



Fourteenth session of the Working Group on the Prevention of Corruption to be held during the week of 12-16 June 2023.

Contribution of the National Anti-Corruption Authority (ANAC) to the Italian feedback

1. Information in relation to strengthening the role of Supreme Audit Institutions in the prevention and fight against corruption (resolution 9/3 of the Conference of the States Parties to the United Nations Convention against Corruption)

The ANAC, to the extent of its competence, and in conjunction with the Italian Court of Auditors, has provided its contribution to the UNODC exercises on the subject.

In recognition of the role of the "Supreme Audit Institutions" - SAIs and of the Anti-Corruption Bodies - ACBs pursuant to art. 6 of the UNCAC, the Conference of States Parties to the Convention (CoSP) adopted resolution 8/13 on strengthening cooperation between supreme supervisory authorities, anti-corruption institutions and bodies to more effectively prevent and fight corruption, also known as the Abu Dhabi Declaration. In addition, in its resolution 9/3 the CoSP adopted a resolution following up on the Abu Dhabi Declaration with an additional focus on the use of information and communication technologies, to enhance public awareness and to promote transparency and public accountability, to facilitate reporting and detection of acts of corruption and to support anti-corruption prosecutions.

To support the implementation of these resolutions, the UNODC has launched a specific Program and since the end of 2021 has started working on the development of a guide to strengthen collaboration between SAIs and ACBs. The ANAC participated in these works by providing its contribution to the drafting of the document especially with regard to the focus on the use of information and communication technologies to prevent corruption. At the beginning of this process, the President of ANAC participated in the event "The Future of Anti-Corruption: Innovating Integrity Through Technology and Partnership" which was held in Dubai on 9 December 2021 and in the event "The Role of Supreme Audit Institutions in Preventing and Countering Corruption: The Way Forward" which was held in Sharm el-Sheikh on December 12, 2021. The UNODC "Enhancing collaboration between Supreme Audit Institutions and Anti-Corruption Bodies in preventing and fighting corruption: A Practical Guide", released in November 2022, contains information and contents provided by ANAC concerning measures taken to strengthen the national, regional and international coordination and cooperation among the bodies involved in the prevention of and fight against corruption; and measures taken to improve the exchange of information between anti-corruption bodies, supreme audit institutions and other governmental bodies operating in the field of combating corruption.

2. Information in relation to good practices, lessons learned and challenges in periodically evaluating the efficiency and the effectiveness of anti-corruption measures and policies (resolution 9/6 of the Conference of the States Parties to the United Nations Convention against Corruption)

Monitoring the implementation of prevention measures and the operation of the planning tool is a step of fundamental importance to the success of the corruption prevention system. For this reason ANAC devoted a part of its Annual Anticorruption Plan (approved by resolution no. 7 dated January 17, 2023) to the strengthening of the tools to monitor the efficiency and the effectiveness of anti-corruption measures.



ANAC highlighted that public administrations in implementing anti-corruption measures and policies must, first of all, define which processes are to be mapped. The processes that typically need to be mapped are those in which are managed financial resources (National Recovery Plan objectives will involve the use of related public funds, including structural funds, and in those most at risk). Moreover the processes to be mapped are those linked to performance goals and processes otherwise exposed to significant corruption risks (processes with a large level of discretion; with significant socio economic impact; with high risk in relation to corruptive events that occurred in the past or to monitored events).

Once the processes to be mapped have been established, public administrations have to proceed with the identification of the anti-corruption measures. ANAC stressed that the measures have to be few, sustainable, both economically and organizationally, concrete clear, useful, not redundant and adapted to the organization's specific characteristics. Moreover to avoid over-measurement it is very important to monitor the usefulness and effective implementation of those already planned before introducing new ones.

Monitoring the overall revision of the anti-corruption programming allows public administrations to establish emerging risks, identify organizational processes overlooked in the mapping phase and provide new and more effective criteria for analysing and risk weighting.

For each measure have to be established: a person responsible identified in the programming and that is normally the integrity officer, state of progress, implementation times, indicators and targets (expected values) useful for monitoring them.

The areas and measures subject to monitoring are those defined in the programming. Monitoring should be planned and then implemented over the three-year period.

For successful implementation of monitoring on the implementation and suitability of measures, ANAC in the last Annual Anticorruption Plan suggested that public administration use the following operational tools:

- preparing monitoring sheets in which to indicate, for each measure, the elements and data to be monitored;
- carry out, on the part of the integrity officer, periodic meetings and specific audits with the persons in charge of the measures or verify the actual action carried out by consulting databases, portals, or documentary evidence;
- use IT tools and solutions suitable for facilitating the monitoring activity;
- consider, among the IT tools and solutions suitable for facilitating the monitoring activity;
- gradually linking management control tools with those of monitoring of the plan measures;
- monitoring of general measures through the report that the integrity officer prepare annually.

