

**Questionnaire for Member and Observer States, by the
UN Special Rapporteur on the situation of human rights defenders
Mary Lawlor, September 2021**

Anticor is an NGO founded in 2002 which now has more than 6000 members. It holds an accreditation from the French Independent Authority of Transparency for Public Affairs, HATVP (first accreditation in 2016, renewed in 2019) and another one from Ministry of Justice (first accreditation in 2015 renewed in 2018 and 2021). Anticor currently handles 135 corruption cases. It also raises public awareness regarding the ethics in politics topic and makes proposals for legal improvements to be made in that respect.

Its annual average budget amounts 350 000 euros. With only three employees and without any public subsidies or any kind of funding from corporates (only natural person and NGO can donate). the organization mostly relies on the involvement of volunteers. About 92 local sections are monitoring local public life, including in French overseas departments and territories.

Anticor has led a twenty-year fight by citizens against corruption and for democracy.

Contact Details - Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

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Questions FOR NGOs/HRDs

In the European Union, the annual cost of corruption is estimated between 179 and 999 billions euros. For France, this amount reaches 120 billion euros every year. Out of 1093 corruption cases identified by the NGO Transparency International, more than a third (39%) involves elected representatives, mainly for public funds embezzlement.

Within the framework of its international commitments, the French government has signed several international conventions on the fight against corruption (OCDe Convention on the fight against corruption, United Nations Convention against corruption, etc.).

1. Does your Government accept that corruption is a human rights issue?

The French government and French institutions do not understand the facts of corruption as a subject relating to the protection of human rights.

On the other hand, human rights constitute a body of legal rules whose effectiveness is regularly recalled by the French courts and the European Court of Human Rights and which

bind government and elected people in their actions: obligation of transparency with the constitutional right to communication of administrative documents, right for all citizens to hold public officials accountable for their administration (article 15 of the declaration of human and citizen rights,), popular sovereignty in tax matters (article 14 of the declaration of human rights).

2. How does your Government support and protect human rights defenders working against corruption?

To fight corruption, **Member States of European Union have established several strong criminal justice systems**, as far as criminal prosecutions for corruption offences are concerned.

- Some allow any citizen to lodge a claim against offenders.
- Some introduce obligations for the competent authority to prosecute every crime.
- Some ensure criminal justice systems have prosecutors independent from governments.
- A few Member States have set-up all of these characteristics in a successful model.

France does not follow any of these systems

In France, even though citizens can file a claim, prosecutors, who report to the Minister of Justice, have the power to dismiss cases. In other words, those who decide whether to prosecute corruption offences or not are under the direct authority of the government.

Facing citizen demands for an extension of the right to sue in corruption's cases, the French government has created a system of accreditation which allows NGOs to directly refer corruption offences to independent judges. This accreditation has to be renewed every three years by the Minister of Justice. Only three NGOs currently hold such an accreditation, one of them is Anticor.

This accreditation is provided for in article 2-23 of the French code of criminal procedure. This accreditation enabled the association to carry out 135 proceedings against elected officials at the same time.

Anticor has taken considerable risks to fight against impunity and for equality under and before the law. The NGO asked independent judges to examine cases concerning high-ranking officials suspected of infringing public integrity rules. This has involved members of the government – including the Minister of Justice himself - the President of the National Assembly and the Secretary-General of the Elysée : <https://www.anticor.org/affaires/>.

Anticor's **accreditation was due for renewal on April 2, 2021 and the association** was exposed to a serious risk that the government rejects its accreditation request. The renewal process lasted for an unprecedented period of 6 months. The government tempted to circumvent the

legally established conditions for delivering such accreditation which generated rising concerns among Members of Parliament:

<https://twitter.com/AssembleeNat/status/1374386663258955784>.

The capacity of associations to act and fight against corruption as an anticorruption depends on the goodwill of the political power, which is abnormal, even paradoxical.

