

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY ITALY

## ARTICLE 7, PARAGRAPH 4 UNCAC

### CONFLICT OF INTEREST

#### ITALY (NINTH MEETING)

##### ***Conflict of interest standards***

Italian legislation in matter of conflict of interests is concentrated on the achievement of the following objectives.

First of all, it has the aim of prohibiting the access to public offices to the holders of particular private interests. In this framework, reference is made to the discipline related to political offices (Legislative Decree no. 235/2012 implementing the Law no. 190/2012), and the one related to administrative offices in public administrations and private entities under public control (provided for in Legislative Decree no. 39/2013).

With regard to the holders of government offices, the relative discipline is contained in Law no. 215/2004 whose supervision is on the Antitrust Authority.

A further aim is avoiding holders of public offices to be involved in private businesses, reason why the principle of exclusivity of business relationship with the public administration applies and can be overcome only through specific authorization (according to art. 53 of Legislative Decree no. 165/2001).

According to the principle of exclusive service, stated under art. 98 of Italian Constitution “public employees are at the exclusive service of the Nation”, which is to say that public employees should abstain from providing services for their own personal interest or for that of the political party which they belong to.

Italian law does not provide one general definition of Conflict of interest, but there are several provisions, both in the Constitution and in other laws and regulations, that directly deal with potential conflict of interest situations.

Therefore, regarding the Italian law:

- Provisions on conflict of interest shall apply to public employees (general category including: elected and not elected public officials; civil servants; judges; MPs and members of the Government; as well as other public office holders);
- Cases of conflict of interest are defined by the law; there are different provisions for different categories of public employees;
- Conflict of interest also deals with incompatibility and disqualification (*incompatibilità*). This is to say that the discipline of conflict of interest is specified in cases in which the role of public employee cannot be accepted all (*incompatibilità*) or can be accepted only if the person chooses to divest from the incompatibility (for example, terminating or dismissing the position in conflict);

- Detecting and regulating cases of conflict of interest is a preventive measure;
- The criminal code also provides for specific offences when administrative office is used to gain unjust material advantage for public office holders or persons associated with them;
- Incompatibility: aims at preventing the continuation of the administrative mandate who is in particular situations of conflict;
- Disqualification (*Inconferibilità*): it is a general preventive measure (the illegitimate behavior is avoided ex ante through the prohibition to accept the office).

According to the complex Italian legal framework, it is possible to distinguish three main areas to take into account: 1) Public Administration; 2) Judiciary; 3) Members of the Parliament and of the Government. There are different and specific legal provisions. for each of these areas, and within each of these areas it is possible to distinguish different categories of individuals.

a) Responsible for Administrative Procedure and executives:

The article 6 bis of law 241/90 on “conflict of interest” provides that:

The Responsible of the administrative procedure and the Responsible of the offices (the executives) in charge of advices; technical evaluations; internal acts and final acts should abstain in case of conflict of interest and signal it (introduced in Chapter II of Law n. 241/1990 on Administrative procedures by art. 1 , paragraph 41 of Law n. 190/2012);

b) Top-executive public officials; administrative officials (Managerial positions) (Legislative decree n. 39/2013 (adopted due to the provisions of art. 1 , paragraph 49 of Law n. 190/2012)).

- impossible (*inconferibile*)

- not compatible

(prohibition to discharge other public or political office)

c) Elected or appointed public officials in political decision-making bodies at a regional or local level

- d.lgs. 39/2013 (adopted due to the provisions of art. 1 , paragraph 49 of Law n. 190/2012)

- not conferrable (art. 7);

d) Top-executive public officials in Local Health Authorities

- Impossibility (art. 7)

- d.lgs. 39/2013 gives provisions on roles that cannot be mandated to by the Officials namely indicated in the abovementioned letters b), c) d): Members of the Government; Ministries; Vice Ministers; State Secretary; parliamentarians. On the contrary, Members of the Government; Ministries; Vice Ministers; State Secretaries; MPs cannot be at the same time in charge of one of the public office listed under the abovementioned letters b), c) d).

e) Civil Servant - Public Procurement: art. 42 d.lgs. 50/2016 (Conflict of interest)

“There is a conflict of interest when the staff (civil servants) of a Contracting Authority or a service provider who, also on behalf of the contracting Authority, intervenes in the performance of the award procedure and the concessions or may in any way influence the outcome”

In the Italian system it is necessary to distinguish between Substantial and Formal conflict of interest.

