

## Chapter 4

### *Institutional co-ordination*

*The experience of OECD countries shows that effective institutional arrangements and co-ordination are effective key elements in enhancing public sector integrity and preventing and combating corruption. This chapter considers the institutional arrangements set forth in the new Italian Anti-Corruption Law. In so doing, it i) reviews current integrity-related institutional arrangements in Italy; ii) considers the changes, including co-ordination arrangements, enshrined in the Law; iii) analyses them against key elements that help ensure that institutions fulfil their roles and collaborate properly (e.g. clear mandate, independence, and adequate resources); and iv) makes key proposals for implementing the reform effectively.*

## Key elements for effective anti-corruption bodies

A critical issue in any anti-corruption strategy relates to institutional set-ups for fighting corruption and ensuring public sector integrity. Clear, comprehensive arrangements are vital for ensuring the effectiveness of integrity policies and maximising institutions' scope and their capacity to fulfil their mandates.

The new Anti-Corruption Law has considerably altered Italy's corruption prevention institutional set-up. In this respect, the appointment of the Commission for the Evaluation, Integrity, and Transparency of Public Administration (CIVIT) as the corruption prevention authority is particularly important. However, effective co-ordination and co-operation between CIVIT and all other actors is essential if the integrity framework is to function properly in the public sector.

Effective institutional co-ordination is a key element in enhancing public sector integrity and combating and preventing corruption. As in most democratic societies, frameworks for corruption prevention are already in place in existing institutions. However, as countries modernise, anti-corruption functions become scattered across multiple institutions, sometimes leading to structural or operational deficiencies that hinder effective action to prevent and stamp out corruption. Many OECD member countries are therefore revisiting their institutional arrangements. Some have established new institutions to house key national anti-corruption policies or have modified their existing institutional framework in response to new challenges.

There is a rationale behind assigning or shifting anti-corruption functions to new institutions. Specialised anti-corruption agencies are considered to be effective instruments for preventing and fighting corruption. In one study, Meagher (2004) writes:

[A new institution] i) will not itself be tainted by corruption or political intrusion; ii) will resolve co-ordination problems among multiple agencies through vertical integration; and iii) can centralise all necessary information and intelligence about corruption and can assert leadership in the anti-corruption effort. This proposes that the main expected outcome of an anti-corruption institution should be an overall improvement in the performance of anti-corruption functions.

Yet, specialised anti-corruption bodies are by no means the only model. Experience shows that they are not necessarily a panacea and some countries have been effective in fighting corruption without one. Institutions in charge of preventing and combating corruption, whether specialised or not, need a clear mandate, independence from political interference, and sufficient resources in order to be effective.

Against that background, the following chapters review the institutional arrangements set forth in the Anti-Corruption Law. In so doing, it *i)* review current integrity-related institutional arrangements in Italy; *ii)* consider the changes, including co-ordination arrangements, enshrined in the Law; *iii)* analyse them against key elements that help ensure that institutions fulfil their roles and collaborate properly; *iv)* make key proposals for implementing reforms effectively.

Experience shows that there is no single model for an effective institutional arrangement that successfully enables the prevent and repression of corruption. The institutional arrangement a country chooses is evidently prompted by its domestic context, particularly by its socio-political, legal, and administrative circumstances (e.g. type of government, the constitution, legal systems, cultural issues, and the incidence of corruption). Irrespective of the institutional arrangements they may adopt, the experience of

OECD countries reveals that any anti-corruption body should have a clear mandate, independence, and adequate resources.

### ***Clear mandates***

The effectiveness of anti-corruption bodies is largely dependent on their having clearly defined mandates and functions. They are essential to conducting anti-corruption strategies and preventing any overlaps between relevant actors. Experience shows that mandates may cover a wide range of duties, from prevention to investigation and sanctions (Box 4.1). They must be clearly assigned to a specific body or bodies and the proper level of co-ordination ensured. Strong, smoothly functioning inter-agency co-operation and information are essential.

Appropriate co-ordination is thus a priority if an anti-corruption institution is to be effective. Korea, for example, has an anti-corruption policy co-ordination body composed of representatives from ten government agencies (ministries and supervisory bodies) to ensure communication between their institutions. South Africa's Anti-Corruption Co-ordination Committee is staffed by representatives from public service departments and from agencies with corruption prevention functions. It raises awareness, educates public servants, and streamlines communication.

Many countries have established special committees or commissions to mitigate problems that could arise from failing to co-ordinate between institutions. Such bodies are generally staffed by public officials from various branches and departments of government and by representatives from law enforcement agencies, local government, customs, and public procurement offices. They may also include members from civil society, religious groups, NGOs, business leaders, and the academic community.

