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The National Anti-Corruption Authority (ANAC) and the evolution of corruption prevention in Italy

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1. Introduction

Over the past three decades, the global spread of anti-corruption policies has given anti-corruption authorities a prominent role. Although the literature was initially hesitant about their validity[1] and in some cases, institutional failure has also been observed[2], the role of these bodies is now widely recognised and enshrined in all main references on corruption prevention and integrity promotion in the public sector. Regarding the principles that anti-corruption agencies (ACAs) are expected to embody, the importance of independence was recognised since the outset[3]. However, scholars have subsequently identified several characteristics based on the experience of the numerous existing anti-corruption bodies[4].

These authorities play a key role alongside national anti-corruption plans and strategies aimed at preventing corruption[5] administrative transparency and integrity rules set out in codes of conduct; and the conflict-of-interest regulations[6]. Anti-corruption authorities are typically vested with several powers, including regulatory, oversight, training, advisory and sanctioning powers. Cooperation among international bodies has increased significantly at the global level, although this was already enshrined in the 2003 UN Convention against Corruption in Article 38.

The scope of these powers is closely linked to the constitutional structure of each national system of governance, encompassing the structural design of the state and its government, as well as its «degree of constitutional dialogue on corruption»[7].

Article 6 of the 2003 UN Convention against Corruption is dedicated to the role, functions and powers of anti-corruption authorities[8]. On the basis of this provision, states have adopted different institutional models for anti-corruption bodies. States are required to establish a body to deal with the prevention of corruption (Art. 5 UNCAC), as well as to deal

with he promotion and dissemination of knowledge on corruption prevention. Two further essential elements can be identified: first, adequate resources and personnel are required to ensure the effective performance of these functions; the second is the need for independence from political authorities, in order to prevent undue political influence. Furthermore, each state has also ratified additional regional conventions on this matter, including the 1996 Inter-American Convention Against Corruption.

The role of anti-corruption agencies as a «pillar of integrity policies» was already emphasised before 2003[9]. International conventions do not require states to establish an anti-corruption agency or authority at the national level or more than one at the decentralised level. The essential requirement is the establishment of a minimum of one (Art. 6 UNCAC). In fact, most states have opted for a national-level single agency/authority, but in some cases, there are also anti-corruption bodies at regional/local level (Spain). Anti-corruption bodies also differ in the sphere of subjective exercise of their functions, which in some cases concerns both the public and private sector (Agence française anticorruption in France), while in other cases only the public sector (National Anti-Corruption Authority in Italy).

Each national system adopts a different model; however, two main types can be identified. These are anti-corruption authorities and agencies. It is evident that both international bodies and anti-corruption scholars identify the function of the body[10] and the three macro-models of ACAs[11]. However, there are some ACAs that are characterised by a combination of the three models. A common characteristic of most anti-corruption bodies is their use of soft law[12], i.e. documents that set out rules that are not legally binding, rigid or formal, but which provide guidance and principles to help public administrations properly plan and implement their anti-corruption strategies.

The Italian National Anti-Corruption Authority (ANAC) is an interesting case study in the field of ACAs. The Italian anti-corruption body was established by the anti-corruption law (No. 190/2012) and formally implemented through Decree-Law No. 90 of 2014[13]. The Italian system was established later than similar authorities in other countries. This development resulted from a series of warnings issued by international organisations (GRECO) and from a nationwide political crisis. Previously, Italy had established different types of anti-corruption bodies, albeit with reduced powers and functions in comparison to the current system. The Italian case suggests that, in this national context, the establishment and characteristics of the current authorities have been influenced to a greater

extent by anti-corruption policy developments than in other national contexts. Nevertheless, the analysis and experience of this national anti-corruption authority demonstrate that, since its establishment, there has been a process of undermining its effectiveness without a legislative amendment.

The Italian experience clearly demonstrates the impact that political and institutional contexts have had on the establishment of these bodies. The establishment of an anti-corruption body is, in fact, a political decision that indicates a state's intention to introduce comprehensive anti-corruption policies[14]. Legislative and administrative reforms adopted in Italy have significantly shaped anti-corruption policies, particularly as a result of the shift from public-law to private-law regulatory frameworks[15].