ANAC suggests involving stakeholders and civil society. It can be very useful to open channels for listening to stakeholders and conduct surveys involving them through online questionnaires or other suitable methodologies (e.g. focus groups, interviews, etc.) to detect profiles that have not been assessed or considered important by the administration/body and to use new measures proposed by civil society).

At macro level, and in a medium-term perspective, anticorruption policies and strategies will be assessed by ANAC also using the risk indicators recently released in the context of specific project about corruption measurement.

Since its establishment, ANAC has worked to identify best practices for measuring corruption. After all the Law No. 190/2012 also attributes to ANAC the function to analyze the causes and factors of corruption and to identify measures to prevent it. To this aim, trying measuring corruption, identifying red flags, early



warnings and risk indicators is the prerequisite for knowing corruption phenomena and to establish preventive and repressive policies.

After a first experience of use of qualitative and quantitative sources to try to measure some aspects of corruption, ANAC has long been coordinating the project “Measuring the Risk of Corruption at Territorial Level and Promoting Transparency” – funded under the “National Operational Programme on Governance and Institutional Capacity 2014-2020” (hereinafter PON Risk Measuring Corruption or Project) – involving several other institutions, universities and experts, whose deadline is scheduled for the end of 2022.

The main purpose of the project is to provide the public system with adequate indicators to detect corruption at the territorial level, to support prevention and integrity and to promote transparency in the action of the public administration, while at the same time overcoming the limits of the statistical measurement of corruption currently available, mainly perceptive indicators. The production of risk indicators of a quantitative nature on a systematic basis is an important contribution not only in terms of increasing the scientific knowledge of the phenomenon but also in terms of the design of contrast measures that are more effective and adapted to the diversity of the contexts.

As part of the PON, ANAC is therefore working to integrate as many data sources as possible, to design methodologies for calculation and validation of indicators, to involve as many institutional, academic, research, NGOs and other relevant actors to work together on the production and subsequent use of data and indicators.

So far, have been developed and calculated 20 risk indicators using data related public procurement and 50 context indicator using data related to criminality, environment, labor market, social capital, local economy. In fact the project developed a framework to better understand corruption risk indicators, taking into account the social, economic and environmental context.

The results of the project are organized in a web portal, with data, information, bibliographies, infographics, media materials related to the topic of corruption risk measurement. The core of the portal is the section related to the dashboards to release datasets and corruption risk indicators, that, even though not demonstrating the presence of corruption, should alert about its potential occurrence. The identification of these indicators could facilitate the implementation of preventive and law enforcement measures and the identification of the areas more exposed to corruption that are worthy of the attention of civil society and, and on which to invest more in terms of prevention activities. The publication of such indicators on a dedicated interface tool on the Web allows that they will be widely usable by different categories of stakeholders. On the other hand, by monitoring the trend of the indicators over time, it will also be possible to obtain useful information on the effectiveness of anti-corruption policies and strategies.

3. Information in relation to the interlinkages between preventive and law enforcement approaches (resolution 9/6 of the Conference of the States Parties to the United Nations Convention against Corruption)

The Anti-Corruption Law, Law No. 190/2012, in execution of the Article 6 of the United Nations Convention against Corruption, introduced in Italy a comprehensive set of measures aimed to prevent and repress corruption and illegality and established the National Anti-Corruption Authority.

The Law aligns the Italian legal system to the indications of the main international instruments subscribed by Italy (1997 EU Convention against Corruption, 1997 OECD Convention against Bribery in International



Business Transactions, 1999 Council of Europe Criminal Convention against Corruption, 2003 UN Convention against Corruption – UNCAC), and implements the recommendations addressed to Italy by the competent OECD and Council of Europe Bodies on the occasion of the mutual evaluation procedures.

The main functions of ANAC according to the Anti-Corruption Law are the following: to approve the National Anti-Corruption Plan; to analyze the causes and factors of corruption and identify measures to prevent it; to monitor the implementation and effectiveness of public administrations' Anti-Corruption plans and the compliance to transparency rules. Regarding these functions, the Law assigns to ANAC inspection powers: the power to enquire, to demand the exhibition of documents, to command the adoption of acts as well as the removal of acts and behaviors contrasting with law and with transparency rules. ANAC also defines criteria, guidelines and standard models for the code of conduct regarding specific administrative areas as specification and integration of the general code of conduct for the public sector. In addition it also cooperates with the corresponding international bodies and in general with international and foreign bodies in the field of anti-corruption to share information and methodologies for the implementation of anti-corruption strategies. ANAC reports annually to the Parliament on the activities against corruption and illegality in the administrations and on the effectiveness of the measures applied

Law No. 190/2012, as amended and completed by other following legislative interventions up to the present day, constitutes the reference point for policies aimed at fighting corruption and puts into effect a complex institutional and organizational system referred to models mainly based on prevention.

Despite its focus on prevention, ANAC has worked over the years, together with the other competent institutions for the fight against corruption, to create a "circular system" in order to make the most of the institutional synergies between the actors involved in prevention and the actors engaged in repression.

