

Il 6 e 7 settembre 2018 si è tenuto a Vienna il 9° incontro del Gruppo di lavoro UNODC per la Prevenzione della Corruzione (<https://www.unodc.org/unodc/en/corruption/WG-Prevention/session9.html>)

Intervento in lingua inglese del Consigliere dell'Anac Nicoletta Parisi

First of all, I would like to express my gratitude to the distinguished Presidency for the invitation and to the excellent members of the Secretariat, for their remarkable efforts in facilitating my intervention to the debate today.

I would also like to describe you some aspects of the Italian legal system regarding conflict of interest and related codes of conduct, identifying those aspects that are considered best practices at international and domestic level.

1. As expressed in the Paper prepared by the Secretariat (point 20), Italy regulates conflict of interest through legal provisions enclosed in a multilevel system: the Constitution (articles 2, 28, 54, 97, 98) and the legislation (Law No. 190/2012; legislative decrees nos. 235/2012 for political offices and 39/2013 for administrative offices in public administration), and the codes of conduct.

As to the latter legal source, the framework is articulated on the basis of a two-level system: the central one (a general code of conduct set up with decree no. 62/2013) which has to be complemented by specific codes of conducts developed by each public body. These ones are binding and compulsory, and provide for sanctions in case of violations of the rules on conflict of interest too: indeed, the violation of a rule of the code is assimilated to a disciplinary offence. This is the best practice number one.

2. The Italian Anticorruption Authority (ANAC) has the competence and a clear mandate for the prevention of corruption: it is an independent (from the Government) authority and has regulatory, supervisory, inspecting as well as sanctioning powers on the matter of codes of conduct and in relation to the rules on conflict of interest. ANAC itself is considered an international best practice by OECD.
3. A third best practice consists in the exercise of the regulatory powers in setting guidelines on codes of conduct for public bodies, also including publicly controlled private companies (so called State Owned Enterprises or SOEs). These guidelines will deal also with conflict of interest in the broadest sense: current, potential and so on, including so called practices of “revolving doors”.
4. As an important example of ANAC’s regulatory work thereof, in 2016 ANAC has adopted (in collaboration with the Ministry of Health and the National Agency for the Regional Health Services)

guidelines on the codes of conduct in the health services; in May 2018 it has issued guidelines for the Ministry of Education, Scientific Research and University; in Spring 2018 it has established a national working group of experts in charge of contributing to the drafting of guidelines for codes of conduct for officials of public institutions (this in order to replace the previous guidelines of 2013, adopted by the *Commissione indipendente per la valutazione, la trasparenza e l'integrità delle amministrazioni pubbliche* aka CIVIT – then replaced by ANAC).

5. In addition, ANAC takes seriously articles 5 and 6 UNCAC and collaborates at the international level. The said group of national experts is now integrated by individual foreign practitioners (from Albania, Australia, Bulgaria, Estonia, France, Germany, the Netherlands, Romania, Slovak Republic, Spain, United Kingdom and USA) and some international organizations (namely OECD, Organization for European Security and Cooperation and the Council of Europe). This group is aimed at seeking for and collecting the best practices in the matter, that will be most suitable for the Italian context.

6. Finally I would like to inform you about the building of a network of national corruption prevention agencies with the objective to: establish models of cooperation and mutual assistance; creating working groups for the development, implementation and monitoring of their functions; elaborate common positions and sectorial standards and propose them to the attention of multilateral institutions, thus actively feeding the advancement of international law; harmonize, deepen and foster domestic rules on corruption prevention by, for example, exchanging domestic practices and information.

The proposal is soon going to be achieved: in October 2018, in Sibenik (Croatia) the “Declaration for the corruption prevention agencies' network” will be officially signed by national authorities (agencies, departments, units) involved in the prevention of corruption, in accordance with the plan initially proposed by Italian ANAC, French AFA and Croatian USKOK, with the support of GRECO.

7. For the future ANAC has another task: the institution - within the European Union - of a European authority for the prevention of corruption in a sort of two-level (European and national) mechanism. Establishing a specifically devoted and stable European entity, tasked with proposing and monitoring the implementation of this field law, would undoubtedly guarantee a greater effectiveness in the harmonizing process. Furthermore, this institutional solution aimed at building a “two-level administration” is already well anchored into the European Union legal system.

Far more ambitious is the project - of which the Italy could be the promoter - to set up an integrated administrative body, based for example on the model of the European Union's external action Service, composed by members from the General Secretariat of the Council, the Commission, and the Member States. The currently functioning Service aims at achieving the goal of uniting three different cultures into a single body: the Community (inherited from the European Commission's Directorate-General for External Relations and Development); that derived from the political unit and crisis management structures of the Directorate General of the Council Secretariat of the Union; and that of the national

diplomacies of the twenty-eight Member States. This is an example of integrated administration between the two levels of administrative governance at stake: that of the Union and those of the States.

It is clear that this type of composite institution - without undermining the national authorities - would more effectively regulate, supervise and organize the fight against European corruption which, by its very nature, requires a multi-levelled response, i.e. one characterized by a combination of different strategies, such as the economic level and the administration of justice.

8. In conclusion, Italy and ANAC have a lot of work to do to better implement the Merida Convention in that it indicates that *«corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential»*.

I know that Italy has a good legal framework on corruption prevention. But I am fully aware that having good rules is not enough: these rules must be living within the domestic legal order to fully implement the Merida Convention. Anac is giving a substantial, not merely formal, implementation to international commitments.

Thank you for your kind attention

Prof.Nicoletta Parisi

Council Member

ANAC