The influence of supranational and international bodies on this process is also significant[16]. Considering the recent failures of anti-corruption policies, either total or partial, there has been a resurgence of interest in the usefulness of anti-corruption bodies[17]. This interest has persisted for several years, as demonstrated by several studies[18].

The implementation of strategies to combat and prevent corruption needs to be strengthened and aligned with good governance models and the promotion of public integrity. The European Anti-Corruption Directive[19], which is currently under final approval, confirms the central role of anti-corruption authorities in national anti-corruption strategies (COM/2023/234 final) in Article 4. For this reason, it is crucial to understand the key factors that contribute to the success or failure of an anti-corruption body's efforts, in order to identify the elements that influence these different outcomes. This study does not aim to measure the effectiveness of anti-corruption bodies[20], but rather to understand, from a legal perspective, the elements that affect the activity of ACAs, both positively and negatively.

The analysis conducted in the following pages starts with the regulatory development of the national anti-corruption authority and provides a brief overview of previous experience. The analysis focuses mainly on the period from 2012 to 2025, which is divided into various stages. This reflection is also useful to understand the efficacy of the institutions engaged in the fight against corruption in Italy[21], starting with the anti-corruption authority and its relationship with the other institutions (political bodies, courts, police bodies, other independent administrative authorities).

The development of the Italian national anti-corruption authority has followed the trajectory of both administrative reforms[22] and Italian anti-corruption efforts[23], characterised by periods of expansion and de-

cline , which can essentially be divided into three distinct phases: the rise of the authority of the national anti-corruption system (2014–17); the consolidation of the authority's powers (2016–18); and the subsequent decline (2018–present).

This paper argues that anti-corruption bodies are affected by several dynamics, despite their model. The main research aim is to understand the elements that can be inferred from the trajectory of the Italian anti-corruption authority from a comparative perspective. What lessons can be learned by countries that have not yet established their own anti-corruption bodies?

2. The Legislative Development of the Italian Anti-Corruption Authority: model features, powers and functions

Compared to other legal systems, Italy adopted its first commission in the field of anti-corruption with Legislative Decree No. 150 of 2009. An initial attempt was made with the establishment of the High Commissioner for Preventing and Combating Corruption and Other Forms of Malfeasance in Public Administration[24], introduced by Law No. 3 of 2003. When it was set up in 2003, the High Commissioner had few and undefined powers. He could order fact-finding investigations to ascertain the existence, causes and related factors of corruption and unlawful acts, as well as their risks. He could also draw up analyses and studies on the adequacy and appropriateness of the regulatory framework, and on any administrative measures aimed at tackling corruption and unlawful acts. He could also monitor proceedings that could potentially result in damage to the state budget, such as those involving expenditure or the awarding of public contracts.

The commissioner, which was disbanded in 2008 and whose functions were transferred to an office of the Prime Minister's Office the SAET – Anti-Corruption and Transparency Service, which was also subsequently abolished[25], is notable for the publication of a comprehensive study report, the «First map of corruption in Italy», a document which is similar to those prepared in the past by a number of study commissions set up by Parliament or the Government.

The Commission for Evaluation, Integrity and Transparency in Public Administrations (CIVIT) is the first real Italian anti-corruption authority and constitutes the original organisational core of the current anti-corruption authority[26]. This commission was set up to deal mainly with the

central tasks of performance evaluation and measurement. Although it had some characteristics of independence, it was subject to the guidance of the Civil Service Department. Moreover, the members and the appointment were not fully independent from the Ministry, and the autonomous sources of revenue were determined by the State Budget Law. In addition, the functions attributed, and the staff were rather understaffed, which is a departure from the UNCAC Convention. Moreover, Italy at that time had not yet adopted a proper national anti-corruption strategy. The role of this commission had not conferred any particular focus on the integrity of civil servants by introducing ethical tools and duties of conduct. In fact, the government at that time had chosen to introduce this commission into the Italian legal system for two main reasons: to recover the regulation of public law for civil servants; to establish a commission that could assess compliance with administrative efficiency. The consequence of this decision was that the legislator opted to position these initiatives in conjunction with the Council Presidency, thereby diminishing their capacity to operate in a manner that is autonomous of the prevailing political and institutional context[27].

