.cat

Legal Framework

6. What are the main anti-corruption laws in your country? (please include year of entry into force)

- **United Nations Convention against corruption**, New York 31 October 2003, Official State Gazette (BOE) 171, of 19 July 2006, came into force 19.07.2006;
- **OECD convention on the fight against corruption of foreign public agents in international commercial transactions**, Paris 17 December 1997, Official State Gazette (BOE) 46 of 22.02.2002 came into force on 4.03.2000;
- **The Council of Europe Criminal Law Convention on Corruption**, Strasbourg 27 January 1999, Convention 173, Official State Gazette (BOE) 182, of 28.07.2010, came into force 01.09.2010 and Additional Protocol of 15 May 2003.
- **The Council of Europe Civil Law Convention on Corruption**, Strasbourg 4 November 1999, Convention 174, Official State Gazette (BOE) 78, of 31.03.2010, came into force 01.04.2010.
- In Spain and in the autonomous community of Catalonia we can also find the following laws and regulations on conflict of interests, financing of political parties, local government, corporate social responsibility, etc.

7. Does your Government have a single or primary anti-corruption strategy?

In the current Government Plan 2011-2014, the Catalan government acknowledges the existence of three simultaneous crises, one of which is the lack of confidence/trust with the institutions. Because of this, the Government will have to face some challenges, one of them being the transparency in public life and the fight against corruption. In 2013, two summits were organised from the government under a programme

of 51 measures for the democratic regeneration and the Transparency proposed by the President of the Catalan Government where anti-corruption measures were passed. The summits were organized together with the Presidents and the Directors of external control bodies and institutions. This measures will need to be implemented. Information about the initiative can be found at:

http://premsa.gencat.cat/pres_fsvp/AppJava/notapremsaww/detall.do?id=230934

8. Does your country have freedom of information legislation? (In Spain, recently passed law 19/2013, December 9th on transparency, access to information and good governance. At the regional level, Parliament has created a specific Commission in order to pass a regional law).

Yes No

9. Does your country have conflict of interest legislation?

Yes No

10. Does your country have a financial disclosure system to help prevent conflicts of interest?

Yes No

11. Does your country have immunity protection legislation?

Yes No

12. Is your agency protected from political interference by law?

Yes No

Institutional Framework

13. What are the main functions and operations of your agency? *Please check all that apply*

Research Prevention Investigation Prosecution Forensics Accounting Policy

14. Is there one agency in charge of coordinating AC efforts across agencies?

Yes No

If yes, please specify:

15. Does your agency have the ability to share information or data with

(a) Other agencies within your Government, and

Yes No

(b) Government partners from other countries?

Yes No

16. Please enter the current size of permanent staff in the space below.

46

17. Number of prosecutors (if applicable)

18. Number of investigators (if applicable)

9 investigators and 11 analysts

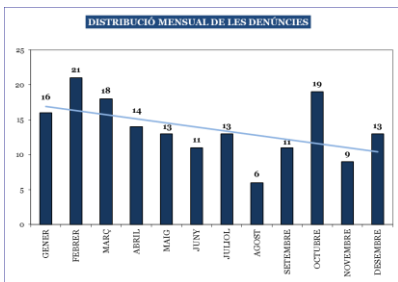
19. Number of support staff (if applicable)

1 at the analysis department, 1 at the investigations department, 1 at the prevention department, 2 at the director's cabinet, 1 at HR, 3 receptionists

20. Number of cases handled annually in 2013 (if applicable)

(a) Number of complaints received

164 complaints in 2013 (total of complaints: 622 complaints since 2009)



(b) Number of investigations conducted

120 investigations

(c) Number of cases handled in court

12 cases

(d) Other please specify

5 recommendations issued.

- Art. 21.3 Law 14/08, of November 5th of the Anti-Fraud Office of Catalonia: «The Anti-Fraud Office can send reasoned recommendations to the government of the Generalitat suggesting the alteration, cancellation or incorporation of criteria for the purpose of avoiding dysfunctions or administrative practices that could be improved upon, within the cases and areas of risk of detected irregular conduct.»
- Art. 31 of the Internal regulations of the Anti-Fraud Office of Catalonia «The Anti-Fraud Office, by means of recommendations, makes suggestions to government departments, and to the natural persons and entities and private companies included within its sphere of action, for modification, cancellation or incorporation of criteria that can prevent dysfunctions or improve certain practices, within the hypotheses and areas of risk of irregular conduct noted as a result of the action taken by the Office.»