In the United States, the Office of Government Ethics sets the integrity policy for the executive branch of government, promotes the sharing of information and good practices, and co-ordinates the action of 5 700 ethics officers. In Canada, the Office of Conflict of Interest and Ethics Commissioner has created a network of ethics commissioners at provincial level to discuss issues of interest and share lessons and good practices.

#### **Box 4.1. Most common anti-corruption functions**

**Policy development, research, monitoring and co-ordination.** These duties encompass research into trends and levels of corruption and assessment of the effectiveness of anti-corruption measures. They further include policy development and co-ordination, which includes the drawing up of anti-corruption strategies and action plans and monitoring and co-ordinating implementation measures. Another important function is to serve as a focal point for international co-operation.

**Prevention of corruption in public service departments.** The focus here is on promoting ethics in public institutions, which includes drawing up and implementing special measures pertaining to public service rules and restrictions, and taking disciplinary action for non-compliance. Corruption prevention functions may involve averting conflicts of interest, ensuring that public servants declare their assets, verifying the information submitted, and enabling public access to it. The aim is to prevent corruption by running state financial checks, taking money-laundering measures, ensuring integrity in public procurement, and enforcing licensing, permits and certification schemes. Finally, an anti-corruption body's preventive duties involve promoting the transparency of public service and public access to information and ensuring effective monitoring of political party financing.

#### **Box 4.1. Most common anti-corruption functions (*cont.*)**

**Education and awareness raising.** This duty entails developing and implementing educational programmes for the general public, academic institutions, and civil servants; organising public awareness campaigns; and working with the media, NGOs, businesses and the public at large.

Investigation and prosecution. The prime aim here is to ensure a legal framework for the effective prosecution of offenders and dissuasive sanctions for all forms of corruption. Second, investigation and prosecution should involve enforcing anti-corruption legislation effectively through every stage in criminal proceedings – from identification and investigation to the prosecution and adjudication of corruption offences – while ensuring the transition between criminal and administrative proceedings. Third, the investigation and prosecution mandate should include overseeing interagency co-operation and exchanging information that is both case-specific and of general import with law enforcement bodies, auditors, tax and customs authorities, banks, and financial intelligence units (FIU)s, public procurement officials, state security agencies, etc. Fourth, the investigation and prosecution functions include acting as a focal point for mutual legal assistance and extradition requests. Finally, maintaining, analysing and reporting law enforcement statistics on corruption-related offences is another important function.

*Source:* OECD (2008), *Specialised Anti-Corruption Institutions: Review of Models*, OECD Publishing, Paris, doi: <http://dx.doi.org/10.1787/9789264039803-en>.

OECD analysis has found that different countries assign different mandates to anti-corruption bodies. They come under three broad headings: policy co-ordination and prevention, comprehensive mandates, and law enforcement.

- **Policy co-ordination and prevention**

Some countries have created special bodies to co-ordinate policy and prevent corruption. Portugal's Anti-Corruption Co-ordination Committee, for example, brings together representatives of government agencies and the Supreme Audit Institution. Other examples are France's Central Service for the Prevention of Corruption, Slovenia's Commission for the Prevention of Corruption, the United States Office of Government Ethics, and Brazil's Office of the Comptroller General (CGU)). The tracking and repression of corruption is left to the traditional law enforcement institutions. Policy co-ordination and prevention bodies have a variety of functions, such as research and analysis, policy development and co-ordination, and training and advising other actors on risks of corruption and available solutions. They may also have special powers such as vetting civil servants' asset disclosures and assessing related confidential information.

- **Comprehensive mandates**

Few countries have created specific anti-corruption institutions with comprehensive mandates. However, so-called "multi-purpose" agencies which both prevent and fight corruption do exist – in Hong Kong (the Independent Commission Against Corruption [ICAC]), Latvia (the Corruption Prevention and Combating Bureau), Lithuania (the Special Investigation Service), Singapore (the Corrupt Practices Investigation Bureau), and in the State of New South Wales in Australia (the Independent Commission against Corruption). A number of other agencies (in Argentina, Ecuador, Korea and Thailand, for example), have adopted some features of the Hong Kong and Singapore models, but do not necessarily apply them rigorously. While very few anti-corruption agencies have a comprehensive mandate that covers all anti-corruption functions, many follow Hong Kong's ICAC approach with built-in checks and balances to ensure autonomy, specialised

advisory committees, mechanisms for reporting, and education and awareness-raising functions.