1. Substantial conflict of interest does not refer to cases described by the law, so the conflict of interest must be detected on the basis of the conduct of the Official, taking into account indications provided by the General Conduct Code of Public officials and civil servants (D.P.R. 62/2013), as well as more detailed indications that should be provided by specific Code of Conduct of each public administration.
2. Formal conflict of interest (incompatibilities) refers to specific legal provisions of d.lgs. 39/2013, which describes conducts that by nature are considered as an explicit conflict of interest. So in this case it is not necessary to detect if effective conflict of interest occurs in practice, because it is enough to verify that the Official is in the position described by the law.

### ***Transparency and publicizing of conflict of interest standards***

The whole regulatory framework on conflict of interests is supported by duties of conduct and requirements of reporting and transparency.

The discipline on administrative transparency in Italy serves different purposes and aims.

Transparency is mainly seen as full accessibility to the data and documents held by the public administrations, for the purpose of protecting the fundamental rights of citizens, promoting the participation of any interested party in the administrative activities and fostering widespread forms of control on the pursuance of the institutional functions and the use of public funds.

Moreover, the obligation to publish some data on the websites of public administrations is aimed at disclosing possible conflicts of interest between the public duty and private interests of a public official. To this end, the Italian legislator has provided for different dispositions summarized below.

With reference to incompatible duties or which cannot be conferred within public administrations and private entities under public control, pursuant to article 20 of Legislative Decree no. 39/2013 both statements on the groundlessness of causes of non-conferrable status submitted at the time of the conferment of the positions indicated in the decree and statements on the groundlessness of one of the causes of incompatibility referred to in the decree are published on the website of the public administration, public body or entity governed by private law under public control that confers the assignment.

Having ANAC indicated to public administrations to accept only statements with a detailed list of all assignments carried out (Resolution n. 833/2016), the publication on the web site consents a general public scrutiny over all the activities performed by subjects holding managerial posts and administrative responsibility in public administrations, public bodies and entities governed by private law under public control.

To disclose the involvement of public officers in private businesses the article 18 of the Legislative Decree no. 33/2013 requires public administrations to publish all the appointments granted or the authorizations given on their websites, with an indication of the term of office and the remuneration owed to them for each appointment.

To make known possible conflicts of interest of holders of political offices, article 14 of the

Legislative Decree no. 33/2013 requires that public administrations publish their income and asset declarations (refer to no. 335). The legislative decree no. 97/2016, amending the article 14 of the Legislative Decree no. 33/2013, extended the asset and income disclosure of holders of political offices also to senior civil servants.

Data and information to be published consists of: a statement on real rights on immovable properties and movable properties recorded in a public register, ownership of company shares and equity participations, ownership of companies, any company directorships or posts as internal company auditors, a copy of the latest tax return.

However, the duty of senior civil servants to publicly disclose income, assets and financial data has been challenged in March 2017 by some officials as violating the Italian Constitution and the European law, in particular the right to privacy, the protection of personal data and the principle of proportionality. As a consequence the publication of income and asset declarations has been suspended for all senior civil servants until the delivery of the judgment of the Constitutional Court.

Article 15 of the Legislative Decree no. 33/2013 ensures transparency of potential conflicts of interest of outside contractors and consultants of public administrations. It provides the publication on the website of the same administration engaging them of: a) details of their deed of appointment (object and term); b) curriculum vitae; c) any data concerning the performance of tasks or any office held in private entities regulated or financed by the public administration, or the performance of professional activities; d) remuneration, however named, related to their consultancy or collaboration relationship, especially the variable components of it, if any, or the components related to the assessment. Public administrations publish the data within three months from the appointment and for the three years following the termination of the office.

