



# FRANCE

## **VICTIMS OF CORRUPTION: DAMAGE REPARATION AND LEGAL STANDING**

### **INTERNATIONAL DATABASE 2022**

SOURCE: TRANSPARENCY  
INTERNATIONAL FRANCE

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VICTIMS OF CORRUPTION WORKING GROUP



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**SOURCE: Transparency International France**

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# 1. Legal Standing

## 1.1 Legal standing for civil society organisations and/or citizens in corruption-related cases

Civil society organisations and citizens have legal standing in corruption-related cases.

## 1.2 Type of Cases

- Criminal

## 1.3 Legal basis under which citizens have legal standing

Under the French Code of Criminal Procedure, any persons that have directly suffered personal injury as a result of an offence can obtain reparations for their harm (material or moral), either by filing a complaint and suing for damages before the competent investigating judge ([Article 85 of the French Criminal Procedure Code](#)), or by joining a civil action to an ongoing criminal proceeding and demanding that the tribunal entertaining jurisdiction order the perpetrator of the criminal act to pay damages ([Article 2 of the French Criminal Procedure Code](#) and [Article 418 of the French Criminal Procedure Code](#)).

In December 2010, the French Judicial Supreme Court ruled in favour of allowing anti-corruption associations to file a complaint and sue for damages in corruption-related cases, acting in the collective interest (Cour de cassation, 9 novembre 2010, n° J 09-88.272 F-D). This case law has since been codified in a 2013 law ([Loi n° 2013-907 du 11 octobre 2013 relative à la transparence de la vie publique](#)) creating the [Article 2-23 of the French Criminal Procedure Code](#).

## 1.4 Citizens and/or civil society's intervention in corruption cases in other capacities (e.g. third party contributors, expert input, etc)

There is no possibility for citizens and/or civil society's intervention in corruption cases in other capacities.

## **1.5 State's entitlement to represent the citizens collectively in corruption cases and whether its intervention excludes direct intervention by citizens**

The state is not entitled to represent the citizens collectively in corruption cases. In France, the public prosecutor's office is responsible for enforcing the law and conducting criminal proceedings on behalf of the interests of society. However, this cannot qualify as a representation of citizens collectively per se.

## **1.6 Legal standing of any foreign government or foreign-based non-governmental institution to bring corruption cases on behalf of this country's citizens**

Foreign governments or foreign-based non-governmental institutions have legal standing to bring corruption cases on behalf of this country's citizens

In accordance with Article 53 of the UNCAC, French legislation allows physical and legal persons, including States, to initiate action to establish ownership of property or a claim for compensation in French courts, either by participating in criminal proceedings as a civil party or by instituting separate civil proceedings. Several foreign States have brought civil actions before the French courts, and proceedings are ongoing. Several of those actions were favourably received. These cases concern the acquisition of property through the laundering of embezzled public funds, aggravated breach of trust and concealment.

However, it must be noted that foreign-States' legal standing in France does not qualify as "intervention on behalf of their citizens".

In 2007, Nigeria became a *partie civile* in a money laundering case initiated against Dan Etété, former minister of energy of Nigeria. Etété was convicted and sentenced to three years' imprisonment. Nigeria, as a *partie civile*, was awarded €150,000 for nonpecuniary damages (in French, *préjudice moral*). At the same time, the court found that Nigeria had not proved a tangible pecuniary damage (Source: <https://documents1.worldbank.org/curated/en/964411468127796449/pdf/Pu-lic-wrongs-private-actions-civil-lawsuits-to-recover-stolen-assets.pdf>).

In another ill-gotten gains case, the French prosecuting authorities rejected the criminal complaint filed by an anti-corruption activist originated from one of the countries of origin of the embezzled public funds allegedly laundered in France. The denial decision was taken on the ground that, as a single taxpayer, he was not suffering personal and direct damage, his State of origin being the sole and only one deprived because of the misappropriation of public funds. This, even though allegations were supported by strong evidence of the participation of public official, some at the highest level of government, in the denounced corrupt scheme. Threatened and fearing for his security, the anti-corruption activist has never appealed this decision (Source: [https://www.transparency-france.org/wp-content/uploads/2016/04/cp\\_decision\\_de\\_favorable\\_291009.pdf](https://www.transparency-france.org/wp-content/uploads/2016/04/cp_decision_de_favorable_291009.pdf)).

## 2. Cases

### 2.1 Existence of corruption-related cases brought to Court by civil society organisations, journalists, or citizens

The French “Biens Mal Acquis” cases have notoriously reshaped the whole anti-corruption landscape in France in many ways. These cases have changed the way France is now dealing with the question of victims of corruption, in particular with their legal standing of anti-corruption associations.

In December 2010, the French Judicial Supreme Court ruled in favor of allowing TI-France to file a complaint as *partie civile* in a major money laundering case, acting in the collective interest. Granting French anti-corruption associations legal standing has been decisive in the fight against corruption. In particular, granting non-government actors the ability to trigger corruption proceedings is a key tool to circumvent the potential reluctance of the Public Prosecutor Office to open cases in the name of diplomatic or economic interests.

This decision also led, in 2017, to the historic conviction of Equatorial Guinea Vice-President, since confirmed by a Court of Appeal in 2020 and by the French Supreme Court in 2021.

## **3. Collective Damage**

### **3.1 Legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field (environmental damages, human rights, corruption, among others)**

Compensation of collective damages was, in France, recognized for one subject-matter: environment.

