



Session 1: Role of the National Anti-Corruption Authority (ANAC)
in the public procurement management and control system

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Italian Legislative framework

- ✓ Legislative Decree No. 150/2009
- ✓ Law No. 190/2012 - Anti-Corruption Law
- ✓ Legislative Decree No. 33/2013
- ✓ Legislative Decree No. 39/2013
- ✓ D.P.R. No. 62/2013
- ✓ National Anti-Corruption Plan 2017-2019
- ✓ Law Decree No. 90/2014, converted with modification by the Law No. 114/2014
- ✓ Law No. 124/2015
- ✓ Legislative Decree No. 97/2016
- ✓ Implementation of the European Directives No. 2014/23/UE, 2014/24/UE, 2014/25/UE. Legislative Decree No. 50/2016

Role of the National Anti-Corruption Authority (ANAC) in the public procurement management and control system

Reference Legislation

- The Anti-Corruption Italian Law, Law No. 190/2012 and related legislative decrees
- The Legislative decree n. 50/2016 (public procurement legislation)

ANAC is the central actor in Italy of the anticorruption system and the main institutional player in fields such as public integrity, transparency, conflict of interests, whistleblowing, supervision of public procurement.

ANAC is an independent public organization. Independence is guaranteed both by the appointment of the President and the members of the board who must receive the approval of the parliamentary committees and by the autonomous financing system. In fact, ANAC's budget is supported by the supervised market through a contribution, fixed by the ANAC itself, paid by the companies participating in the tenders overseen by ANAC

Role of the National Anti-Corruption Authority...

The provisions introduced by the Anti-Corruption Law find an essential complement in the Legislative Decrees No. 33 and No. 39 of 2013, to which the law has delegated the implementation of important principles and guidelines with reference, respectively, to the transparency and to the system of ineligibility and incompatibility of positions in public administration and in the Presidential Decree No. 62/2013 which sets out the rules of conduct for all civil servants.

Legislative decree No. 33 gives provisions on the public procurement transparency

Role of the National Anti-Corruption Authority...

The system has been completed in 2014 with the integration of the supervision on public contracts in the system of corruption prevention. The Law Decree 24th June 2014, No. 90 "Urgent measures for the simplification and administrative transparency and for the efficiency of the courts", converted with modification by the Law 11th August 2014, No. 114, introduces new and impacting measures in the anticorruption system and in the ANAC activities. Among the most significant interventions intended to sharply affect the fight against corruption in Italy it must be mentioned the legislator's choice of anchoring the supervision on public contracts already performed by the Authority for the Supervision of public contracts (AVCP) in the system of corruption prevention outlined by Law No. 190/2012. The integration of the functions of the two institutions and the consequent extension of the powers of ANAC, in fact, set the conditions to oversee more effectively the scope of the contracts and public procurement in which nestles a substantial part of the corruption phenomena. This integration in compliance with article 9 of UNCAC in which there is an emphasis of the importance in the area of public procurement in the fight against corruption.

Role of the National Anti-Corruption Authority...

The new institutional mission of ANAC consists in the prevention of corruption in public administrations and in subsidiaries and state-controlled companies through the implementation of transparency in all aspects of management; through supervisory activities in the framework of public contracts, and in every area of the public administration that can potentially develop corruption phenomena, as well as through the orientation of the behaviors and activities of public employees by means of advisory and regulatory interventions.

ANAC presents an annual report to the Italian Parliament stressing the main problems arising in the field of the fight against corruption and on public procurement and the dysfunctions of the rules. According to the Anti-Corruption Law, ANAC analyzes causes and factors of corruption to point out actions to prevent and fight corruption.

Role of the National Anti-Corruption Authority (ANAC) in the public procurement management and control system (Art. 213 Legislative decree N.50/2016)

The supervision and control of public contracts and their regulation shall, within the limits of the provisions of this Code, be assigned to the National Anti-Corruption Authority (ANAC) which also acts to prevent and counter illegality and corruption.