Some of the above listed data (recipients, reason for their engagement, amount disbursed) are also published centrally by the Office of the President of the Italian Council of Ministers - Department for public administration (pursuant to article 53, paragraph 14, second sentence, of Legislative Decree 30 March 2001 no. 165). The Department allows the consultation of the data by name.

Finally, it has to be pointed out that article 15-bis of the Legislative Decree no. 33/2013 is a tool to detect conflicts of interest of collaborators and consultants of companies under public control and companies under extraordinary administration. It provides the publication, within 30 days from the appointment, and for two years following their termination, of the following information: a) details of their deed of appointment, object of their work performance, reason for their appointment and the relevant term; b) curriculum vitae; c) remuneration, however named, related to their collaboration or consultancy relationship, as well as to professional appointments, including those of arbitrators; d) type of procedure followed for selecting the contracting party and the number of participants in the procedure.

### ***Regulation of the outside activities of a public official***

Article 17 of the “Code of conduct for the public employees” (Presidential Decree no. 62/2013) contains provisions aimed at promoting the knowledge of code of conducts throughout the public service, including the measures related to conflict of interest. Public administrations are required to publish the National Code of conduct and the specific Code adopted internally which supplements and sets out in more detail the National Code of Conduct on their websites

and on the intranet; to send the Codes via email to all their employees, external collaborators, consultants, holders of political offices and holders of positions of direct collaboration within political offices and to collaborators of companies providing services to the administration. A copy of the code of conduct is also delivered to employees who sign it at the time of recruitment. Moreover, the knowledge of the measures on conflict of interest is also promoted within the staff training activities on the correct application of Codes of conduct held each year by public administrations to verify the state of implementation of the Codes, as required by Law no. 165/2001 as amended by Law no. 190/2012.

In the National Anticorruption Plan 2015 ANAC designed a stronger transparency regime for conflicts of interest of some specific categories of personnel of the National Health Service. The subjects included are those with functions implying responsibilities in the management of resources, subjects with powers in the decisional processes related to medicinal products, medical devices, other technologies, research, experiment and sponsorship. A standard format for the declaration of activities/interests/relations has been provided to be filed and published annually.

In order to understand the actual implementation of the provisions, it is necessary to distinguish different cases of conflict of interest. In cases in which a situation is predetermined by dispositions provided for by the law (so-called presumption), there is no discretion in determining the conflict of interest (for instance, the hypotheses of incompatibility and non-conferrable status contained in Legislative Decree no. 39/2013). The subject in charge of the assessment is the Manager for the prevention of corruption and transparency, art. 15 of the Legislative Decree n. 39/2013.

For cases which are not explicitly considered by the law, reference is made to art. 6 bis of Law 241/1990. Additional dispositions on the matter are contained in the Presidential Decree n. 62/2013 and in the codes of conduct of the single public administrations. It is on the hierarchical superior to assess the conflict of interest.

The determination of a conflict of interest by a head of an office for a subordinate is taken considering the criteria included in the legislative framework described for the conflicts of interest. The criteria are assessed in order to determine whether a conflict exists. The decision is not left to a purely discretionary determination of the head of the office. To sum up, the decisions are not purely discretionary but they always refer to legal basis.

Also, ANAC has supervisory and sanctioning powers, as introduced, respectively, by art. 16 of the Legislative Decree n. 39/2013 and the law n. 114/2014.

### ***Incompatibility causes and disqualifications***

A set of incompatibility causes to hold a parliamentary mandate and other offices is directly defined by the Constitution or by constitutional laws: incompatibility between the office of Member of the Chamber of Deputies and Member of the Senate (Constitution, article 65, second paragraph), between President of the Republic and any other office (Constitution, article 84, second paragraph), between Member of Parliament and member of the High Council of the Judiciary (Constitution, article 104, last paragraph), between Member of Parliament and Regional Councillor or Executive (Constitution, article 122, second paragraph), between Member of Parliament and Judge of the Constitutional Court (Constitution, article 135, sixth paragraph).

Article 65, first paragraph, of the Constitution, states that the Law shall determine any other causes of incompatibility.

