



ANAC

AUTORITÀ
NAZIONALE
ANTICORRUZIONE

ANNUAL REPORT 2020

Presentation of the President

Giuseppe Busia

Chamber of Deputies

Rome, 18 June 2021

**Mr. President of the Chamber,
Mrs. Vice-president of the Constitutional Court
Mr. Judge *[of the Constitutional Court]*
Mrs. Minister of the Interior,
Mrs. Minister of Justice,
[Mr.] Minister for Infrastructure and Sustainable Mobility,
Commission Presidents,
Authorities, Ladies, Gentlemen,**

first of all, I would like to thank the *President of the Republic* for receiving us yesterday at the Quirinale, for his words of encouragement and for the attention with which he always looks the work of the Authority.

I would like to thank the *President of the Chamber*, not only for his hospitality offered to us today, but also for the words we have just heard, which represent not only a very important - and for us particularly valuable - recognition of the importance of ANAC's role, but also a full endorsement of the profound meaning and the essential objectives underlying our institutional action.

Italy is facing decisive challenges for its future, which require a reflection on the values that inspire strategies and actions to return to a path of development and social cohesion.

In this context, the *prevention* of corrupt behaviour can only play a central and decisive role.

Corruption is an elusive, insidious phenomenon, difficult to detect and eradicate.

This is also because the bribe-taker and the bribe-giver have every interest in concealing their agreement, and the victim is not an individual, ready to denounce, but the community, with a very high price paid in terms of fewer opportunities and more expensive or poorer services.

We do not know its real extent, but we do know that it breaks the founding pact that is the basis of being together as a community. It erodes the roots of common coexistence, the necessary interchange of rights and duties on which the bonds of economic and social solidarity referred to in Article 2 of our Constitution are based.

As President Mattarella effectively stated on the occasion of the 75th anniversary of the 1946 institutional referendum: *"The Republic is legality"*.

The diversion of public resources to the benefit of the few, which always accompanies corruption, falls first of all on the weakest, on those who do not have the means to do it themselves.

For this reason, corruption violates another fundamental principle enshrined in the fundamental Charter, that of equality. And the same principle is violated when, because of corruption, someone is favoured and passes ahead of someone who would have won if only the competition had been fair.

It therefore destroys merit, nullifies the sacrifices made by those who have invested in their own abilities in order to get a job, a loan or a job order, which only escaped because of cunning and deception.

It affects those who pursued a dream and see it unfairly frustrated.

But that is not all. Corruption is odious because it involves the public part of society, which should be on the side of the citizens.

The Constitution is once again our lighthouse, requiring from those who exercise public functions something more than the generic *duty to comply with the law*, and committing them to the exercise of their functions "*with discipline and honour*" (Article 54, second paragraph), in order to ensure the *good conduct and impartiality* of administrative action.

Impartiality, commitment and mutual loyalty are the highest values that corruption tramples on. Corruption betrays public faith, causing not only distrust and frustration over a disservice or a missed opportunity, but also social disintegration.

This encourages a sense of injustice and threatens a precious asset that, especially in times of difficulty, we all have a duty to preserve: trust in institutions.

This is why it is not enough to fight corruption through repression, but rather to create tools and rules to prevent it.

This is why, beyond the necessary compliance of the commitments undertaken at international level with the *Mérida Convention* - the United Nations Convention against Corruption - Anac is the pivot of a system set up to protect fundamental rights for the promotion of public trust.

The legislator's decision to concentrate the supervisory and regulatory functions concerning the prevention of corruption, impartiality, transparency and public procurement in a single independent authority was a good one.

An example of an innovative model, particularly appreciated at an international level, which encourages a better perception of Italy abroad, thus increasing trust in our country and productive investments.

The world is increasingly aware of the complexity of corruption and of the need for appropriate prevention and counteraction strategies, as shown by the memorandum signed a few days ago by US President Biden, who elevated anti-corruption to the status of a key national security concern, and by the additional measures on transparency and prevention of conflicts of interest recently adopted by the Vatican City State.

The emergency requires careful consideration of the strategies to be pursued and the instruments to be put in place to implement them.

The considerable investment expected in the near future is associated with higher risks and therefore greater responsibility.