- **Law enforcement mandates**

Anti-corruption institutions whose specific mandate is law enforcement exist in several countries. They may assume different forms and enforce the law differently – through agencies that detect and investigate or prosecute corruption. A single body may also combine detection, investigation and prosecution – possibly the most common model in Europe. Examples include Belgium (the Central Office for the Repression of Corruption), Croatia (the Office for the Prevention and Suppression of Corruption and Organised Crime), Hungary (the Central Prosecutorial Investigation Office), Norway (the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime), Romania (the National Anti-Corruption Directorate), Spain (the Special Prosecutors Office for the Repression of Economic Offences Related Corruption), and the United Kingdom (the Serious Fraud Office). The model may also apply to internal investigation bodies with narrow jurisdictions for detecting and investigating corruption within the law enforcement organisations. Two good examples of such bodies include Germany’s Department of Internal Investigations and the United Kingdom’s Metropolitan Police Anti-Corruption Command.

### *Independence from political interference*

The credibility and sustainability of the bodies depend on their level of independence from political influence. Independence primarily means that anti-corruption bodies should be shielded from undue political interference. To that end, a genuine political will to fight corruption is the key prerequisite. Such political will must be embedded in a comprehensive anti-corruption strategy. Although degrees of independence may vary with needs and conditions, experience suggests that structural and operational autonomy is what matters. Enacting legislation that gives an anti-corruption agency a clear legal basis can secure such autonomy.

Moreover, objective and transparent procedures for appointing and removing the governing bodies of anti-corruption agencies, together with proper human resources management and internal controls, are important factors in preventing undue interference. Appointment of the governing body of an anti-corruption agency by a particular branch of government (be it legislative, executive, or judicial) could create conflict of interest in the event of members of that particular branch of government themselves being investigated. Several countries use procedures in which both the executive and legislative branches play a balanced role in appointing and removing the governing body of anti-corruption agencies.

Another approach could be an open recruitment process with selection by an oversight committee. The terms of appointment of the members of a governing body (e.g. tenure, remuneration, and guarantees of independence) should be made public. In Slovenia, for example, the chief commissioner and the two deputy chief commissioners of the Commission for the Prevention of Corruption are appointed by the head of state after candidates have first been nominated and selected by a special board staffed by representatives of the government, the National Assembly, non-governmental organizations, the Judicial Council, and the Council of Officials.

Budgetary autonomy is an additional way of ensuring independence. Ways to secure budgetary autonomy include incorporating a set budget and adjustment rate in the law which creates the anti-corruption body; creating a dedicated fund; or establishing a procedure for requesting and receiving funds that keeps the an anti-corruption body away from political influences. In Slovenia, the Commission for the Prevention of Corruption submits a budget request directly the Ministry of Finance and Parliament approves and grants the funds directly to the Commission.

However, independence should not mean a lack of accountability. There should be a procedure for regularly reporting on performance to the executive and legislative arms of government. The public should also have access to such reports. International standards have stressed that prioritising accountability ensures both credibility and transparency. Accountability increases public trust and secures effective support for combating corruption.<sup>1</sup>

Accountability measures may include reporting regularly to Parliament, the head of state, or government leaders, and making reports accessible to the public through forums. In Indonesia, the Corruption Eradication Commission (KPK) reports on its activities to the President, the National Assembly, and the State Auditor.

### *Adequate resources*

Good practices among OECD countries demonstrate that anti-corruption bodies should have adequate human and budgetary resources in accordance with their mandates. Staff should be trained and boast expertise in integrity and anti-corruption. In Korea, for example, the Anti-Corruption and Civil Rights Commission, which is responsible for research, prevention, investigation, and policy, had a budget of USD 54 million in 2010 and handled approximately 200 cases. The Commission has a permanent staff of 465, which includes 3 prosecutors and 30 investigators.

Enjoying adequate resources also means that the anti-corruption agency may freely administer its budget with no outside interference. Moreover, specialised anti-corruption bodies should have the power and means, beyond adequate staff and training, to fulfil their mandates. For example, a complex data analysis capability is essential to designing and implementing policies as well as to investigating cases.

### **The need to co-ordinate bodies with anti-corruption mandates in Italy**

As in most OECD member countries, Italy's institutional arrangements for preventing corruption have involved several bodies. They include the Ministry of Public Administration's Department of Public Administration (DPA), the Independent Commission for the Evaluation, Integrity and Transparency of Public Administration (CIVIT), the Court of Auditors, and specially created bodies or ones that were assigned anti-corruption duties, but are not longer functioning institutions.

In 2003, Italy became a signatory to the UN Convention against Corruption (UNCAC), before ratifying the treaty in 2009 with Law 116/2009. The Convention requires parties to "ensure the existence of a body or bodies, as appropriate, that prevent corruption", to which the "necessary independence ..., material resources and specialized staff, as well as the training"<sup>2</sup> should be granted. Article 6 of Law 116/2009 ratifying Italy's membership of UNCAC designated the DPA as the national authority for the prevention of corruption and



accordingly assigned it specific functions and duties. (The DPA is a branch of the Presidency of the Council of Ministers.)