21. Please state the number of complaints received for which your agency did a follow up

7 follow-up procedures have been concluded in 2013.

ARTICLE 30. FOLLOWING UP THE PROCEEDINGS

1. In order to check if the competent authorities are applying the administrative, financial, legislative, judicial or disciplinary measures that it had recommended, the Anti-Fraud Office monitors this aspect via such proceedings as it deems appropriate. For this purpose the Office can send reminders to the highest authority of the body in question and request the sending of a plan for implementation of the recommendations made, providing details of the actions, the deadlines and the persons responsible for each of the proceedings to be carried out, or else the reasons preventing adoption of the proposed measures.

2. In the event that the authorities concerned do not apply the recommendations proposed and do not furnish an explanation for failure to apply them, the Anti-Fraud Office shall set this down in the annual report or in an extraordinary report to Parliament, as appropriate. In any case, before expressly leaving a record of the nonfulfilment, the Anti-Fraud Office must convey it with the proposed memorandum or report concerning it to the person or the body in question so that the can furnish such arguments as it deems fitting.

22. Please state the prosecution to conviction ratio of your agency (if applicable)

23. Please state the number of learning activities and outreach events organized by your agency (if applicable)

The Prevention Department has undertaken 69 training activities directed to the employees of the public sector of Catalonia, 1279 participants, 322,5 hours taught and a an assessment rate by participants of 8,56 in a scale of 1 to 10, which means an increase of 86,17% in the number of participants and 46,81% in the number of sessions taught.

Also, activities with Catalan Universities has been carried out in the framework of the Anti-corruption Academic Initiative of UNODC in order to implement the menu of anti-corruption topics in Catalan universities.

The Anti-Fraud Office also carried a series of events in the framework of the 10th Anniversary of the United Nations Conventions against corruption, a summer school on transparency, a Conference with the former director of the USA Ethics Office and similar activities.

24. Please state the amount of assets recovered by your agency (if applicable)

The institution is not in charge of asset recovery.

25. Please enter the names of other agencies with similar functions as this ACA

It has to be highlighted that the EU Anti-corruption Report (Report from the Commission to the Council and the European Parliament, Brussels, 3.2.2014) states as a good practice agency, among others in Europe, the Anti-Fraud Office of Catalonia. In Spain:

- Spanish Public Prosecutor's Office on Corruption and Organised Crime; Executive Service for the Prevention of Money laundering -SEPBLAC- (Financial Intelligence Unit).
- In Catalonia:- Sindicatura de Comptes (Court of Auditors in Catalonia) www.sindicatura.org/
- Síndic de Greuges (Catalan Ombudsman) www.sindic.cat/

26. Does your agency have a system to monitor performance of staff?

Yes No

27. Are human resource management actions, i.e., recruitment, promotion, and termination based primarily on staff integrity and professionalism?

Yes No

28. Are new vacancies for your own agency announced publically?

Yes No

29. Are the results of these recruitment processes announced publically by your agency?

Yes No

30. Who appoints the head of your agency?

The director of the Anti-Fraud Office of Catalonia is chosen by Parliament at the proposal of the Government from among citizens of legal age enjoying full use of their civil and political rights and fulfilling the conditions of suitability, probity and professionalism necessary for exercising the post. Those chosen must be on the government-registered as resident in Catalonia. The president of the *Generalitat* (Catalan Government) must in the name of the Government propose the candidate to Parliament, and the candidate must appear before the corresponding parliamentary committee in order to be evaluated in terms of fulfilment of the conditions required for the post. The candidate is chosen as director of the Anti-Fraud Office by the Plenary Session of Parliament by a majority of three-fifths of the members. If the candidate does not obtain the required majority he/she must be submitted to a second vote, at the same Plenary Session, and in order to be chosen will then require a favourable vote of the absolute majority of the members of the chamber.