A collective effort is therefore needed to prevent corruption or maladministration from diverting resources into the wrong hands and undermining their use for basic goods such as the environment, health, education and infrastructure.

Controls at various levels of government are therefore to be welcomed, while avoiding unnecessary institutional overlaps and safeguarding the necessary independence of supervisory and control institutions.

In this regard, we are pleased that some of the regulatory texts initially proposed have been duly corrected.

The best implementation of the *National Recovery and Resilience Plan* is also an objective of Anac, which wants to make it the core of its action, not only through traditional supervision, but also, and above all, by supporting public administrations and economic operators in this very demanding challenge.

However, in order for its action to be effective and to ensure that the commitments made in the *Recovery Plan* are met, regulatory action is necessary to strengthen also the organisational structure of the Authority, so as to ensure sufficient means and resources.

On this point, we are counting on the farsightedness of the Government, which has always been particularly sensitive to the issues that concern us.

Simple and effective prevention and collaborative supervision

Almost ten years after the introduction of Law 190 of 2012, the first organic and systematic regulatory intervention on corruption prevention, an evaluation of the system devised and the results obtained is necessary, in order to provide effective tools for prevention, but also for analysis, starting with measurement.

It is well known that currently available indices, such as that of *Transparency International*, provide important indications of perception.

It is now necessary to focus on objective indicators, as the Authority is doing in the context of a specific European project, in which it has called upon other institutions, universities and experts in the sector to collaborate, exploiting, also for the purpose of measuring the risk of corruption, the unparalleled wealth of information it has on public procurement.

These issues were also the focus of the first meeting of the *Anti-Corruption Working Group*, in the framework of the G20-2021 work under the Italian Presidency, which allowed us to illustrate the first results of this work. We hope that it will become a model to be exported, promoting a more correct image of our country in the world.

This is just one example of the extremely intense activity in which Anac is involved in the main international organisations, as well as in bilateral relations with the corresponding institutions in European and non-European countries.

Moreover, it is necessary to move beyond approaches focused on mere procedural requirements, which have in part characterised some regulatory applications, and to seize the extraordinary opportunity offered by the present moment to move according to a “systemic” logic, placing the administration, its organisation and its employees increasingly at the centre.

To do this, it is first necessary to prune the existing legislation, removing what is not needed and strengthening what is useful.

The aim is not, obviously, to weaken the safeguards of legality but, on the contrary, to streamline and adapt procedures and tools to different contexts, including size, by strengthening and digitalising controls so that they are faster and easier to implement.

Dialogue must also increase not only with the institutions directly concerned, but also with civil society organisations, which are now called upon to play an even more active role in monitoring expenditure and projects.

We would also like to intensify the dialogue with the administrations, particularly with those who are in the front line in this field, those *Responsible for the prevention of corruption and for transparency*, so that they can truly identify, with the prevention tools and use them in the best possible way to promote legality and transparency.

For this reason, we have set up the "*Anti-Corruption Officer's Month*", starting on 24 June, which represents further evidence of our supportive approach to administrations.

We intend to continue in this direction, enhancing also in this field the "collaborative" supervision, which is producing excellent results in the field of public procurement.

In fact, we believe that the convinced and participatory support of administrations is more effective than any merely repressive and punitive approach.

At the same time, the institution of whistleblowing, essential to protect *whistleblowers* from retaliation when they report wrongdoings within their organisation, will also need to be developed. The 2019 European Directive strengthens this fundamental figure and increases the levels of protection for whistleblowers, including in the private sector.

Its adoption is an extraordinary opportunity to relaunch an instrument that has shown increasing vitality from a quantitative point of view, even if, from a qualitative point of view, it still faces the problem of its sometimes instrumental use or use for personal purposes.

In this context, we must promote the achievement of new goals and overcome a real cultural challenge, raising awareness of the fact that true *whistleblowers*, authentic "civic lookouts", capable of putting their own interests on the line to denounce unlawful behaviour, are a fundamental lever, not only for uncovering corruption and malfeasance, but also for growing and improving the public and private sectors.

Selection based on merit and competence

In order to prevent corruption, it is necessary to focus on the integrity and impartiality of those who work in the public administration.