It can therefore be said that this first experience was very different from the one to be adopted with the 2012 anti-corruption reform. In fact, the rationale behind the choice of ANAC seems to have been the result of the reorganisation of the previous regulatory framework and the decision to bring to it functions previously attributed to other bodies[28]. The choice of the current body (ANAC) is part of a context in which two factors have influenced it: the development of a national strategy for the prevention of corruption and the expansion of European legislation on public contracts, with connection to anti-corruption and anti-fraud measures[29].

The crucial moment of change has come in the years of the Italian political and financial crisis of 2008, in parallel with the unprecedented attention to the issues of public ethics and the phenomenon of administrative corruption, as well as the increasing pressure of international bodies on Italy. This growing trend led the technical government headed by Mario Monti to set up the «*Commission for the Study and Development of Proposals on Transparency and Corruption Prevention in Public Administration*» at the Ministry for Public Administration and Simplification, coordinated by magistrate R. Garofoli. The establishment of an independent authority in the field of corruption prevention was identified as one of the essential elements of the national corruption prevention policy in the Commission's final document.

The enactment of Law No. 190/2012 marked a pivotal moment in the alignment of the Italian legal system with the prevailing international anti-corruption framework. In compliance with the obligations arising from multilateral conventions (UNCAC, OECD, GRECO), the law designated the Commission for the Evaluation, Transparency and Integrity of Public Administrations (CIVIT) as the National Anti-Corruption Authority (ANAC). This designation aimed to fulfil the international requirement for the establishment of a specialised body responsible for coordinating and promoting national anti-corruption strategies. However, in its initial configuration, the Authority lacked genuine autonomy and functional capacity. For instance, while the National Anti-Corruption Plan was formally adopted by CIVIT/ANAC, it was substantively drafted by the Department of Public Function, and public administrations submitted their prevention plans to that Department, thereby compromising the Authority's role as an independent oversight body[30].

Subsequent regulatory refinements, particularly Decree-Law No. 101/2013, profoundly reshaped ANAC's institutional profile. The reform reconstituted the Authority as a collegiate body, composed of a President and four members selected from among experts of recognised competence, including individuals external to the public administration, thus reinforcing its technocratic and neutral character. The appointment mechanisms, although still reliant on political ministries, were structured to enhance independence and operational autonomy[31].

Nonetheless, as Francesco Merloni observes, a mere formal transformation was insufficient in the absence of a fully developed National Integrity System[32]. The main turning point occurred with the adoption of Decree-Law No. 90/2014, which formally established ANAC as an Independent Administrative Authority endowed with regulatory, supervisory, and sanctioning powers. In this sense, Italy opted for a model already known in other sectors of administrative law: an authority formally detached from the Government and equipped with the technical expertise necessary to issue guidance, ensure compliance, and promote integrity within the public administration.

The Authority's regulatory functions encompass the adoption of binding guidelines and interpretative acts in areas such as corruption prevention, transparency, and public procurement. These activities require highly specialised knowledge, particularly in the field of administrative controls, risk assessment, and digitalisation of procedures. The reliance on such expertise justifies the attribution of these regulatory prerogatives to an entity structurally insulated from political direction.

The Authority's supervisory role has proven equally significant. ANAC monitors the adoption and implementation of three-year corruption prevention plans (PTPCT), oversees compliance with transparency obligations, and conducts inquiries into irregular appointments and conflicts of interest, including the enforcement of the so-called «pantouflage» provisions. Sanctions such as suspensions and reputational repercussions, while not always severe in a criminal sense, are institutionally meaningful and serve as instruments of deterrence.