The director of the Anti-Fraud Office is then appointed by the president of Parliament and must take possession of the post within a period of one month from the date of publication of the appointment in the *Diari Oficial de la Generalitat de Catalunya* (official gazette of the government of Catalonia).

31. Who has the authority to remove the head of the ACA?

The grounds for dismissal of the Director of the Anti-Fraud Office of Catalonia are the following (which are described in 11 of the Law 14/2008, of November 5th on the creation of the Anti-Fraud Office) :

- a) Resignation.
- b) Termination of mandate by expiry of the period.
- c) Incompatibility that arises.
- d) Incapacity declared by firm judicial decision.
- e) Disqualification from exercise of the political rights declared by firm judicial decision.
- f) Conviction for an offence by firm decision.
- g) Gross and serious negligence in fulfilling the obligations and duties of the post.

Where the cause is that described in letter g (gross and serious negligence), the dismissal of the director of the Anti-Fraud Office must be proposed by the pertinent parliamentary committee (Committee of Institutional Affairs); the director has the right to attend the committee meeting and to speak. The decision must be agreed by the Plenary Session of Parliament by three-fifths majority. If the required majority is not achieved a second vote must be carried out at the same Plenary session, and the dismissal will then require a favourable vote of the absolute majority of the members of the chamber. In all other cases, dismissal is decided by the president of the Parliament.

32. To whom does the head of your agency report to?

The Parliament of Catalonia (Institutional Affairs Commission)

33. Is there any term limit for the head of the ACA?

- Yes No

If yes, please specify: 9 years non renewable

34. Is the agency subject to judicial review?

- Yes No

35. Is the agency subject to expenditure reviews?

- Yes No

36. Does your agency measure "performance"?

- Yes No

If yes, against which indicators?

- Number of investigations conducted

- Number of investigations concluded
 - Ratio of number of investigations/staff
 - Percentage of total budget allocated to outreach activities and communication.
 - Number of outreach activities delivered
- Others, please specify

37. In practice is your agency protected from political interference?

- Yes No

38. Does your agency keep a comprehensive skill list of its staff?

- Yes No

39. Is the staff provided with regular training and refresher training to ensure that their skills are up-to-date?

- Yes No

40. Are employees protected by law from recrimination or other negative consequences when reporting corruption (i.e. whistleblowing)?

- Yes No

41. Does your agency have a communication strategy?

- Yes No

42. Does your agency have a comprehensive corporate plan?

- Yes No

43. Is there a strategy for formulating a partnership with outside agencies to fight corruption?

- Yes No

44. Is there a strategy for dealing with the media?

- Yes No

45. In practice does your agency has sufficient powers to carry out its mandate?

- Yes No

Resource Mobilization

46. Does your agency have budgetary autonomy?

- Yes No

47. What is the annual budget of your agency?

In 2013, the budget was of 4.699.972,91 € (it suffers variations every year)

48. The annual budget is determined by (please choose the answer(s) that best fit(s) your agency)

<input checked="" type="checkbox"/>	Number of staff
<input checked="" type="checkbox"/>	Number of investigations
<input type="checkbox"/>	Budget is constitutionally mandated
<input type="checkbox"/>	Other, please specify

49. How much does it roughly cost to (please enter the dollar amount per stated activity)?

\$	File a case	\$	Manage a paper case	\$	Analyze a case
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50. Is there any donor involvement in your agency in term of budget?

Yes No

51. Does your agency use a computerized system to handle cases?

Yes No

Social Framework

52. Does your agency provide a mechanism for citizens to report complaints anonymously or provide information on corrupt activities?

Yes No

53. Does your agency or government provide a hotline to report corruption?

Yes No

54. Does your agency produce regular and annual public reports of its activities?

Yes No

Available at the institution’s website

Innovation

55. Does your agency use any IT tools to

- a. Facilitate reporting of corruption and fraud by citizens (like www.Ipaidabribe.org)
- b. Share information with citizens about its own activities
- c. Share and/or obtain information for its own investigations
- d. Other – please explain: **Intranet, portal of exchange of information that can be useful for other departments, news on corruption, academic articles, etc.**

56. Does your agency use social media to raise awareness on corruption among the public?

Yes x No