General provisions on this matter were set out by Law no. 60 of 13 February 1953, providing for incompatibility between parliamentary offices and Government or State Administration offices, positions in associations or authorities managing services on behalf of the public administration, or receiving public funds, positions in joint-stock companies with a prevailing financial activity. Subsequent specific legislative provisions clarified and confirmed such general incompatibility criteria for some specific offices.

Furthermore, any office as member of the Chamber of Deputies or Senate, or member of the Government, is incompatible with the office of member of legislative assemblies or executive bodies, both national and regional, in Foreign Countries (Law 60/1953, article 1-bis, as added by article 10, Law 459/2001).

The overlapping of parliamentary mandate with other offices is also prohibited under specific provisions contained in ordinary laws, including Law no. 78 of 27 March 2004, stating the incompatibility between the office of Member of the European Parliament and the office of Member of the Chamber of Deputies and Senate.

The Decree-Law no. 138 of 13 August 2011 (converted into Law no. 148 of 14 September 2011), article 13, paragraph 3, also provides for the incompatibility between the office of member of the Chamber of Deputies and of the Senate, as well as Government offices, with any other public-elected monocratic office for territorial governing bodies of public authorities having, on the date of appointment or in which elections are announced, a population exceeding 15,000 inhabitants.

In the end, a set of incompatibility causes was introduced by legislative decree no. 39 of 2013, enacted in the scope of implementation of one of the delegated laws under the anticorruption law (Law no. 190 of 2012).

In particular, the incompatibility between the office as Member of Parliament and the following offices is set out for:

- Top administrative offices (secretary general, head of department, director general, and similar ones) in state, regional and local administrations, as well as managerial offices in national, regional and local public authorities (article 11, paragraph 1)
- Managerial offices in public administrations, public authorities, and in private organisations under public control (article 12, paragraph 2)
- Chairman and Chief Executive Officer of national, regional and local private organizations under public control (article 13, paragraph 1)
- Director General, medical director and administrative director in Local Health Authorities (article 14, paragraph 1).

The Members of Parliament shall notify the President of their relevant Chamber any offices held with a view to assessing eventual causes of incompatibility. In case of incompatibility, a Member of Parliament shall choose between the parliamentary mandate and the office deemed incompatible.

A series of disqualifications are set out in the regulations in force, applying to electoral candidacy as members of parliament.

In particular, legislative decree no. 235 of 31 December 2012 includes the Consolidated Law on disqualification and prohibition to hold elective and Government offices following final judgements of conviction for non-culpable offences.

This provision was enforced by the Government under the delegated power set out in article 1 of Law no. 190 dated 6 November 2012; among its guiding principles, this law sets out the temporary disqualification of those convicted for some specific offences, being understood the provisions of the criminal code on the permanent disqualification from holding public offices.

The text provides for the disqualification from the Chamber of Deputies and the Senate, besides stating that those who were convicted through a final judgment, also in case of application of penalties upon request of the parties (the so-called plea bargaining procedure) under article 444 et seq. of the code of criminal procedure, for three classes of final judgments relating to non-culpable, perpetrated or attempted offences, shall not - in any - case stand for election.

The first category concerns prison sentences exceeding 2 years for the offences under article 51, paragraphs 3-bis and 3-quater of the Code of Criminal Procedure.

Paragraph 3-bis refers to the following types of offences falling within criminal association:

- article 416, paragraph 6, Criminal Code (criminal organisation aimed to perpetrate offences including trafficking and slavery or servitude, or purchase or selling of slaves, as well as trafficking in illegal migrants);
- article 416, paragraph 7, criminal code (criminal organisation aimed to perpetrate sexual offences against minors, or to perpetrate sexual violence against minor, sexual activities with minors or gang rapes against minors, or to perpetrate offences including solicitation of children);
- article 416, criminal code, to perpetrate the offences provided for under articles 473 and 474 (criminal organisation aimed to perpetrate offences including counterfeiting and marketing of products with fake marks);
- article 416-bis, criminal code (mafia association), including all the offences perpetrated under the conditions provided for in article 416-bis above, or to facilitate the activities under said article;
- article 74 Consolidated Law on drugs (organisation aimed to the illicit traffic in narcotic drugs and psychotropic substances);
- article 291-quater Consolidated Law on customs (criminal organisation aimed to tobacco smuggling).