Moreover, ANAC's pre-litigation and advisory functions, especially in the field of public procurement, play a fundamental role in guiding public administrations through complex regulatory environments. The establishment of «collaborative supervision» mechanisms, where ANAC works jointly with contracting authorities to anticipate and resolve issues, further underscores the Authority's evolving role as both regulator and facilitator.

From an institutional perspective, Decree-Law No. 90/2014 also completed the merger of the former CIVIT and AVCP (Authority for the Supervision of Public Contracts), thus consolidating competences within a single body. This organisational reconfiguration contributed to the Authority's gradual emergence as a central actor in the governance of integrity, notwithstanding the continued application of the «principle of financial invariance», which constrained its budgetary and staffing capacities.

Between 2014 and 2017, ANAC underwent a significant phase of institutional consolidation. It adopted a large corpus of guidelines—including those on the Three-Year Anti-Corruption Plans, the Code of Conduct, conflict of interest, and the regulation of «pantouflage»—and launched major digital innovations such as the National Database of Public Contracts. During this period, ANAC also established itself as a credible interlocutor on the international stage, engaging in technical cooperation with other anti-corruption bodies and participating in global forums such as the OECD, UNODC, and the G20 Anti-Corruption Working Group.

This phase of institutional maturation confirmed ANAC's position as a key component of Italy's anti-corruption architecture. The Authority's independence, combined with its regulatory and sanctioning powers, was broadly recognised by international monitoring bodies as a best practice within the European context[33].

3. The relationship between ANAC and anti-corruption policy

The Italian anti-corruption framework[34] develops through a holistic model at the top of which is the anti-corruption authority, while public administrations implement their strategies based on national guidelines. The anti-corruption law and the legislative decrees of 2013 have made important changes to the discipline of public employment. Indeed, Law No. 190/2012 did not only introduce anti-corruption legislation and its tools, but also emerged as a far-reaching reform, the elements of which affected the administrative system and in particular administrative organisation.

The anti-corruption legislation has given rise to a system based on a number of pillars, the main ones of which are: the organisational and supervisory role of ANAC; the strengthening of administrative transparency; the system of administrative corruption prevention with the three-year corruption prevention and transparency plans (Ptpct), which are based on the National Anti-Corruption Plan, which is drafted and updated annually by ANAC; the introduction of detailed regulations on public contracts that will be completed with the adoption of the 2016 code (Legislative Decree No. 50/2016); new rules on conflicts of interest, with the introduction of art. 6-bis of l. n. 241/1990 by way of paragraph 44 of art. 1 of the l. n. 190/2012; the strengthening of the guarantees of impartiality: incompatibilities of the tasks; a strengthening of criminal law provisions; a third generation of codes of conduct for civil servants and the obligation for public administrations to adopt them; the whistleblowing discipline approved only in 2017 and a second version (d. l. n. 23 of 2023); an unprecedented link between the system of precention and the system of criminal enforcement.

Corruption prevention measures have been introduced in the field of administrative organization, employee training activities, the dissemination of additional transparency tools and safeguards and the creation of the "centre-periphery model", that is the implementation of the policy from the central address of ANAC to the transposition of public administrations, the latter based on a broad and above all shared process. The pivot of the organizational system is based on the role of ANAC which, thanks to its recognized powers, has established itself as a model of complete authority with effective capacity for control and influence of politics.

In terms of organization and direction, the two main documents are the National Anti-Corruption Plan, together with the guidelines, which have been the subject of debate within the doctrine and rulings of jurisprudence. The national anti-corruption plans are updated every

year, while the individual plans of the administrations since 2021 have been inserted in the Integrated Plan of activities and organization (art. 6 of the decree-law 9 June 2021, no 80), exactly in the section «*Public value, performance and anti-corruption*». The guidelines serve instead to provide specific guidance to administrations, to promote effective implementation of strategies.