### ***The High Commissioner for the fight against corruption***

In 2004, the position of High Commissioner (HC) for the fight against corruption was created by the President of the Republic, after consultation with the President of the Council of Ministers.<sup>3</sup> The fight against corruption came under the sole authority of the HC, assisted by a vice-commissioner, a deputy vice commissioner, five experts (selected among magistrates and state attorneys), and administrative personnel (a director and support staff who had executive roles in other branches of public service).

The HC's duties were three-fold: i) regularly review legal instruments and administrative practices in the prevention and prosecution of corruption; ii) identify critical areas; iii) assess the vulnerability of public servants to corruption and associated criminal behaviour. The HC was also empowered to carry out fact-finding administrative missions (either ex officio or upon request from a public service department), develop analyses and studies on the problem of corruption, and monitor contractual and expenditure procedures with a view to preventing the misuse of public funds.

Under the terms of Presidential Decree 258/2004, the President of the Republic appointed the HC, subject to deliberation by the Council of Ministers and on proposal of the Prime Minister. The HC could be reappointed only once and no limitations were set with regard to other activities or duties that the HC could exercise. None of the staff enjoyed protection against dismissal. Nor were the staff or the HC guaranteed any immunity from prosecution for action taken in the exercise of their duties.

None of these gaps was filled by moving the HC's duties to the DPA. Civil servants cannot be removed without justification if they belong to an anti-corruption agency. But, staff who were assigned anti-corruption tasks in addition to their normal duties could be moved back to their office or another department by order of the head of department. The HC<sup>4</sup> changed frequently – there were four between 2004 to 2008 when the position was finally abolished. The HC's functions were transferred to the DPA and the HC was rebranded as the Anti-Corruption and Transparency Service (SAeT). The SAeT's task was to “enhance the experience acquired so far and support the transparency process launched by the government”.<sup>5</sup>

### ***Independent Commission for the Evaluation, Integrity and Transparency of Public Administration (CIVIT)***

The new Anti-Corruption Law designates CIVIT as the national anti-corruption authority in place of the DPA. CIVIT was originally established by Article 13 of Legislative Decree 150/2009, then further regulated by Legislative Decree 150/2009<sup>6</sup> and related decrees<sup>7</sup> as a key element of public administration reform.

CIVIT now has a number of responsibilities that include i) analysing the causes of corruption and identifying measures to prevent and prosecute it; ii) co-operating with the DPA and central government departments, particularly to ensure the job rotation of managers in positions most exposed to corruption; iii) using powers of consultation, inspection, and investigation; iv) co-operating with anti-corruption authorities in other countries and v) approving the National anti-corruption Plan drafted by the DPA.

CIVIT was created to play a co-ordination and monitoring role in measuring and evaluating the performance of public servants and public service departments. It steers, co-ordinates and supervises evaluations and evaluation systems, ensuring they are independent and transparent. In accordance with Article 13.1 of Legislative Decree 150/09, it also ensures the comparability and visibility of performance indices and monitors compliance with transparency obligations and the implementation of the “total disclosure” principle (Articles 13.5, 13.6, and 13.8 of Legislative Decree 150/09). In furtherance of those objectives and its monitoring function, CIVIT also encourages public service departments to establish the responsible officer for transparency and for quality services in order to create a network inside each administration. The CIVIT must report annually on its activities to the Minister for the Implementation of the Programme of the Executive.

In addition, CIVIT’s duties include seeing that public service departments adopt the guidelines for preparing the Triennial Programme for Transparency and Integrity (Article 13.6e) and monitoring their adoption. The guidelines were adopted in October 2010<sup>8</sup> and updated in January 2012.<sup>9</sup> However, CIVIT has no inspection or sanctioning powers. The Anti-Corruption Law invests CIVIT with the following powers: to carry out inspections, to order the disclosure of documents, and require conduct in keeping with integrity and transparency rules and standards. The Law further grants CIVIT additional powers that are an extension of its existing ones. For example, it approves the National Anticorruption Plan drafted by the DPA.

### ***Independent Performance Evaluation Units (OIVs) and the Court of Auditors***

In addition, Independent Performance Evaluation Units (OIVs) were established by Legislative Decree 150/2009 to monitor and evaluate performance, efficiency, and the transparency of the civil service in an independent, autonomous manner. OIVs replaced the *servizi di controllo interno* (internal evaluation services) created by Legislative Decree 286/1999. By law, an OIV can be established only on CIVIT’s advice (Article 14.3 of Legislative Decree 150/2009).