One of the main actions to be carried out by Anac is the supervision of the correct application of the rules on the non-transferability and incompatibility of public offices.

In this context, a number of regulatory knots still need to be resolved and a complete set of rules needs to be established, as has been indicated by a special Ministerial Commission, the results of whose work we hope will soon be adopted by the Government and Parliament.

In particular, the legislation on conflicts of interest of public officials is in many ways still weak, fragmented or unclear.

For this reason, it would be desirable to have a regulatory measure aimed at defining in an organic and balanced way this matter, in which Anac is ready to carry out its functions, exploiting the experience gained in its role as an independent body and specifically competent in the sector.

We are convinced that the best way to guarantee the integrity of the public administration is through the presence of capable and competent officials who are proud of their role in the service of the Nation. For this reason, the Government's willingness to strengthen the public administration with the introduction of new resources and professionalism cannot but be appreciated.

However, particular attention must be paid to recruitment procedures, which must not only be simple and fast, but also capable of selecting the best resources.

This is where our future lies: leaving talented and deserving young people out would be an irremediable loss for everyone, but giving them a chance is the best guarantee of the quality of tomorrow's administration.

Towards Transparency 4.0

I will now turn to the promotion of transparency, another key task of ANAC and a fundamental pillar of the prevention system, one of the main antidotes against corruption and maladministration.

If well organised and properly targeted, transparency does not slow down the administrative machine, it promotes civic participation and access to services, ensuring that the fundamental rights of the persons concerned are fully respected.

Also in this area, a rigorous evaluation of the different instruments foreseen, their effectiveness and the necessary corrective measures is needed.

In general, the publication obligations established by Legislative Decree 33 of 2013 have proved useful in increasing the administration's accountability and control by citizens.

At the moment, some of them are not well organised and are particularly burdensome for small entities, the most fragile in the system.

Civic access is little used when it would be the quickest and easiest way to ensure publication of what is due.

The other innovative form of *access, generalised* one, is too often used for instrumental purposes, by means of particularly extensive or varied applications, which place a burden on the administrations without any real benefit for the applicant and the community.

Here too, it is essential to promote a cultural growth in the use of these tools, both in the public administration and among citizens, so that they understand their high value and profound usefulness, encouraging an increasingly aware and mature use of them.

In order to evolve the system, we have proposed the creation of a *Single Transparency Platform*: a unified access point, managed by ANAC and based on the interconnection with other public databases, capable of simplifying and making the publication of data less onerous, while facilitating - at the same time - usability and - above all - comparability.

We are pleased that the initiative has been included in the *Recovery Plan*.

It is a gradual process that will require the involvement of various institutional actors. The point of arrival will be transparency 4.0, which will be less costly for public administrations and at the same time able to provide citizens with more complete information, thanks also to the immediate availability of data for future processing.

Public procurement: do it fast, but above all do it right

Let me now turn to public procurement, which has always been the subject of particular attention from public administrations, economic operators and all citizens. In the near future they will be even more so, since it is through them that the most significant part of the substantial resources linked to the implementation of the *Recovery Plan* will pass.

Public procurement is not only an object of investment, but also a significant stimulus for employment growth. Studies carried out by the Authority in the past have shown that procurement significantly increases employment opportunities: for every billion euros of public works, between 12,000 and 16,000 jobs are created.

However, the Procurement Code is, on the one hand, a work in progress, subject to continuous interventions and regulatory amendments, and, on the other hand, an unfinished work, because it still lacks fundamental building blocks for its implementation, such as the qualification of contracting authorities and digitalisation.

Some corrections are necessary to simplify procedures, and we have promoted them ourselves. However, we should not delude ourselves that regulatory amendments alone can be a *panacea*.

Administrative, organisational and functional reforms are necessary and probably even more urgent.

In recent months, general attention has understandably focused on the need to speed up procedures. This is fundamental, not only in order to meet the precise deadlines linked to the use of European funds, but also because, when fully operational, we need to make up the unjustifiable time gap that separates us from other countries.

However, we would fail if this acceleration were to lead us to overlook the fact that the real goal is to build solid and functional infrastructures, to purchase quality goods at affordable prices, and to provide citizens with more efficient services. This would ensure healthy competition between economic operators and prevent those who use improper behaviour or resources obtained illegally from entering and possibly prevailing.