Paragraph 3-bis adds to the offences above the trafficking in human beings and the placing and holding individuals in conditions of slavery or servitude, or the trade in slaves (articles 600, 601 and 602 of the criminal code), kidnapping for ransom or reward (article 630 criminal code), bargaining of votes between politicians and members of Mafia (article 416-ter Criminal Code) and organised offences for the illegal traffic of waste (under article 260 of the Environmental Code, Legislative Decree 152/2006).

Paragraph 3-quater concerns offences, not listed in the Code, aiming to terrorist activities.

The regulatory provision includes both the typical offences perpetrated by the organised crime (i.e. criminal association with purposes of terrorism including international terrorism, or subversion of the democratic order, ex article 207-bis, Criminal Code), and any common

offences aggravated by the purposes of terrorism, defined under article 270-sexies of the criminal code.

The second category is represented by prison sentences exceeding 2 years for the offences under Book II, Title II (Offences against the Public Administration), Head I (Offences by public officials against the Public Administration) of the criminal code, made up of articles from 314 to 335-bis.

The third category - for which the Code is not exhaustive, as there are at least 400 special laws providing for particular criminal cases - concerns the cases of prison sentences exceeding 2 years for the offences for which imprisonment is imposed for at least 4 years under article 278 of the Code of Criminal Procedure. This article defines the determination of the penalty for the purpose of defining the supervision measures to be imposed.

The assessment of disqualification is carried out on the occasion of the submission of the lists of candidates and within the deadline set for their acceptance.

Such assessment is performed by the Central Constituency Office - for the Chamber of Deputies - and by the Regional Electoral Office - for the Senate - and by the Overseas Constituency - for the Members of Parliament to be elected abroad -, on the basis of the statutory declarations stating the absence of the disqualification condition, made by each candidate under article 46 of the Consolidated Law as per Presidential Decree 445/2000 on administrative documentation.

The electoral offices assess the disqualification condition also on the basis of the documents at their disposal, attesting their right to stand as candidates.

In case of appeals against the decisions on the assessment of disqualification, article 23 of the Consolidated Law for the Election to the Chamber of Deputies applies.

In case of disqualification either intervened or assessed after the submission of lists, and before the announcement of elected members, the relevant electoral offices (the Central Constituency Office - for the Chamber of Deputies - and by the Regional Electoral Office - for the Senate - and by the Overseas Constituency - for the Members of Parliament to be elected abroad) perform a statement of non-proclamation towards the disqualified subject.

In case a cause for disqualification either intervenes or is assessed during the elective office, the Chamber of which he or she is a member decides during the credential verification phase, in compliance with article 66 of the Constitution, according to which each House of the Parliament decides the qualifications for admission of its members and subsequent causes of ineligibility and incompatibility. To this end, the final convictions entailing disqualification, issued against members of parliament currently in office, are immediately notified to the relevant Chamber by the public prosecutor at the executing judge (article 665 Code of Civil Procedure).

In case the assessment of disqualification intervenes in the phase of validation of the candidates elected, the Chamber involved, also while waiting for the completion of such phase, immediately resolves on the non-validation.

In case of a vacant seat, the relevant Chamber, while validating the membership of the successor, assesses the absence of disqualification conditions of the latter.

As regards the duration of disqualification for the mandate of Members of Parliament, it is

effective as from the date in which the judgment becomes final and is in force for a period corresponding to the double of the duration of the ancillary penalty of temporary disqualification from holding public offices imposed by the judge. In any case, also without an ancillary penalty, the disqualification has a minimum duration of six years.

The period of disqualification increases by one third in case the offence that determines the disqualification is perpetrated through an abuse of powers or in breach of the duties related to the elective office.

