



High-Level Principles on Promoting Integrity and Effectiveness of Public Bodies and Authorities responsible for Preventing and Combating Corruption

Principle 1: Take measures to ensure that public bodies and authorities responsible for preventing and combating corruption have clear and appropriate mandates and the capacity to prevent and combat corruption

Principle 2: Work to ensure that public bodies and authorities responsible for preventing and combating corruption have the necessary independence, to enable them to carry out their functions effectively.

Principle 3: Ensure that public bodies and authorities responsible for preventing and combating corruption are transparent, open and accountable in the performance of their functions

Principle 4: Ensure high standards of integrity for officials or other persons engaged by public bodies and authorities responsible for preventing and combating corruption

Principle 5: Enhance effective cooperation among public bodies and authorities responsible for preventing and combating corruption

Principle 6: Enhance the readiness of public bodies and authorities responsible for preventing and combating corruption to face new or emerging challenges and risks

Introduction

All countries have some institutions and procedures that engage in the prevention, detection, or punishment of corruption – from prosecutors to auditors to anti-corruption authorities.

How well these institutions actually carry out these tasks – and what impact this has on corrupt activities – depends on many factors.

Naturally, **integrity** within the anti-corruption institutions themselves plays a crucial role. To be credible and lead by example, we must apply to ourselves what we expect from others.

In addition to promoting integrity, the High Level Principles indicate another priority, namely that of promoting the **effectiveness** of anti-corruption institutions.

The literature on the Anti-Corruption Agencies (ACA) and the experience of the Italian National Anti-Corruption Authority, which I have the honor of chairing, provide some suggestions on the factors that can **increase integrity** and **effectiveness**.

Independence

The key factor is undoubtedly represented by **the degree of independence** enjoyed by the anti-corruption authority.

Independence is a broad concept: what I am referring to is independence as an ability to decide and act impartially and without external influence, especially when it comes to investigative activities.

This translates, among other things, into **protection from political interference** and **undue pressure** of any kind.

In this sense I can affirm that ANAC is an independent authority as its decisions are taken in compliance with the Anti-Corruption Law and the Code of Public Contracts without any possibility of government interference.

Independence - of course - includes many degrees.

An ACA may enjoy a very high degree of independence or receive a lower degree, depending on the functions assigned to the agency.

Appointment mechanisms

In order to ensure the necessary independence, I think that the mechanisms for appointing members of anti-corruption institutions play a crucial role.

For this reason they should be designed to ensure that these institutions are **politically neutral** and that **integrity and objectivity** are respected.

In Italy, the **procedure for appointing ANAC's Board members** requires a **broad institutional consensus** in order to safeguard the principle of independence.

They are appointed by decree of the President of the Republic, following a resolution of the Council of Ministers, and a binding opinion expressed by a qualified majority of the competent parliamentary committees.

Such an inclusive nomination mechanism ensures a **politically balanced outcome**: indeed, the two-thirds majority rule ensures that no single party can make nominations unilaterally and that an agreement has to be reached with opposition parties.

Qualifications and experience

A constitution or law may prescribe certain skills, experience or qualifications to be possessed by those who are appointed to Anti-Corruption Agencies:

- In Italy, the Board of National Anti-Corruption Authority must be appointed 'from among highly qualified professionals'.

Terms of office and security of tenure

Members of anti-corruption institutions typically **serve for a fixed term longer than the legislative or executive term.**

Therefore appointments to these institutions are staggered against the electoral cycle, which helps maintain their political independence:

- In Italy, the normal duration of the Parliament is five years, while that of the ANAC Council is six years, non-renewable.

Security of tenure helps to preserve the independence of appointed members by protecting them from arbitrary removal/dismissal.

Prohibitions and restrictions

National legislative frameworks may contain **provisions intended to preserve the independence and impartial nature of ACAs.**

These typically include:

(a) prohibitions on members of these institutions who simultaneously hold office or are candidates for election to the executive or legislative branch; and

(b) restrictions on political activities or private business activities of members of these institutions:

- In Italy, the five members of ANAC's Board "cannot perform any professional or advisory activity on their own interest, cannot have governing or other responsibilities in public or private entities, and cannot be elected or take responsibilities in political parties".

Adequate powers

To carry out their functions **effectively**, anti-corruption authorities need **adequate powers.**

A successful ACA should have strong **research and prevention capabilities**, together with **widespread monitoring powers** and some **administrative sanctioning powers.**

The Italian Anti-Corruption Authority enjoys **regulatory, supervisory and advisory powers** in the three areas of its competence, namely anti-corruption, transparency, and public procurement. It also has some sanctioning powers.

ANAC has authority both to **respond to complaints** and to **undertake fact-finding activities and investigations on their own initiative.**

It is important to underline that **it does not have the power to prosecute directly**, but must refer the results to its own judicial authorities (prosecutor's office and/or Court of Auditors).

In all cases in which the investigation and/or inspection activity of the ANAC, in the matter of public contracts or anti-corruption, reveals irregularities that **may have criminal implications**, the ANAC transmits its conclusions to the **Public Prosecutor's Office.**

In other cases, the Authority notifies the **Court of Auditors** of the decisions taken to verify the existence of any liability for damage to State revenue.