All of this is essential in order not to be forced to make changes or start again, for example because of a faulty project or work carried out incorrectly, resulting in a loss of time and resources as well as safety risks.

In other words, we should be concerned about *doing things quickly*, but let us not forget that the real objective is to *do them well*.

If we are not able to do that, we will only have produced "*bad debt*", as it has been so authoritatively defined, no matter if national or European debt.

And this burden will fall on future generations anyway.

The people who will work on the implementation of the *Plan*, on both the public and private sides, are an essential part of it: their development, at all levels, is both the instrument and the measure of its success.

It is therefore necessary to use this extraordinary opportunity to involve and increase the professionalism available in Italy in all sectors, also promoting an innovative and virtuous use of social clauses, which must not be reduced to a mere guarantee of the transfer of human resources from one employer to another, but become a lever to enhance and qualify workers, to the benefit not only of those concerned, but also of the contracting public administrations, supplier companies and the country in general, thus helping it to face the challenges of tomorrow.

The aim of the *Plan* is people, their growth and well-being.

Strengthening of the National Public Procurement Database

The simplifications during the emergency period mainly concerned contracts "below the thresholds", those of a smaller size, and contracting authorities made enormous use of the new procedures, which now allow contracts to be awarded directly to a company, even without a prior comparison of quotations.

In particular, there was a 242% increase in direct awarding of works up to euro 150,000 in the second half of 2020.

This trend could even be accentuated following the enactment of Decree-Law No. 77 of 31 May.

We should look favourably on the indicator in terms of the increase in the number of contracts awarded, but it should also be pointed out that such a wide suspension of competition between companies will affect the market structure, as it will affect 58% of award for works and 53% of those for services and supplies, in which a fabric of micro, small and medium-sized companies operates, which are so important for the productive structure of our country.

The duration of the awards has a negative impact especially on major works, where completion times can be up to more than 15 years.

In this long period of time, the awarding of the contract (the tendering phase) takes on average only 6 months, while the authorisations, the administrative steps between one phase and another, the appeals and disputes, the variants, but also the bankruptcies of the companies weigh more.

Decree 77/2021 appropriately aims to shorten the duration of certain administrative steps but, in order to ensure that this intent does not remain on paper or lead to undesirable results, adequate resources must be ensured for the administrations that are called upon to guarantee these times.

Administrative discretion is, and must remain, an essential component of public procurement. In order to be exercised correctly, however, it requires properly structured contracting authorities with a high level of expertise.

On the contrary, their persistent absence is a source of delays and waste, even when it does not lead to corruption.

In times of emergency, the so-called "fear of signing" has been addressed by exceptionally circumscribing the perimeter of pecuniary damage. The perpetuation of this regulatory choice is unfortunately the result of a double failure: on the one hand, the absence of sufficiently clear provisions to correctly define the scope within which administrative discretion can and must be exercised.

On the other hand, once again, the lack of adequate skills in the public administration, which are indispensable for exercising this discretion responsibly.

In this context, the Authority has made a number of proposals to strike an appropriate balance between quality, transparency and speed of action, focusing in particular on the digitisation of public procurement and the qualification of contracting authorities and companies.

Complete computerisation is an objective strongly requested by the European Union, and the effort made in this direction by the aforementioned Decree 77/2021 is to be welcomed.

In this regard, I would like to express my sincere thanks for the fruitful cooperation with the Minister for Infrastructure and Sustainable Mobility.

It is necessary to focus on the digitisation of the whole procurement cycle, from planning to testing, which will be central to the full exploitation of the National Public Procurement Database.

Crucial will be the establishment of the economic operator's virtual file, which the Authority intends to develop by extending the services currently provided for verifying the requirements for participation in tenders.

This is with a view to allowing contracting authorities to use the checks previously carried out by other procurers. The advantage is obvious: the company will no longer have to waste time with papers and documents, because these will be provided only once and used for other tenders.

In order to achieve the Plan's objectives, however, it is essential to finally implement the qualification system for contracting authorities. It will also be necessary to strengthen regional aggregators, allowing them to offer services outside their own territory and perhaps to specialise in sectors or areas of activity, through a positive competitive comparison in the offer of their services.