The environmental damage was first identified in the Erika case ([Cass. Crim. 25 septembre 2012, n°10-82.938](#)) and is now defined in [article L. 162-9 of the Environmental Code](#), which states that "environmental damage consists of the direct or indirect damage to the environment resulting from the offence". In the aforementioned case, the Paris Court of Appeal explicitly qualified environmental damage as an objective damage. The Paris Court of Appeal referred to the Lopez Ostra decision of the European Court of Human Rights of December 9, 1994, which recognized that these elements of nature have a patrimonial value and that the damage caused to them is a source of reparable harm.

French law generally requires proof of a direct and personal prejudice linked to the damage. However, the objectivizing of the environmental damage was therefore meant to detach the harm from the rigid conditions provided for by the law, in order to admit the civil action of associations entitled to act on behalf of a collective interest - the defence of the environment.

### **3.2 Procedures for advancing class-actions**

In French law, collective actions only exist in Competition law and Consumer law, by the means of joint representation actions. Concerning Consumer law, group action is codified in [articles L623-1 and following of the Consumer Code](#), and aims "to defend the individual interests of several consumers in the case where several consumers, natural persons, have suffered individual prejudices which were caused by the fact of the same professional, and which have a common origin"

The condition to launch a joint representation action are the following:

- at least two consumers consider that they have suffered harm as a result of the same breach of duty by a professional;
- the action must be brought by an approved association;
- it is only possible to launch a group action to repair material damage, exclusively for disputes relating to consumption or competition.

Article 184 of Law No. 2016-41 of January 26, 2016 on the modernization of French health system introduced as well a group action in health matters. Its implementation terms are specified by Decree No. 2016-1249 of September 26, 2016: conditions for assistance and mediation, specific rules of procedure, etc. Approved health system user associations can bring group actions for damages caused by health products.

Finally, Title V of Law No. 2016-1547 of November 18, 2016 on the modernization of justice for the 21<sup>st</sup> century created a common legal framework for group actions in judicial and administrative matters, as well as a group action for discrimination.

## **4. The Role of the victims of corruption**

### **4.1 Definition of victims of corruption or common definition used by the courts in this country**

There is no definition of victims of corruption.

### **4.2 Cases that recognize the role of victims**

In October 2017, the Paris Criminal Court convicted Teodorin Nguema Obiang Mangué for money laundering of embezzled public funds and confiscated all of his assets located in France amounting to approx. EUR 120 million. The Paris Criminal Court took the opportunity of this decision to publicly regret that confiscating stolen assets without repatriating them to the origin countries equals not taking into account victims of corruption's interests.

#### **4.3 Corruption-related court cases (criminal, civil, administrative) that awarded compensation to individuals or to identifiable or non-identifiable groups of victims to repair the damage caused by the corruption offense**

In 2017, Transparency International France, as a co-plaintiff in the [Obiang case](#), was awarded compensation amounting to EUR 10,000 for its moral damage and EUR 41.080 for its material damage (corresponding to the lawyer's fees paid by the association during the 10 years of judicial proceedings).

#### **4.4 Innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases**

The most innovative mechanism in France is the one acknowledging anti-corruption associations' legal standing in corruption cases (see more details under section 2).

## **5. Available Information**

### **5.1 Information published by enforcement authorities (including control agencies) about corruption enforcement actions**

Information is published by enforcement authorities

Type of Information:

- The enactment of sanctions
- Settlements
- The grounds for sanctioning or acquitting (the case)

## **5.2 Feasible access to information on ongoing or concluded cases**

Enactment of sanctions & grounds for sanctioning or acquitting: The 2018-2022 Loi de programmation pour la justice modified the availability of court decisions to the public in electronic form. This modification was recently specified by an order of April 28, 2021. The consultation of court decisions online will be possible progressively by December 2025:

- September 2021 for the decisions of the Conseil d'Etat and the Cour de cassation ;
- March 2022 for the administrative courts of appeal;
- April 2022 for the courts of appeal in civil, social and commercial matters
- June 2022 for the administrative courts;
- December 2024 for the commercial courts and decisions in first instance in criminal matters;
- September 2025 for decisions in first instance in civil matters
- December 2025 for criminal proceedings and appeal courts in criminal matters.

Settlements: Only Deferred Procured Agreement concluded by a company. Guilty-pleas agreed by natural person aren't published (but the hearing of homologation is public).

## **5.3 Ways for citizens or civil society organisations to gather information on whether corruption cases are being investigated or trialed.**

There are two scenarios:

1. When the case is being investigated under the "preliminary investigation" (enquête préliminaire), unless leaked in the press, the general public has no way of knowing how the investigation is proceeding.

2. When an investigating judge has been appointed, citizens and associations with legal standing can act as a civil party and have access to the entire procedure and request investigative acts.

## **6. Supplementary information**

### **6.1 Main identified barriers that prevent CSOs, citizens, and journalists from standing as victims of corruption cases.**

The main barrier that prevents foreign CSOs, citizens, and journalists from standing as victims of corruption cases occurring in France is the lack of information. They often ignore the existence of a case, and their right for remedy. And when they do, they often lack the financial resources to organise their defence.

The main barrier that prevents French CSOs, citizens and journalists from standing as victims of corruption cases is the risk of retaliation (e.g., libel lawsuits).

### **6.2 Other aspects, issues, provisions, or practices linked to the role, recognition, and compensation of victims of corruption.**

N/A