The real innovation is the organizational approach to prevention, based on the analysis that each administration must make, in relation to its own organizational context, of objective risk (assessed independently of the official's personal propensity to establish corrupt agreements), to which the activities carried out by administrative offices are exposed, including undue pressure from private interests. The prevention of corruption is done within each of the public administrations, not with rules of general application and aimed at conditioning the individual behaviour of officials. The Three-Year Plan for the Prevention of Corruption (PTPCT), that is the set of risk reduction measures, is adopted by the governing bodies of each public administration on the proposal of a new entity, the Head of Prevention (CPR), which ensures its correct application.

In the new perspective also changes the role of the national presidium, the National Anti-Corruption Authority: we no longer need a specialized studies office that measures the corruptive phenomenon (mostly with statistical data on the outcomes of criminal, administrative-accounting or disciplinary proceedings), not only a consultative body on the compliance with the duties of behaviour of officials, but a real authority, which accompanies public administrations in the work of organizational self-analysis and identification of measures, with guidelines, interpretation of the new legal provisions and indication of good practice. Which monitors the effective adoption of prevention plans, measuring their quality (in terms of ability to prevent corruption risk), transparency plans, measures for verification of incompatibilities, codes of conduct.

The role of the National Anti-Corruption Plan (PNA) is essential among the guidelines: it is not a document merely aimed at providing information on the phenomenon of corruption, but an act with indications of method (how to proceed in the formation of the PTPCT), which leaves administrations the freedom to package anti-corruption and transparency measures in substance and time. The formation of the PNA is regulated by Law No. 190 in a way that represents well to those who at the time were entitled to the effective ownership of the role of the anti-corruption authority. Letter b) of art. 1, paragraph 2 of the law gives CIVIT/ANAC the task of approving the Plan, on the proposal of the DFP; the PNA is

therefore in substance an act of the Minister, made by a subject certainly not independent from his political direction.

3.1 *The Role of ANAC in the Italian Anti-Corruption System: Three Key Areas of Intervention*

The authority exercises its functions in three distinct areas: corruption prevention, transparency and public procurement.

1) In the area of prevention, the authority has a wide range of competences: the preparation of the National Anti-Corruption Plan (PNA); the advisory and regulatory powers in the field of anti-corruption and transparency; supervision of the adoption of the Three-Year Plans for the Prevention of Corruption and Transparency (PTPCT) and of the Codes of Conduct by public administrations; the exercise of the power of order and the power of sanction in the event of failure to adopt/publish PTPCs and Codes of Conduct; the monitoring of the introduction of corruption prevention measures by public administrations, public-controlled private-law entities and, limited to activities in the public interest, by investee entities; the supervision of the incompatibility of administrative appointments and of the impartiality of public officials; the advisory functions concerning authorisations for the performance of external appointments by State and national public administration managers; the supervision of whistleblowing reports, proposing, if the conditions are met, the imposition of administrative sanctions.

2) In the field of transparency: Supervision of compliance with publication obligations; definition of criteria, models and standard schemes for the organisation, codification and representation of documents, information and data subject to mandatory publication; supervision of the inclusion in the PTPCT of a specific section dedicated to transparency; exercise of the power of order and sanctions in the event of failure to adopt/publish; definition of guidelines, in agreement with the Personal Data Protection Authority, on exclusions and restrictions on the exercise of access (so-called Freedom of Information Act FOIA).

3) In the field of public procurement: Supervision of public contracts and the qualification system for economic operators; collaborative supervision implemented by entering into memoranda of understanding with contracting stations; advisory functions through the issuance of opinions on regulations and pre-litigation opinions, including those of a binding nature; regulatory functions through the adoption of guidelines, standard notices, standard specifications, standard contracts and other flexible

regulatory instruments; management of the register of administrations and entities that make in-house awards; drafting of standard costs for public works and reference prices for goods and services; right to take legal action to challenge notices, general acts and measures relating to public contracts with a significant economic impact; inspection functions through requests for information or the production of documents and data; monetary and/or prohibitor sanctioning powers against entities that refuse or fail to provide the required information and against economic operators in the event of false declarations or documentation during the tender process.