Qualification is a necessary step to promote efficiency and quality in procurement by selecting the best equipped procurers, also from a technological point of view.

Anac's support to contracting authorities and companies

At the centre of Anac's institutional mission is also the support to contracting authorities and economic operators, one of the activities to which we devote and intend to devote a very significant part of our energies.

This is demonstrated by the approximately 1,700 opinions, almost 8 for each working day, including Saturdays and Sundays, adopted in various forms: the answers given during consultations, pre-litigation opinions, those on the fairness of prices for awarding contracts in emergencies, all the activity of collaborative supervision, carried out both in the "voluntary" form, on the basis of special memoranda of understanding, and in that provided for by law and implemented with the support of the Special Operations Unit.

In the same context are the almost 400,000 requests for assistance and support, part of a set of services that the Authority constantly provides to its users.

Far from being a brake on administrative activity, Anac, on the contrary, gives support and assistance, helps contracting authorities to use public resources correctly and to save money by acquiring better goods and services for the administration and citizens.

For example, the identification of reference prices for everyday products, such as reams of paper or cleaning services, or specific initiatives, such as the recently concluded initiative on the procurement of medical devices for diabetes, which has encouraged contracting authorities to adopt more transparent and effective procedures, resulting in significant savings for patients.

These are tangible examples of how transparency and competition reduce costs, freeing up resources for the benefit of the community.

A challenge also for the private sector

Differently from other countries, Italy has decided to apply for all the huge funds made available by the European Union.

This is a fundamental choice to ensure a rapid recovery of the economy, but we must all be aware that it will entail not only an increase in public debt but also higher costs than if the same funds had been used over a longer period of time.

Production capacity constraints and tight deadlines could lead to a further increase in expenditure, which is already affected by the current rise in raw material prices, without this necessarily being matched by higher quality.

The awards that will be put in place for the implementation of the *Recovery Plan* will also bring about an extraordinary redistribution of private economic power, destined to weigh well beyond the time horizon of the *Recovery Plan*.

For this reason, it is necessary to avoid a situation whereby scarcely competitive awards end up rewarding only those companies that are directly known to the contracting authority, or are concentrated in the hands of a few stronger and more structured operators, to the detriment of others that are equally deserving.

Therefore, it will be necessary to compensate the accelerated procedures identified by recent regulatory measures with massive injections of transparency over the entire cycle of the activity carried out, from the identification of needs to the payment of the last euro paid. In addition, it will be necessary to establish simple and objective criteria for identifying the operators to be invited to the selections, ensuring adequate rotation of these operators.

Transparency and competition will therefore be essential and unavoidable factors not only for obtaining the best conditions for the benefit of the public, but also for selecting the most deserving and reliable companies.

In any case, the imminent growth in public demand as a result of the injection of European funds will need to find companies that are up to the task and able to carry out the works in a workmanlike manner and on time.

The aim of the *Recovery Plan* must therefore also be to encourage the growth of the private part of the market, which has sometimes shown signs of fragility in both large and small projects. This is due not only to a lack of requirements or financial difficulties, but also to opaque corporate operations or links with organised crime.

In order to prevent such phenomena, an obligation to declare the *beneficial owner* of economic operators should also be introduced in the procurement code, also for anti-money laundering purposes, allowing the public administration to really know its contractual partners.

In this context, it is important to prevent the huge influx of public capital from creating a “displacement effect” with respect to private resources, which are currently largely unused and should instead be attracted to productive investments linked to the country's revival, thus receiving greater value.

In the debate that accompanied the drafting of the *Recovery Plan* on public procurement, perhaps not enough attention was paid to the role that private actors can play in contributing to collective reconstruction. This has probably led to a focus on the five-year horizon, whereas it is crucial to look beyond 2026.

Public-private partnerships can help with this.

In ordinary times, it is activated because administrations, lacking resources, ask the market for them in order to carry out works and investments.

Today's abundant public resources must not be allowed to sideline this form of virtuous collaboration between the public and private sectors, which must be relaunched precisely in order to extend the time horizon and scale of the investments that can be made.

It will therefore be necessary to conceive plans in which, unlike what normally happens, the first phase of public investment is followed by a strong mobilisation of private resources.