At the same time, a nationwide destabilization campaign was set up in the press about a donor who allegedly had an account in Luxembourg, which we didn't know before.

Finally, the legal representatives of the association were attacked, two of them having been accused of perjury by a deputy of the majority, M. Bruno Questel.

The level of protection of the rights of people fighting against corruption is relatively low in France and in consequence, Human rights defenders fear reprisals. The actual president of Anticor had three tax pre-audits on her activity as lawyer in 2019/2020. The actual vice-president, who is a judge, was the subject of an administrative (disciplinary) investigation requested by the Minister of Justice in 2019/2020.

About the protection of whistleblowers. Under pressure from associations such as Anticor, it was not until a 2016 law (law on transparency, the fight against corruption and the modernization of economic life) was voted by French Parliament. This law created a statute for whistleblower, but very incomplete and did not offer a satisfactory level of protection for whistleblowers.

However, it was noted that the European institutions have become aware of the inadequacies of European and national legislation in terms of protecting the rights of whistleblowers. In 2019, the European Parliament adopted a new directive on the status of whistleblowers; directive which is now the subject of a transposition law in France.

3. Has your Government ratified the UN Convention against Corruption?

Yes.

4. If yes, what, specifically, has your Government done to implement its Article 13 including "...to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption...?"

The French government does not at all encourage the civil society actors to participate in the fight against corruption.

At school level: education programs at the primary, secondary and higher levels do not address or raise awareness of corruption issues. To date, only one university in France has created a university degree specializing in the fight against corruption.

Anticor emphasizes that this diploma and the course of study attached to it are the result of close collaboration between the university which provides this teaching and our association.

Our association also works in colleges, high schools, universities and grandes écoles to make tomorrow's citizens aware of this issue.

5. If your government has not ratified the Convention yet, are you carrying out any advocacy work in support of its ratification?

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6. Have there been any cases of human rights defenders working on anti-corruption issues physically attacked, including killed, in your country between 1 January 2020 and 30 June 2021? What action has been taken to bring the perpetrators to justice ?

Physical attacks on anti-corruption activists are rarely directed against association leaders. On the other hand, our militants in the provinces on the ground are subjected to numerous attacks.

This situation is particularly true in Corsica where the following attacks were listed in the context of the fraudulent agricultural aid file: cattle killed, farms set on fire, gunshot through the windows (of the children's room).

7. Have cases of attacks, intimidation and harassment of anti-corruption activists been investigated and prosecuted? Please provide details of cases is available.

As said before, our legal representatives were accused of perjury by a deputy of the majority, M. Bruno Questel. This accusation led to a defamation complaint which is pending in court (Tribunal judiciaire de Nanterre).

The case against our actual vice-president was an administrative procedure that resulted in exonerating him from all liability. There was no other procedures.

8. Could you please share good practices (evidence-based) that have proved effective in protecting human right defenders working on anti-corruption issues?

France is working on the protection of whistleblowers. One of our proposition is to protect the NGO that carry causes instead of whistleblowers and to allow them to stay anonymous. This is a good way to protect civil society from attacks.

What we always do, as it was done after the death of Daphne Caruana Galizia in Malta in 2017, is to never drop a file when someone is in danger but on the contrary concentrate our forces on this file in the hope of dissuading attacks.

9. How has your Government publicized and celebrated the work of human rights defenders working against corruption in your country?

The French Government has never did such a thing at our best knowledge.

10. What more could your Government do to help protect human rights defenders working on issues of anti-corruption?

France has to change the way its institutions work :

- give justice the means to carry out its missions (our budget for justice is a third of what Germany has for each citizen).
- remove the hierarchical link between the Ministry of Justice and prosecutors
- Supervise lobbying
- Supervise revolving doors
- review how electoral campaign account verification works (our former president was condemned a few weeks ago for illegal financing of his political campaign of 2012) ;

Please read the rest here : <https://www.anticor.org/plaidoyerpage/>.

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