

Survey on the effectiveness of Anticorruption Authorities (Short questionnaire)

Background Information

1. Please enter country name in the space below

Spain

2. The name of the agency

Oficina Antifrau de Catalunya
Anti-Fraud Office of Catalonia

3. The date of establishment

November 5th, 2008 –created by law 14/2008

4. Contact Information

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5. Webpage

www.antifrau.cat

Legal Environment

6. What are the main anticorruption laws of your country?

- **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:

Codes and duties of conduct of the Government and of public employees

- Act 30/1992, of November 26th, on the legal regime of the Public Administrations and on common administrative procedure (articles 28 and 29 on duty of abstention and challenge)
- Legislative Decree 1/1997 of October 31st, approving consolidation into a single text of the precepts of certain legal statutes in force in Catalonia in relation with government operation (Chapter 4 On duties and responsibilities)
- Order APU/516/2005, providing for publication of the Agreement of the Council of Ministers of 18 February 2005, which approved the Code of Good Government for the members of regional government and senior officials in central government
- Act 7/2007, of April 12th, on the Basic Statute for public employees (ss. 52 to 54)

Incompatibilities and conflicts of interest

- Act 53/1984, of December 26th, on incompatibilities affecting personnel in the service of government departments.
- Act 21/1987, of November 26th, on incompatibilities affecting personnel in the service of the Government of Catalonia.
- Act 13/2005, of December 27th, on the regime of incompatibility of senior officials in the service of the Government of Catalonia.
- Act 5/2006 of April 10th, on regulation of the conflicts of interest of the members of the Catalan Government and of Senior Officials of Central Government.

Financing of Political Parties

- Organic Act 8/2007, of July 4th, on the financing of political parties.

Parliament of Catalonia

- Regulation of the Parliament of Catalonia (sections 4-13 on the Statute of Members of Parliament, 55 on the Members of Parliament Statute Commission, 199 on the parliamentary government, 200 on the principles of action).

Local government

- Act 7/1985, of April 2nd, regulating the Rules for Local Government (Statute of the members of Local Corporations, ss. 73 to 78).
- Legislative Decree 2/2003, of April 28th, approving the Consolidated Text of the Municipal and Local Government Act of Catalonia (Title XV of the Statute of Members of Local Corporations, ss. 162 to 170).

Corporate social responsibility

- Act 19/1988, of July 12th, on Auditing of Accounts (First Additional Provision 1.e).
- Act 26/2003, of July 17th, on the Transparency of listed Limited Companies .
- Order ECO/3722/2003, of December 26th, on the Annual Report on corporate governance and other instruments of information of listed limited companies and other entities.
- Royal Decree 221/2008, of February 15th, creating and regulating the State Council on the Social Responsibility of companies.

7. Does your government have a single or primary anticorruption 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. However, there is no specific package of measures to fight against corruption that has been

8. Does your country have freedom of information legislation?
 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

Institutional Environment

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

- Research Prevention Investigation Prosecution Forensic Accounting Policy

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

- Yes No

If Yes, Please specify: _____

13. 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

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

48

15. Number of prosecutors (if applicable)

16. Number of investigators (if applicable)

9 (not taking into account the Analysis Department where there are 11 members of the staff).

17. Number of cases handled annually (if applicable)

Until 31rst sept.2009: 45 2010: 146 2011:95

18. Please enter the name of other agencies with similar functions.

In Spain: - Spanish Public Prosecutor’s Office on Corruption and Organised Crime; Executive Service for the Prevention of Money laundering -SEPBLAC- (Finantial Intelligence Unit).

In Catalonia:- Sindicatura de Comptes (Court of Auditors in Catalonia) www.sindicatura.org/

- Síndic de Greuges (Catalan Ombudsman) www.sindic.cat/

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

Yes No

20. Are the human resource management, i.e. recruitment, promotion, termination built on the emphasis of staff integrity and professionalism?

Yes No

21. 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).

22. 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.

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

Yes No

If Yes, Please specify: **9 years non-renewable**

24. Is the agency subject to judicial review?

Yes No

25. Is the agency subject to expenditure reviews?

Yes No

26. Does your agency publish an annual report of activities?

Yes No

27. Does your agency measure performance?

Yes No

If yes, against what 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
- Other, please specify

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

Yes No

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

Yes No

30. Are employees protected by law from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

Yes No

31. Does your agency have a communication strategy?

Yes

32. Does your agency have a comprehensive corporate plan?

Yes No

33. Is there a strategy in formulating partnership with outside agencies in fighting corruption?

Yes No

34. Is there strategy in dealing with media?

Yes No

Resource Mobilization

35. Does your agency have budgetary autonomy?

Yes No

36. What is the annual budget of your agency?

5.3 million euros

37. Is the annual budget determined by (Please choose the answer/s that best fits your agency)

| | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Number of staff |
| <input type="checkbox"/> | Number of investigations |
| <input type="checkbox"/> | Budget is constitutionally mandated |
| <input checked="" type="checkbox"/> | <ul style="list-style-type: none"> • Other, please specify: The budget is determined by: • A) the personnel • B) the investments • C) current expenditures <p>B and C are determined according to the programmes and plans into place.</p> |
| | |

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

Non determined.

| | | | | | |
|----|-------------|----|---------------------|----|----------------|
| \$ | File a case | \$ | Manage a paper case | \$ | Analyze a case |
|----|-------------|----|---------------------|----|----------------|

39. Any Donor Involvement?

Yes No

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

Yes No

Social Environment

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

Yes No

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

Yes No

43. Does your agency produce regular public reports of its activities?

Yes No