The decision of rehabilitation of the sentenced person represents a cause of early termination of disqualification, whereas the eventual revocation of the rehabilitation decision entails the recovery of disqualification for the remaining period of time. Furthermore, the disqualification is terminated in case of “anti-mafia” rehabilitation as per article 70 of Legislative Decree 159/2011, the so-called Anti-Mafia Code.

Lastly, the mayors and the presidents of provinces considered as liable for the financial difficulties (bankruptcy) of the relevant local authority shall be disqualified for ten years for the national and European Parliament, for any elective offices as mayor, president of province, president of regional executive council, and as member of municipal councils, provincial councils, and regional committees and councils (Legislative Decree 267/2000, article 248, paragraph 5, as amended by Legislative Decree 149/2011, article 6, paragraph 1, and by Legislative Decree 174/2012, converted into Law 213/2012, article 3, paragraph 1, letter s).

### ***Limitation to the official actions of a public official***

For cases of conflict of interests that are not explicitly considered by law, reference is made to art. 6 bis of the law 241/1990. This article on “conflict of interest” provides that:

The Responsible of the administrative procedure and the Responsible of the offices (the executives) in charge of advices; technical evaluations; internal acts and final acts should abstain in case of conflict of interest and signal it (introduced in Chapter II of Law n. 241/1990 on Administrative procedures by art. 1 , paragraph 41 of Law n. 190/2012)

In order to avoid that holders of public offices can be influenced by a private interest in their decisions, in 2013 the Presidential Decree n. 62/2013 - “Code of conduct for the public employees”- has been issued. This Decree contains rules and provisions that in general terms contribute to contrast the phenomenon of bribery.

The code defines the standard of conduct of due diligence, loyalty, impartiality and proper conduct public officials have to comply with. The code establishes general principles of conduct, replying those ones settled within the Constitution and specifying them, for instance by addressing the duty of abstention in case of conflicts of interest. The code also outlines the issues of gratuities, establishing a general principle according to which public officials are not allowed to receive gratuities due to the risk of corruption of the public function they exercise. The codes also establish that public officials have to fully comply with the anti-corruption plan adopted by the public administration he belongs to as well as with the transparency legal framework. The violation of the provision settled by the code, moreover, is a basis for disciplinary measures against the public official who has breached it. The public bodies have to adopt specific codes of conduct for their own sake, in compliance with the Constitutional

provision and the National code of conduct for public officials. The code includes a section dedicated to senior civil servants

The Code of Conduct of public officers (Presidential Decree n. 62/2013) provides, in art. 6, that the employee shall inform the senior civil servant of his office about all the business relationships, whether direct or indirect and in any way remunerated, he has undertaken during the last 3 years, specifying detailed provisions also for his relatives and/or subjects who have or may have an interest in the activity related to the office.

Furthermore, the employee shall disqualify himself from participating in certain matters which may create a situation of conflict of interest, even if potentially, on issues of any nature.

In the perspective of differentiation, following the enactment of Presidential Decree n. 62/2013, "Regulations on the code of conduct for civil servants, in accordance with Article 54 of Legislative Decree n. 165 of 30th March 2001", the Authority, following a series of meetings with entities and after consulting with them, adopted Resolution n. 75/2013 "Guidelines on codes of conduct for the public sector", according to which entities should proceed with the adoption of individual codes of conduct. The guidelines aim at creating the conditions for the preparation of differentiated codes depending on the particularities of each administration, thus avoiding that the codes themselves are resolved, as already happened in the past, on the basis of previous legislation, in a generic and not very useful repetition of the contents of the general code.

The Italian system is grounded in two different levels of Codes of Conduct: the General Code and the individual code of each public entity. All these codes have specific juridical consequences, i.e. the application of disciplinary sanctions.

The National Anti-corruption Law, Article 1, p. 44, establishes that each public body shall define own code of conduct, according to the general principles of the Code issued by the Presidential Decree n. 62/2013 and the guidelines of the ANAC, with an open procedure for participation after obtaining the mandatory opinion of its own independent evaluation body. The code of conduct of each public administration supplements and sets out in more detail the Code of conduct. Further specific incompatibilities or cases of conflict of interest, related to the activities and organization of the public body, can be added

The same law establishes that the Authority defines guidelines and uniform standard form of the codes of conduct, related to the different typologies of public administrations and individual sectors of activities.