The ANAC, through guidelines, standard calls for tenders, type-contracts and other flexible regulation tools ensures the promotion of efficiency, the quality of the procuring contracting authorities activities, which provides support encouraging the development of best practices.



Within the powers assigned to it, the ANAC shall:

- (a) supervise on public contracts, including those of regional interest, of works, services and supplies in the classical sector and in the utilities sector;
- (b) ensure that the performance of public contracts is guaranteed economically and ensures that there is no prejudice to the public finance;
- (c) reports to the Government and Parliament, by specific act, of particularly serious phenomena of non-compliance or distorted application of sectorial legislation;
- (d) advises the Government on proposals regarding changes that are required in relation to current sector regulations; ...continue



- e) prepares and address to the Government and Parliament the annual report on the activity carried out highlighting the dysfunctions encountered in the exercise of its functions;
- f) supervises the qualification system of executors of public works contracts and exercises related sanctioning powers;
- g) supervises on the prohibition of awarding contracts through procedures other than the ordinary ones and control the correct application of the specific derogating rules provided for cases of high urgency;
- h) for contracts of particular interest, carries out activities of collaborative supervision, carried out following the signature of memoranda of understanding with the requesting contracting authorities, aimed at supporting them in the preparation of acts and in the organization of the entire tender procedure;



ANAC manages the National Database on Public Contracts in order to ensure accessibility, transparency, publicity and traceability of the tendering procedures and their preceding and succeeding stages.

Supervision Authority of Public Procurement, Concessions and
Public Private Partnership



To guarantee the respect



Principles of the European Treaty. In particular: contracting authorities and contracting entities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner. The authorities are free to decide how best to manage the execution of works or the provision of services, to ensure in particular a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights in public services.



Supervision Authority of Public Procurement, Concessions and
Public Private Partnership



To guarantee the respect



Principles in the Italian legislation: The awarding and execution of contracts for works, works, services, supplies and concessions pursuant to this code guarantees the quality of the services and is carried out in compliance with the principles of economy, effectiveness, timeliness and correctness. In awarding contracts and concessions, the contracting authorities also comply with the principles of free competition, non-discrimination, transparency, proportionality, as well as advertising in the manner indicated in this code. The principle of economy can be subordinated, within the limits in which it is expressly permitted by the regulations in force and by this code, to the criteria set out in the announcement, inspired by social needs, as well as the protection of health, the environment, cultural heritage and promotion of sustainable development, including from an energy point of view.



Declination in practice of the principles for the supervision of the public procurement

- Quality is guaranteed by:
 1. drafting the technical specifications;
 2. utilizing the most economically advantageous tender awarding criteria, with more scores for quality (esthetic, new technologies, environments aspects, etc.)



Declination in practice of the principles for the supervision of the public procurement

- Economy is guaranteed by:
 1. utilizing market analysis or by utilizing reference prices to individuate the contract amount
 2. utilizing open or restricted procedures (allowing competition among economic operators)



Declination in practice of the principles for the supervision of the public procurement

- effectiveness, timeliness and correctness are guaranteed:
 1. carrying out the three-year programs for works and the two-year programs for services and supplies;
 2. publishing programs to allow for citizen comments;
 3. carrying out the activities according to the law of public proceedings and public procurement legislation and without delay to avoid additional costs of contracts during execution



Declination in practice of the principles for the supervision of the public procurement

- free competition is guaranteed:
 1. by utilizing open and restricted procedures;
 2. by utilizing standards in technical specifications (without trade mark, e.g.)
 3. by establishing correctly technical, financial and economic qualification of economic operators in proportion of the contract subject (proportionality principle)
 4. by avoiding variants during the contract execution;



Thank you for your attention



Declination in practice of the principles for the supervision of the public procurement

- 1) The non-discrimination is guaranteed:
avoiding limiting participation to categories of economic operators or requiring special qualifications

- 2) The transparency, it is guaranteed:
 - with the publication of relevant documents (programs, decisions to proceed with a public contract, providing information on financial sources, etc.)
 - with the publication of the contract notice and the awarded notice