To ensure that such operations do not lead to the “capture” of public administration by the private sector, as unfortunately often happens, partnership operations must only be entrusted to entities of an appropriate size and with significant specialist skills, which are truly capable of transferring most of the risks to the private sector and providing adequate guarantees. If this is realised, not only will we avoid the risk of an abrupt slowdown in investment after 2026, but we will also be able to mobilise resources that are significantly higher than the many billions of euros included in the *Plan*.

In addition, it is precisely the actual risk-taking of private individuals that can be a measure of whether public resources are being used properly and whether they are being directed towards fruitful investments for future generations.

This is an extraordinary opportunity for the growth and strengthening of companies and for a new relationship of trust between private individuals and public institutions.

Extraordinary measures for companies

Finally, I would like to comment briefly on the extraordinary measures to manage and support companies.

In combating corruption in the sector, these safeguards have proven to be highly effective in many situations.

Thanks also to the concerted effort of the institutions involved - Prefectures, Ministry of the Interior, Judicial Authorities and Anac - to consolidate the collaborative circuit put in place to protect legality in public procurement.

Allow me, also for this, to express my warm thanks to the Minister of the Interior and the Minister of Justice.

In the coming years, it will be more necessary than ever to protect the awarding of contracts from unlawful interference, given the continuous increase in the number of anti-mafia interdictions notified to the Authority, which also continued in 2020.

In the context of the *Recovery Plan*, the possibility of using such forms of supervision responds to the need to carry out interventions within the planned timeframe, without being slowed down in case of judicial investigations for corruption, and avoiding the risk of loss of funding.

The Authority also wants to be ready for this further crucial challenge.

For this reason, it has promoted a proposal for regulatory amendments - which we hope will be accepted - with the intention of overcoming some application problems and reforming, in part, the extraordinary measures according to coordinates based on the value and relevance of the public procurement.

Conclusions

I am going to conclude.

In one of his novels, Honoré de Balzac explains that men, in order to get ahead, can use their talents, striving to make the most of them, or make their way through corruption, outdoing others with subterfuge and deception.

The next few years will also be decisive in defining the extent to which, in both the public and private sectors, there will be more space for those who work to make use of their talents, thereby advancing the whole community, to the detriment of those who would rather use other means, to the detriment of the community.

I will finish where I started.

Prevention is indispensable for the protection of fundamental rights, equality of opportunity, social cohesion and public trust.

Protecting these rights means discouraging bribes, rewarding talent and merit, protecting the weak and giving hope to the young.

In the near future, the Authority will pursue its mission in this spirit, working to strengthen the key instruments of prevention, which are good administration and good transparency.

The real challenge to ward off corruption is to build an administration capable of doing its duty, an administration that is competent, qualified and transparent, that looks at results and knows how to use discretion to ensure the best services for citizens.

In order to do this, we need to train and strengthen young, competent people in the public sector who can lead our country into the future.

An injection of confidence and talent, driving out corruption and bringing integrity, preparation and merit closer together.

The pandemic has taught us that when a good is recognized as universal, everyone comes together to defend it and extraordinary results are achieved.

Like public health, legality is the essence of common living.

And only with everyone's awareness and commitment is it possible to defend it.

Allow me now to express my due and heartfelt thanks, starting with my *colleagues on the Board, Consuelo del Balzo, Luca Forteleoni, Paolo Giacomazzo, and Laura Valli*, and the Secretary General, *Renato Catalano*, especially for the team spirit and unity of purpose that has been created among us since the beginning of this new and exciting challenge.

I would like to thank all the *Staff of the Authority*, because the results obtained are mainly the result of the work carried out by the Offices, to whom I extend my warm appreciation for their commitment, professionalism and cooperation.

I would like to sincerely thank the *Italian Financial Police*, which, through its various branches, provides the Authority with a constant and qualified contribution in the performance of many delicate functions.

Combining legality, merit, solidarity and social cohesion is an essential task, especially in the present time.

Breaking the rules kills hope and the sense of justice.

For this reason, we are all called upon to take action in the name of these values and rights which are basis of our Constitution, the root of our togetherness, the foundation of our future.

Thank you