The managers responsible for each structure, the internal control structures and the disciplinary offices oversee the application of the codes of conduct.

The ANAC monitors compliance with the obligation of the adoption of the codes of conduct. The procedures of the Authority are established in the own regulatory acts on the supervisory and sanction powers.

### ***Criminal, administrative or other sanctions where public officials do not comply with applicable conflicts of interest regulation***

Art. 16 of Presidential Decree n. 62/2013 lays down the rules related to the responsibility caused by the violation of the code of conduct, identifying 4 main types of responsibility: penal, administrative, civil and, first of all, disciplinary.

Sanctions applied shall respect the principle of proportionality and be based on a gradual

approach. They are contained in laws, regulations, collective agreements and may provide from the simple disciplinary reprimand up to the dismissal without notice.

It is on the office dedicated to disciplinary proceedings of the administration itself to deal with the issue, supported by the supervision of the Department of Public Service. ANAC is not involved in this sense.

Sanctions are defined by the Consolidated Law on Public Employment (Legislative Decree 165/2001) and by the National Collective Labor Contracts. The National Collective Labor Contracts provide for the following types of sanctions that apply according to the principle of proportionality with the violation committed:

- verbal or written reprimand;
- fine of equal amount variable up to a maximum of four hours of salary;
- suspension from the service without salary for up to ten days;
- suspension from the service without salary from a minimum of 11 days up to a maximum of 6 months (from the 11th day, payment of 50% of the salary);
- dismissal with or without notice.

Pursuant to art. 55 bis, paragraph 4 of the Legislative Decree. 165/2001, public administrations are required to transmit data relating to the sanctioning procedures activated to the “Inspectorate for the public administration”. The information received is collected in a database which shows, for each administration, the number of proceedings initiated, those suspended due to pending criminal proceedings, those concluded and those archived, as well as the sanctions applied, divided into:

- minor penalties (lower than the suspension from the service);
- suspension up to 10 days;
- suspension over 10 days;
- dismissal.

### ***Training about conflict of interest regulations***

Law 190 of 2012 assigns to SNA (first called High School of Public Administration and then SNA - National School of Administration), as the sole subject appointed to state public education, pursuant to Article 21 of Decree Law No. 90/2014 converted into L no.114 / 2014, which abolished the schools of the Ministries of the Interior, Defense, Foreign Affairs and Economics and Finance and the related functions transferred to the SNA) the role of referent for the anti-corruption training of employees of public administrations state.

Education programs and trainings are considered to be part of the measures of prevention of corruption that all administrations have to include in their Triennial Corruption Prevention and Transparency Plans (PTPCT).

The SNA organizes and delivers, either in standard classroom mode, e-learning or blended, catalog for all public employees or on agreement with individual administrations in compliance with the provisions contained in the related PTPCT, training courses specifically dedicated to the implementation of the corruption prevention system to promote the integrity of public employees and the application of the code of conduct legislation.

In order to make the educational offer as appropriate and coherent as possible with the specific needs of the administrations, the training courses are subdivided into four sub-groups:

- a) Anti-corruption and Risk Management Area
- b) Ethics, codes of behaviour, whistleblowing
- c) Public Contracting Area
- d) Ethics and anti-corruption modules included in the initial training courses (management competition course, legation secretaries, prefecture advisers) or compulsory (vice-prefects, legation counselors).

### ***Information on government processes with a higher risk of conflict of interest***

The public contract area has a highest risk of conflict of interest.

The Code of Public Contracts (Legislative decree n. 50/2016) identifies (article 213) ANAC as the responsible entity for the supervision and regulation of public contracts, to ensure compliance with the principles of transparency, legitimacy and competition of the operators in the public procurement market, in order to prevent corruption. So the whole strategy of corruption prevention is now concentrated in one single institution.

The creation of a unique safeguard for the protection of legality in public management comes from the need to attempt to control a highly economic and strategic sector, exposed more than any other to the risk of penetration by illegality and maladministration.