The new Anti-Corruption law stipulates that OIVs must provide advice on the preparation of public service entities’ codes of conduct. They also communicate to the DPA any and all the information on political appointees. The Law does not, however, attribute any other significant role to OIVs.

The Court of Auditors is an additional player in Italy’s anti-corruption institutional set-up. The country’s supreme audit institution (SAI), it is a public body that carries out external audits of the state’s administrative and financial management independently of the executive branch. It is a well respected, highly independent institution in Italy. It enjoys wide-ranging powers and has a well defined function as an auxiliary body to the executive and legislative branches of government. The Court acts as an “auxiliary body” in the sense that it co-operates with the bodies responsible for legislative functions, for political trend and control, and for active administration. The Court of Auditors also performs an auditing function, checking that government departments and agencies comply with the law through *ex ante* and *ex post* audits. Furthermore, it can act as a judiciary body, enjoying exclusive jurisdiction in “matters of public accounting”.

All SAI documents are public and the Court must report the results of its audits directly to Parliament. All sessions of the Court’s Presidency Council are open to the public, with a few specific exceptions such as staff disciplinary hearings.<sup>10</sup> The fundamental documents that the Court must submit yearly to the legislature for discussion are the “Relazione sul Rendiconto generale dello Stato”<sup>11</sup>, known as the “Relazione”, and the “Rapporto sul coordinamento della finanza pubblica”<sup>12</sup>, generally referred to as the “Rapporto”. They are



freely available on the SAI website. The *Relazione* is an account of the state's general budget. It contains the results of scrutiny of the national budget, reports on the trends in local and national finances, and the critical issues to emerge from analysis of the public accounts and the Court's auditing work. The *Rapporto* provides a detailed evaluation of the economic strategies of the executive branch of government and of the effectiveness of public finances.

Law 20/1994 empowers the SAI to request any document or piece of information from public service and auditing or controlling bodies and to carry out inspections and on-site checks. The Court may also compel any national, regional or local public authority to abide by rulings requiring it to amend financial irregularities detected during an *ex post* audit. Should the authority fail to comply, individual politicians or civil servants may become personally liable for the economic damage sustained as a consequence by the public service.

The SAI may fight corruption whenever misconduct robs the public finances of revenue. In 2010, the Court's Central Sections returned 47 guilty verdicts, sentencing 90 civil servants to pay damages of EUR 36 million for corruption. The Court's Regional Sections sentenced 350 civil servants to damages of EUR 255 million.<sup>13</sup>

### ***Changes in the anti-corruption institutional set up: new functions for existing organisations***

The most important change the Anti-Corruption Law has ushered into Italy's institutional set-up is the designation of CIVIT as the national anti-corruption authority. Accordingly, the Law seeks to strengthen institutional ties between CIVIT and the civil service. To that end CIVIT now has new advisory and monitoring duties, as it may be requested to advise any public service department or agency on a wide range of issues – from public employees' compliance with codes of conduct and collective agreements to whether senior managers should be granted permission to take on external assignments. Also in its remit are questions of local relevance – it may, for example, be required to assess the conduct of an employee in a small municipality. Furthermore, Article 1.2 f – which pertains to monitoring compliance with and the effectiveness of new anti-corruption measures – widens CIVIT's powers to include monitoring compliance with transparency rules. Although some of them are optional, CIVIT's new advisory functions do strengthen its capacity to monitor and co-ordinate public service bodies' anti-corruption strategies.

CIVIT has also been entrusted with a further task. Should a prefect dismiss the secretary of a local authority, it is CIVIT's job to verify that the dismissal is not connected to the secretary's anti-corruption activities.

As regards the DPA, the Law has widened the scope of its functions. For example, it is now in charge of drawing up the rules for job rotation in senior managerial positions exposed to high risks of corruption. Its duties also include devising measures to avoid overlaps and duplication in managerial positions. In turn, CIVIT's job is to monitor the implementation and effectiveness of the rules drawn up by the DPA.

With regard to public service departments, the Law assigns different anti-corruption roles to different bodies within them. It is, for example, the responsibility of the political body to adopt an anti-corruption plan and assign an anti-corruption manager. This manager must submit the anti-corruption plan for approval and define procedures for appointing employees to high-risk activities.

The Law thus reinforces co-operation between CIVIT, the DPA, and new actors. The DPA, a structure that answers to the executive<sup>14</sup> branch of government, effectively becomes

the hub which collects information from government departments and prepares the national anti-corruption plan (NACP). CIVIT is the national anti-corruption authority and draws up the guidelines for public service strategies which are then included in the national anti-corruption plan drafted by the DPA. The new Anti-Corruption Law also grants the Authority for the Supervision of Public Contracts and the National School of Public Administration official roles. Table 4.1. provides a summary of the main functions of all anti-corruption bodies.