4. The three phases: the rise, the consolidation and the decline of authority's role

The Italian system is thus structured around the role and functions of ANAC, which played a prominent role during its first five years, notably under the presidencies of Raffaele Cantone and until the conclusion of the mandate of the first Board (2020). Cantone, highly regarded for his credibility[35], linked to his prior experience as an anti-Camorra prosecutor and the quality of ANAC's interventions, emerged between 2015 and 2019 as a leading figure in the institutional life of the country. The trajectory of ANAC is undoubtedly intertwined with the stature of its leading personalities; however, it is also contingent upon a series of extrinsic factors, foremost among which is the role assigned to ANAC by the prevailing political system. As the Cantone era ended in 2019, it became increasingly evident that the political establishment had begun to critically reassess the virtues of the anti-corruption approach.

The diminution of ANAC's role is further manifested in a discernible decline in institutional initiative within its specific remit. This trend became particularly apparent with the appointment of the new President in 2020 and was only partially mitigated by efforts to maintain a presence within public discourse. Amidst a substantial restructuring of the overall framework, it is noteworthy that national anti-corruption plans attracted diminished attention, concurrently with an intensified focus on functions relating to public procurement – functions whose significance in public procurement policy has been progressively reduced.

Nonetheless, the responsibility for corruption prevention is not exclusively vested in ANAC. The Italian system also recognises the importance of designated officials within each public administration tasked with

the prevention of corruption and the promotion of transparency. These «anti-corruption managers» (RPTC) operate as local coordinators and serve as both bearers and intermediaries of ANAC's guidelines, overseeing the implementation of anti-corruption policies and related measures[36].

The figure charged with corruption prevention and transparency promotion merits particular attention for several reasons. This senior official, who is not directly engaged in managing high-risk sectors such as public procurement, is nonetheless responsible for the effective organisation and supervision of the prevention system.

The incumbent is tasked with preparing corruption prevention measures based on formal guidelines issued by the relevant political authorities. Responsibility for the adequacy of such measures is established by Law No. 190. In the event of a corruption incident – defined narrowly as a corruption-related criminal offence – that should have been prevented by the plan, the anti-corruption manager may incur disciplinary and managerial liability. Although no case law currently exists regarding the imposition of sanctions under this provision, its primary function is to incentivise the responsible official to exercise utmost diligence in the oversight of the prevention system. However, there is a recognised risk that such a provision may render the official a «scapegoat». ANAC accordingly devotes significant attention to the role, functions, organisational conditions, and protections afforded to the anti-corruption manager, particularly through the National Anti-Corruption Plan (PNA) and designated coordination meetings.

The relationship between the anti-corruption manager and ANAC is functional rather than hierarchical. The manager is a public administration employee, subject to the administrative constraints and governance structures of their own administration and its leadership, which may impede the execution of specific anti-corruption duties.

4.1 *The Rise phase*

In 2014, the system underwent partial revision in response to notable corruption scandals, including investigations into the 'Mose' project and, more prominently, the EXPO 2015 event[37]. This revision entailed the strengthening of the functions and powers of ANAC[38]. Nonetheless, it adhered to the foundational model, principally by assigning to ANAC regulatory and supervisory authority over public contracts and by reinforcing ANAC's institutional powers. ANAC – especially its President – was vested with new supervisory and sanctioning powers over contracts

and public concessions, introducing innovative models of collaborative control and corporate governance[39].

Between the enactment of the reform and spring 2014, the Authority underwent organisational restructuring to align with its expanded functions, managing corruption prevention, transparency, and performance jointly. In June 2014, while the new President assumed office and the appointment process for Council members proceeded, Legislative Decree No. 90/2014 was promulgated, marking a critical functional and organisational inflection point. This reform distinctly separated ANAC's competencies from those of the Department of Public Function (DFP) and consolidated supervisory powers over public contracts previously held by the now-abolished Authority for the Supervision of Public Contracts (AVCP). Organisationally, the apparatuses of the former CIVIT and AVCP were merged into the new ANAC, formally recognised as an independent administrative authority. Notably, the reform sought to endow ANAC with enhanced organisational capacity and financial autonomy, akin to that formerly enjoyed by AVCP, within the constraints of public expenditure invariance.