Some ACAs benefit from **powers and immunities of police officers**.

The ANAC staff does not enjoy the status of judicial police officer, but the Authority has an **internal unit of the Guardia di Finanza (Financial Police Unit)** which can assist the ANAC during inspections.

Adequate resources and budgetary independence

Adequate resources, both in terms of **budget and staff**, are crucial for the effective functioning of an ACA. This is why UNCAC, like other international conventions, mentions the need for adequate resources and staffing of ACAs to carry out their functions.

Budget

The ability to provide adequate resources depends on a country's financial capacity and - I would add - on political will.

I would also like to underline the importance not only of **the amount of funds** but of **budgetary independence** and **an annual budget** guarantee "to protect the ACA against possible arbitrary reduction of the budget by the executive".

- In Italy, the Anti-Corruption Authority enjoys **financial autonomy** as the **resources for its operation do not come from the state budget**.
It is financed by an obligatory contribution paid by the contracting authorities and economic operators which participate in public tenders.

Staff

ACAs depend on well-trained personnel, including sufficient numbers with highly specialized skills.

Staff should also be recruited on merit, well paid, subject to integrity checks and possess a strong professional ethic.

While it is **not** possible to specify a **personnel reference number**, due to variations in agency design and context, it is quite clear that success in fulfilling a defined mission depends on **matching the agency's goals with a sufficient complement of highly professional and motivated employees**.

Probably, one of the advantages of Anti-Corruption Authorities in comparison to Law Enforcement Agencies is their capacity to generate a knowledge-based approach to the fight against corruption through **risk assessments** and other specialized studies.

ACAs internal Integrity / Anti-corruption system

Around the world, **integrity** has become a **key consideration** for administrators when filling civil service positions and for voters when comparing candidates for elected or political office.

Integrity is now promoted through a wide variety of means including the introduction of **leadership codes, codes of conduct, declarations of personal assets, monitoring of personal assets, training and education, transparency in public administration and politics, personal accountability**.

As I said at the beginning, to be credible and lead by example, we must apply to ourselves what we expect from others.

- In Italy, the Anti-Corruption Authority has adopted:

- **Code of conduct for ANAC employees**
- **Code of Conduct for the President and other members of the ANAC Council**
- Regulation on the system of **external assignments** conferred to employees of the National Anti-Corruption Authority
- Regulation regarding their **disciplinary liability**, in cases of breaches of integrity standards
- Regulation on **post-employment** restrictions
- Furthermore, the ANAC adopts its own internal **transparency and corruption prevention plan** with which it identifies its degree of exposure to the risk of corruption and indicates the measures aimed at preventing the risk.

Reporting and accountability

While anti-corruption authorities must enjoy operational autonomy, especially from the executive branch, they also must be publicly accountable for their actions.

They must be able to publicly justify their actions and demonstrate that they perform their duties with due diligence.

- In Italy, **all ANAC's work is carried out with transparency and accountability.**
- The Board meets on a weekly basis to discuss and approve its acts and decisions **by majority rule.** Those decisions are **regularly published** on the Authority's website.
- **Its work is governed by procedures** provided for by **the legislation on the general functioning** of the Public Administration and its **internal regulations** (transparency, accessibility of documents, cross-examination).
- Ample space is given to the **consultation of interested parties** (contracting authorities, economic operators, business associations, civil society organizations, etc.) through the dissemination of documents, the collection of written observations and the holding of collective and individual hearings.
- The law provides for **judicial review of the acts** adopted by the Authority (Administrative Regional Court of Lazio, based in Rome, Council of State).
- The Authority submits an **annual report on its activity to the Parliament.** In addition to the annual report, it also carries out **consultative functions towards Parliament and the Government**, to which it makes recommendations and proposals.

Effectiveness

The mere creation of an independent anti-corruption institution is no guarantee of effectiveness.

Without the right people, the right training, the right values and ethics, the right leadership and the right resources, legislation alone will have little impact.

Success factors

I. National anti-corruption efforts require a joint effort of multiple stakeholders

Preventing and combating corruption effectively requires a concerted effort based on coordination and cooperation of different institutions, stakeholders, and sectors of society.

ACAs should cooperate with anti-corruption stakeholders both **domestically and internationally**, including the media, major NGOs, universities and other ACAs around the world.

Such cooperation is useful for gathering information, developing knowledge, obtaining technical and political support and creating synergies on specific corruption investigations domestically and across borders.

Disseminating the "good practice", through international and national networking, can represent a strong support to the role and position of an ACA.

II. Address new or emerging forms of corruption

To be effective, an ACA must be strategic in defining its goal.

No agency can cope with an unlimited mandate; you have to make choices.

And one of these should be to focus on the **analysis of possible new forms of corruption** linked to a **given situation (Covid-19 pandemic)** or the introduction of **new legislation (Recovery and Resilience Plan)**....because "**corruption never sleeps**".

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