In this regard, it is worth mentioning, by way of example, the relationships between ANAC and the public prosecutors' offices and between ANAC and the Guardia di Finanza (the Italian financial police).

Concerning **relationships between ANAC and Public prosecutor offices**, since 2015, an amendment has been introduced to the Italian criminal procedure code, whose article No. 129 provides that when exercising the criminal action for crimes against the public administration (various cases of corruption and related crimes), the public prosecutor informs the president of the National Anti-Corruption Authority. Given the need to maximize the degree of overall effectiveness of measures aimed at prevention and fight against corruption in the public administration, and considering the need to make the repression of crimes against the public administration also through timely access to the information acquired via administrative proceedings, in 2016 the ANAC and the General Prosecutor's Office at the Court of Cassation signed a framework agreement. The general agreement was the basis to sign in the following years a number of specific MoU and to structure a collaboration between prosecutor's offices in all part of Italy and the Italian National Anti-corruption Authority. On the basis of these MoUs, the prosecutors send copies to the ANAC of the requests for indictment, accompanied by any orders for the application of precautionary measures and by investigative acts that supported them, for corruption and related crimes. ANAC, in all cases in which from the investigation and/or inspection activity and/or administrative procedures, in the matter of public procurement or anti-corruption, detects irregularities of potential criminal relevance, it transmits its acts and eventually conclusions to the public prosecutor's Office. More in detail, in all cases in which from the investigation and/or inspection activity of ANAC, in the matter of public contracts or anti-corruption, irregularities emerge that may have criminal implications, ANAC sends its conclusions to the Public Prosecutor's Office. So far as the elements are sent to the Public Prosecutor during the investigation, the Authority communicates the status of the procedure and the expected times for its conclusion.



Moreover, if the complaints and reports addressed to ANAC disclose potential criminal facts, ANAC immediately sends the complaint or report to the Public Prosecutor's Office in order to allow a timely start of the investigation. At the end of the activities, the Public Prosecutor communicates to ANAC the results of the proceedings initiated on the basis of the complaints or of the reports forwarded or any other different use.

ANAC has signed these kind of MoUs with all the individual public prosecutors offices who have requested them in order to regulate the various forms of collaboration and information flows between ANAC and the judicial authority, to make more effective the measures aimed at the prevention and fight against corruption in the public administration, to strengthen the administrative supervisory action regarding the assignment and execution of public contracts as well as to allow to prosecutors a timely access to the information acquired administratively.

Concerning **relationships between ANAC and Guardia di Finanza**, according to the Decree Law No. 90/2014, the President of the ANAC, for the tasks of surveillance and guarantee of the correctness and transparency of public tenders, also makes use of a special Special Operational Unit (UOS) made up of personnel from the Guardia di Finanza.

The legislator introduced an agile, fast and effective model in order to:

- verify in advance the legitimacy of the public procurement procedures related to works, services and supplies;
- verify compliance with the anticorruption and transparency obligations;
- verify compliance with the obligations deriving from the legality protocols stipulated between contracting authorities and the Prefecture;

This activity is also based on the use of the ANAC, Guardia di Finanza and Anti-Mafia databases.

With the support of the UOS, special surveillance has been carried out in last years , including for example EXPO Milan 2015, Jubilee 2015, Public reconstruction after the 2016 and 2009 earthquakes in central Italy, Universiade Naples 2019, Italian Pavillon for the EXPO DUBAI 2020.

More in general, relationships between ANAC and Guardia di Finanza (with particular regard to the Guardia di Finanza corps focused on anticorruption called “Nucleo speciale anticorruzione”) are provided in the framework of a detailed MoU. According to the MoU, the collaboration in the public procurement scope is aimed at verifying compliance with sectoral norms and regulations. In this context, the collaboration between the ANAC and the Guardia di Finanza takes the form of inspections of contracting authorities, economic operators, as well as public administrations and publicly held companies and controls relating to compliance with the Authority's decisions. In the prevention of corruption scope, the collaboration between the ANAC and the Guardia di Finanza takes the form of: checks on compliance with the National Anti-Corruption Plan and with the integrity plans within each public administration; checks on compliance with transparency and accountability provisions; investigations regarding conflict of interest; controls relating the compliance with the Authority's decisions.

To support the collaboration activities envisaged by the MoU, Guardia di Finanza personnel, coordinated by a liaison officer, work directly at the ANAC headquarters.



As another valuable example of collaboration between ANAC and law enforcement institutions, it is worth citing the MoU, operating since 2015, between **ANAC and the "Arma dei Carabinieri"** in the public procurement, transparency, conflict of interest and public integrity scope. Some areas of collaboration refer, for example, to the prevention and contrast of the violation of safety and health in the execution of a public contract for works, services and supplies; sharing of information on the business activity, for the purpose of assessing the requirements for release the legality rating of companies; sharing of information relating to the reporting or verification of conflicts of interest.