An alternative, more costly option would have entailed maintaining two separate authorities: strengthening CIVIT/ANAC functionally and organisationally (through recruitment of specialised personnel), alongside a thorough reform of AVCP to restore its regulatory and supervisory efficacy. Subsequently, Legislative Decree No. 50 of 2016 introduced a new Public Contracts Code, replacing Legislative Decree No. 163 of 2006. Although the legislator's guiding philosophy is beyond the scope of this discussion, the 2016 Code largely reaffirmed AVCP's former powers now transferred to ANAC: regulatory, data management (National Public Contracts Database), supervisory, pre-litigation, and sanctioning authority.

A notable innovation was the Code's strong endorsement of soft law through ANAC-issued «guidelines», constituting secondary regulation designed to reduce complexity and provide administrations with practical operational tools to effectively implement primary legislation. The final stage in this trajectory was Legislative Decree No. 97 of 2016, which amended Law No. 190 and Legislative Decree No. 33 of 2013 on Transparency. The principal novelty was the introduction of «generalised access» to documents and information not published on administration websites, though this did not enhance ANAC's role: it was excluded from supervisory or decision-making authority regarding access denials and was limited to issuing interpretative guidelines, jointly with the Data Protection Authority. Thus, ANAC remained the Transparency Authority but solely in relation to publication obligations.

In conclusion, during the expansion phase – which occurred under the Renzi government – the Authority has assumed a role that extends beyond the scope of regulation and control. Indeed, it has begun to adopt innovative forms of assistance to administrations in itinere in specific circumstances that are conducive to the activation of the model of 'collaborative vigilance'[40].

4.2 *The Consolidation phase*

Between 2014 and 2016, ANAC experienced further institutional strengthening, especially regarding its anti-corruption functions. Legislative developments on whistleblowing consolidated the Authority's competencies within the anti-corruption framework. Additionally, ANAC's remit expanded to include transparency duties and new regulatory prerogatives surpassing its traditional scope. These encompassed public contract supervision and directive powers guiding administrations in public procurement management. ANAC was also assigned responsibilities related to banking arbitration.

This aggregation of functions partially altered ANAC's role, shifting its activities increasingly toward public contract regulation and supervision. During this period, the authority progressively expanded its sphere of influence in this domain[41], a development that led to several scholars issuing critical assessments concerning the perceived overreach in contract-related competencies[42] and the propagation of a «criminalising paradigm»[43].

Simultaneously, ANAC faced heightened expectations and institutional substitution pressures regarding entrenched issues that the political system had effectively delegated to the Authority. These dynamics contributed to a shifting political and institutional perception of ANAC's role, viewed by some as excessive and intrusive, and by others as a source of administrative complexity and inefficiency. Analysis begins with the public contracts sector.

During this phase, the Authority exercised the full extent of its institutional prerogatives, particularly in the domains of oversight, regulatory guidance, and technical assistance to public administrations in the formulation and implementation of anti-corruption policies. The preponderance of the Authority's guidelines was enacted in this period, coinciding with the consolidation of its international standing as a privileged interlocutor within multilateral frameworks. Moreover, the Authority actively assumed a pivotal role in promoting and enhancing technical and institutional cooperation with international organizations, as well as with nascent anti-corruption agencies in jurisdictions yet to formally establish such oversight mechanisms.

4.3 *The Decline phase*

A pivotal turning point emerged with the collapse of the Morandi Bridge in Genoa, which precipitated a crisis and emergency that, despite its direct relevance to public works and ANAC's remit, remained inadequately addressed. This event catalysed an augmentation of ANAC's role. However, the 2018 «Genoa Decree», regulating the bridge's reconstruction, departed from ANAC's involvement in contract execution, instead vesting broad discretionary powers in an extraordinary commissioner (the Mayor of Genoa) and establishing derogatory procedures exempting standard public contract code constraints[44].