The Authority achieves its goals by mainly fulfilling a regulatory activity of the sector - also including an advisory function, in order to prevent disputes -, and supervising activity, along with inspection and sanctioning powers. These competences are followed by an important monitoring activity through the collection of data on tenders and on the companies operating in the sector: for this purpose an Observatory for public contracts operates. These data are made public through the institutional website, in order to increase the transparency of the market.

In particular, in order to situations of conflict of interest, the article 42 of Legislative Decree 50/2016 provides that:

For the Civil Servant in Public Procurement there is conflict of interest if he/she has, directly or indirectly, a financial, economic or other personal interest which may be perceived as a threat to its impartiality and independence in the context of the procurement or concession procedure. In particular, it constitutes a conflict of interest a situation which impose the obligation of abstention provided for in article 7 DPR 62/2013.

### ***Duties and responsibilities of the specialized staff or bodies given responsibility to strengthen transparency and prevent conflicts of interest in government***

The Anti-Corruption Law introduces a system of integrity risk assessment and risk management measures based on the model proposed by Legislative Decree 231/2001. In addition, the Law requires that each public administration should establish a prevention plan devoted to, on one hand, assess the degree of risk of corruption's exposure and, on the other hand, draw tailor-made organizational measures as to mitigate such risks.

Each public administration should adopt a Triennial Corruption Prevention and Transparency Plans (PTPCT) based on the PNA adopted by the National Anti-Corruption Authority. The PTCPT analyses and estimates any specific administration's risk of corruption and indicates appropriate preventive measures also in order to prevention conflicts of interest. To be effective, the PTCPT must contain appropriate targets and adequate measuring indicators.

Annually the Manager responsible for the prevention of the corruption proposes the PTPCT for adoption by the political organ of his administration, verifies its correct implementation and its suitability, as well as reports the results of his activity.

The Manager responsible for the prevention of the corruption can be sanctioned if the organization is convicted for corruption, unless he/she proves that the anti-corruption plan was "diligently implemented".

***Description of the institutional structure and procedures to oversee the compliance with conflict of interest legislation and apply respective sanctions.***

The Manager responsible for the prevention of the corruption supervises the correct application of the provisions concerning conflicts of interest and informs the competent bodies of any violations.

***Measures aimed at preventing conflicts of interest concerning former public officials in private entities (pantouflage)***

The article 53 of Legislative Decree no. 165/2001 aims to avoid holders of public offices to be involved in private businesses and in situations of conflict of interests even when employment is terminated.

The revolving doors discipline (also called pantouflage) provides for the limitation of negotiating power with private parties for a certain defined period after the termination of public service. In fact, the employees that, in the last three years of service, have practiced authoritative and negotiating power on behalf of the public administrations, in the three following years to the cessation of the relationship of public employment, cannot take up professional activity with private subjects, beneficiaries of public administration's activity through the same powers. The concluded contracts and the charges conferred in violation of the revolving doors discipline are void and private subjects that have concluded or conferred them cannot bargain over with the public administrations for the following three years, with the additional obligation of returning remunerations eventually received.

***1. THE ACTIONS REQUIRED TO ENSURE OR IMPROVE THE IMPLEMENTATION OF THE MEASURES DESCRIBED ABOVE AND ANY SPECIFIC CHALLENGES TO FACE***

During the last year there was an increase of the alerts referring to relevant current or potential conflicts of interest in academic sphere.

A report revealed the conflict of interests of a member of a competition committee. Following the analysis of the specific situation, the Authority requested the introduction, in the university ethical code, of abstention obligations for preventing conflicts of interest, especially in the field of competitions.

Other reports have revealed situations of conflict of interests between universities and foundations that finance the university. Following the analysis of the specific situation, the Authority is committed to send a report on the legislative deficiency found.

It would be necessary to regulate the relations between universities and foundations with rules of transparency and to introduce in academic sphere specific abstention rules in the event of a current or potential conflict of interest.

## **2. TECHNICAL ASSISTANCE REQUIRED**

The implementation of the activities indicated requires legislative intervention and the cooperation of various institutional bodies.