**Table 4.1. The main corruption prevention actors in Italy**

Actor	Past Function	New Functions
CIVIT	<p>Steer, co-ordinate, and supervise the independent exercise of evaluation functions.</p> <p>Ensure the transparency of evaluation systems.</p> <p>Ensure the comparability and visibility of performance indicators.</p> <p>Annually inform the Minister for the Implementation of the Programme of the Executive (MIPE) of its activities.</p>	<p>In addition to current functions: anti-corruption authority</p> <p>Co-operate with international and foreign bodies.</p> <p>Approve the NACP.</p> <p>Analyse causes and factors of corruption.</p> <p>Give (optional)<sup>15</sup> advice to public service departments on employees' behaviour.</p> <p>Give (optional) advice on authorisations for public executives to take on external assignments.</p> <p>Monitor public service departments' compliance with their own measures and their effectiveness of such measures (including transparency rules)</p> <p>Reports to both chambers by 31 December on action taken against corruption and illegal acts and the effectiveness of the related rules.</p>
Department of Public Administration	Anti-corruption authority	<p>Co-ordinates the implementation of anti-corruption strategies (national or international)</p> <p>Defines (and promotes) rules and methodologies for implementing anti-corruption strategies</p> <p>Prepares the national anti-corruption plan</p> <p>Defines standard models for the collection of data and information</p> <p>Defines the rules for job rotation in senior managerial positions exposed to high risks of corruption.</p>

**Table 4.1. The main corruption prevention actors in Italy (cont.)**

Public Service Department(s) <sup>16</sup>	<p>Adopt the Triennial Programme on Transparency and Integrity (Legislative Decree 150/09).</p> <p>Post online the CVs, annual wages, and contacts of senior managers.</p> <p>Publish online web the list of documents necessary for a procedure on demand (Legislative Decree 70/2011).</p>	<p>Adopt an anti-corruption plan which contains a risk analysis and the department's countermeasures</p> <p>Defines, with the NSPA, procedures for selecting and training employees, and the procedures for the turnover of executives working in high-risk sectors.</p> <p>The political body adopts and transmits to the DPA the triennial anti-corruption plan by 31 January.</p> <p>The political body nominates the anti-corruption manager (ACM).</p> <p>Publishes online information on the unit cost of public works and services for citizens.</p> <p>As the contracting authority, can decide that the violation of voluntary integrity instruments (namely the integrity pacts or memoranda of legality [<i>protocolli di legalità</i>]) can be grounds for exclusion from a tender.<sup>17</sup></p> <p>When referees are required, authorises the participation of its manager and determines the fee.</p> <p>Send data and information on transparency to the CIVIT.</p>
Public Service Departments Anti-corruption Managers		<p>Define procedures for selecting and training employees and procedures for the turnover of senior managers working in sectors at risk.</p> <p>By 15 December publish online a report with the results of their activity and transmit it to the political body.</p>
Inter-ministerial Committee		To be nominated by the President of the Council of Ministers (PCM).
Prefect		Give optional advice to local authorities on the adoption of an ACP in compliance with the national guidelines contained in the NACP.
National School of Public Administration		Sets up training programmes (general and specific or sectorial) on ethics and legality.
Magistrates, State Attorneys and Lawyers, Members of Tax Comm.	<p>Participation in arbitration boards</p> <p>Referees</p>	<p>Participation in arbitration boards</p> <p>Referees</p>

The experience of OECD countries has shown that the mandates of anti-corruption bodies should clearly delineate their substantive responsibilities in order to avoid any

overlap of functions. A clear mandate also helps integrate new institutions into existing structures and enables any co-ordination that may be necessary to ensure that anti-corruption policies are implemented consistently. The mandate should include tasks and mechanisms to identify good practices and facilitate exchange with the relevant institutions, citizens, civil society and the private sector at national and sub-national levels.

Italy appears to have succeeded in providing clear anti-corruption mandates. The new anti-corruption law has done just that for CIVIT and DPA – the two main actors – and assigns additional anti-corruption functions to other relevant players, such as the civil service and the National School for Public Administration. However, while in theory there does not seem to be any duplication of functions, the DPA’s role will be central in, on one hand, co-ordinating the anti-corruption plans and action of public service entities and OIVs and, on the other hand, in interacting with CIVIT.

In point of fact, the Anti-Corruption Law makes no provision for (and therefore does not institutionalise) co-ordination between CIVIT and sub-national organisations such as the National Association of Italian Municipalities (ANCI), the National Union of the Provinces (UPI), and the Conference of the Regions and Autonomous Provinces. Yet, since 2010, CIVIT has worked with UPI and ANCI to define the transparency and integrity guidelines for the provinces and municipalities. This work would be further enhanced if CIVIT and DPA could actively partner with such bodies to implement and monitor anti-corruption initiatives at sub national levels of government.

### **Anti-corruption bodies’ political independence critical to their effectiveness**

As in many other OECD countries, the independence of the main anti-corruption authority in Italy has played an essential role in effective prevention of corruption. Moreover, given Italy’s experience with anti-corruption bodies, such as the now-abolished High Commissioner for the Fight against Corruption, independence from political interference is particularly important.

The Anti-Corruption Laws states that CIVIT is “fully autonomous and independent in its evaluations” which it carries out in co-operation with the Presidency of the Council of Ministers (through the DPA) and the Treasury (Department of General Accounting). The Minister for Public Administration and the Minister for the Implementation of the Programme of the Executive select CIVIT’s members and the competent parliamentary commission must then approve them by a two-thirds majority. The candidates are then approved by the Council of Ministers and officially appointed by the President of the Republic.

This procedure is meant to ensure CIVIT’s independence from the executive and is common to other independent bodies in Italy. CIVIT’s inclusion in the List of National Independent Authorities drawn up by the National Institute of Statistics (ISTAT) also officially enshrines its independence. The Council of State (Italy’s constitutional court) also recognised the independent nature of CIVIT in a ruling in March 2010. Moreover, the Administrative Trial Code (Article 133.11 of Legislative Decree 104/2010) includes CIVIT among independent authorities in accordance with a European directive.

The procedure for appointing and dismissing CIVIT’s governing body is consistent with procedures in other countries such as Slovenia which seek to protect independence. In addition, CIVIT enjoys budgetary autonomy as Parliament approves its funding and dispenses it directly to CIVIT. Other actors, like the DPA, for example, enjoy less independence from political interference as they are offshoots of the government and must implement government policies.

## Resources key to sustainable, effective anti-corruption institutional set-up

Human and budgetary resources are essential to ensuring the sustainability of anti-corruption efforts and their effectiveness in fighting corruption. Yet the Anti-Corruption Law states that its implementation must be at no cost to public finances. It is difficult to foresee how the changes ushered in by the Law can be effectively implemented at no cost, particularly as the budget for state bodies (including CIVIT) was recently considerably reduced.

CIVIT's operating budget fell from EUR 3 571 346 in 2011 to EUR 2 435 000 in 2012, while its special projects allocation shrank from EUR 4 million in 2011 to EUR 2 435 000 in 2012. However, it is worth noting that Law 135/2012 has run the two allocations together in a single operating budget to make CIVIT's financial management more flexible.

CIVIT's human resources have also been reduced: the number of commissioners fell from five to three in 2012. However, as Article 23.1h of Legislative Decree 201/2011 clearly states, independent authorities (which commonly includes CIVIT) knew in advance of the cut in their human resources. As for staff, CIVIT has yet to complete its recruitment, as it is seeking anti-corruption specialists with skills that match the new functions assigned to it by the Anti-Corruption Law.

On the other hand, resources allocated to other actors, particularly the DPA, fluctuate yearly according to their availability and the political priorities of the executive and Parliament, which approves the Financial Act. There are no objective indicators as to budget allocations.

What's more, civil servants require greater training in integrity and anti-corruption issues. Indeed, training is essential to supporting the key institutions that make up Italy's integrity infrastructure. All basic civil servant training could include, as part of the curriculum, lectures by or discussions with anti-corruption experts on national anti-corruption policies, especially in some of the public sector's high-risk areas. There is therefore room in Italy for improving the provision of necessary resources to anti-corruption bodies.

## Proposals for action

The institutional environment for combating corruption in Italy used to be characterised by a lack of clear policy support, inadequate resources, and ill-defined functions across the different anti-corruption institutions. The Anti-Corruption Law has set out new responsibilities and functions designed to strengthen relations between all the institutional actors involved. The Law has, in fact, gone even further with the introduction of an accountability mechanism which makes it mandatory for anti-corruption bodies to report to the government. Even so, Italy is still working at putting in place efficient institutional arrangements for combating corruption. In order to reaffirm its commitment to public sector integrity, this review proposes the following action:

- The role of the DPA may enhance institutional co-ordination among anti-corruption actors in Italy. However, what will be crucial is how it will interact with the actors involved in the prevention of corruption (CIVIT) and in the implementation of anti-corruption plans and strategies (local public service institutions and OIVs).
- The Anti-Corruption Law does not address the co-ordination functions between CIVIT and sub national organisations that are set out in the provisions of the Brunetta Reform of 2009. The Law mentions neither current sub national entities (like ANCI, UPI and the Conference of Regions and Provinces) nor their functions.

Nevertheless, CIVIT and DPA could actively partner with these entities to implement and monitor anti-corruption action at the sub national levels of the government. In fact, since 2010, CIVIT has been working with UPI and ANCI to define the transparency and integrity guidelines for the provinces and municipalities. Such collaborative work could be strengthened.

- The number of new tasks and functions that the Law assigns to CIVIT generates some concerns over its capacity and sustainability. To ensure effective co-ordination between CIVIT and other institutions, it should enjoy adequate resources and the authority to evaluate the effectiveness of the general administrative systems designed to prevent and combat corruption.
- Training will be essential to supporting the key institutions that make up Italy's integrity infrastructure. All basic civil servant training could include, as part of the curriculum, lectures by or discussions with anti-corruption experts on national anti-corruption policies, especially in some of the public sector's high-risk areas.

## Notes

1. UNCAC, Art. 1, 5 and 10.
2. Art. 6 of UN Convention against Corruption.
3. Law 3/2003 established the High Commissioner for the fight against corruption and other forms of offences in the public administration, which was really set up only in 2004 (Decree of the President of the Republic 258/2004). The high commissioner abolished by Art. 68 §6 lett.a of Legislative Decree 112/2008, 133/2008.
4. SAET, 2009, Rapporto al Parlamento.
5. SAET, *La riforma della Pubblica Amministrazione in Italia*, retrieved [www.anticorruzione.it/Portals/altocommissario/Documents/Altro/SAeT\\_en\\_191109.pdf](http://www.anticorruzione.it/Portals/altocommissario/Documents/Altro/SAeT_en_191109.pdf) accessed 6 December 2011.
6. Legislative decree 150/09 *Attuazione della legge 4 marzo 2009, n. 15, in materia di ottimizzazione della produttività del lavoro pubblico e di efficienza e trasparenza delle pubbliche amministrazioni* (OJ no.254 of the 31 October 2009).
7. Decree of the Ministry for Public Administration of 12 March 2010 (OJ no.75 of the 31 March 2010) "Definition of the attributions of the Commission for the Evaluation, Transparency, and Integrity of the Public Administration".
8. Available at [www.CIVIT.it/wp-content/uploads/Delibera-n.105.20102.pdf](http://www.CIVIT.it/wp-content/uploads/Delibera-n.105.20102.pdf).
9. Available at [www.CIVIT.it/?p=4923](http://www.CIVIT.it/?p=4923).
10. Art. 19 and 21 of Decision 220/CP/2008 "Internal Rules for the functioning of the Presidency Council of the Court of Auditors".
11. The audit 2010 is available at [http://www.corteconti.it/controllo/finanza\\_pubblica/bilanci\\_manovra\\_leggi/rendiconto\\_generale\\_2009/](http://www.corteconti.it/controllo/finanza_pubblica/bilanci_manovra_leggi/rendiconto_generale_2009/), accessed 08 June 2011.
12. The Report 2011 is available at [http://www.corteconti.it/export/sites/portalecdc/\\_documenti/controllo/sezioni\\_riunite/sezioni\\_riunite\\_in\\_sede\\_di\\_controllo/2011/delibera\\_28\\_2011\\_contr.pdf](http://www.corteconti.it/export/sites/portalecdc/_documenti/controllo/sezioni_riunite/sezioni_riunite_in_sede_di_controllo/2011/delibera_28_2011_contr.pdf), accessed 08 June 2011.
13. Audition of the President of the Court on the draft law on Corruption A.C. 4434.
14. The DPF belongs to the Presidency of the Council of Minister and is under the responsibility of the Minister for Public Administration.
15. Public administration entities can decide if they require the advice or not (optional), but once requested, they must use it (see Dossier 371 for the Senate of the Republic, p. 36).



16. According to Art. 15 of the bill, the law applies to all public administration departments.

*Art. 15. 1. Le disposizioni di prevenzione della corruzione di cui agli articoli da 1 a 13 della presente legge, di diretta attuazione del principio di imparzialità di cui all'articolo 97 della Costituzione, sono applicate in tutte le amministrazioni pubbliche di cui all'articolo 1, comma 2, del decreto legislativo 30 marzo 2001, n. 165, e successive modificazioni.*
17. According to Legislative Decree 163/06 (Codes for contracts), the contracting authority can consider the respect-of-legality instruments set into a contract by a company in the future contracts. The bill introduces the possibility of excluding the company from the contract in force.

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