The narrative increasingly portrayed ANAC not as a facilitator but as an impediment to the progress of public works, a perception reinforced by the reconstruction's positive outcomes. This view was explicitly endorsed by Ministers of the first Conte Government (2019), culminating in the «Sblocca Cantieri» decree, which curtailed ANAC's authority over public contracts and introduced numerous exemptions from the contract code. Initially temporary, these exemptions have been progressively extended.

Subsequent emergencies – initially the COVID-19 pandemic, then the recovery effort supported by Next Generation EU funding – have consolidated this derogatory approach, encouraging the «generalisation» of the «Genoa model». This prompts fundamental inquiry into ANAC's function, including within its core anti-corruption competencies. This interrogation is reflected in the Italian National Recovery and Resilience Plan and the 2023 reform of the public contracts code, which prioritises regulatory flexibility and administrative discretion, aiming to streamline procurement processes by reducing controls and liability for administrative decisions.

During this final phase, the Authority restricted its activities to the updating of the national anti-corruption plan, did not introduce any innovations in administrative transparency, and demonstrated negligence regarding both integrity rules and the training of civil servants.

5. Anac and anti-corruption today

To achieve a comprehensive understanding of the Italian anti-corruption framework, it is essential to examine the influence of prevailing policy trends and recent reform initiatives on the institutional architecture underpinning corruption prevention. The Italian approach reveals, first and foremost, a discernible phase of exhaustion in the field of adminis-

trative prevention, reflected in a succession of legislative and regulatory measures that have progressively curtailed the role of the National Anti-Corruption Authority (ANAC) across several areas of intervention.

Although a certain degree of regulatory and institutional dynamism may be observed in the domain of public procurement, this evolution has simultaneously entailed a weakening of the «core» anti-corruption instruments and a corresponding erosion of ANAC's systemic relevance. The Authority's centrality within public debate and government-led anti-corruption strategies appears to be steadily declining, a trend clearly illustrated by its marginal involvement in the governance and implementation of the National Recovery and Resilience Plan (PNRR).

The only reform that explicitly strengthens ANAC's powers, namely, the reform of the whistleblowing discipline, does so in a manner that primarily aligns the Authority's functions with the requirements of European Union law. While this development expands ANAC's formal competencies, it simultaneously reorients its intervention towards ensuring EU law compliance, a focus that remains only partially consistent with, and indeed narrower than, its broader institutional mandate in the field of anti-corruption policy.

This attenuation of the Authority's role – an issue elucidated through the narrative surrounding the prevention plans following the PIAO reform – is further explicated in the context of the Italian PNRR. ANAC's critique of the system highlights that, owing to its tendency to inject additional complexity and formalism into administrative operations, the existing framework possesses intrinsically corruptive features and, accordingly, necessitates simplification.

The government's interpretation of the system diverges with the presentation of the reform project addressing crimes against public administration (commonly referred to as the «Nordio Reform», named after the Minister of Justice of the Meloni Government responsible for its proposal). This project subsequently culminated in Law No. 114, enacted in 2024. Precisely 114 cases were attributed to the presence of an organic and effective administrative prevention system, founded upon prevention plans, ANAC's institutional role, transparency, disciplinary accountability (including codes of conduct), and whistleblowing mechanisms. It is therefore reasonable to conclude that the abolition of the crime of abuse of office[45] – and the near elimination of the offence of trafficking in influence – will not precipitate a material reduction in the protection of interests historically safeguarded under offences related to the abuse of public power[46]. Both perspectives appear to be exaggerated: while it is

illogical and unreasonable to accuse the corruption prevention system of fostering corruption by virtue of its complexity and formalism, it is equally untenable to presume that the same system could effectively deter and curb malicious criminal behaviours involving abuse or favouritism. The adjudication of such misconduct remains within the remit of the criminal judiciary, which relies upon extensive investigative tools.

Against the backdrop of the European directive, which potentially reaffirms anti-corruption strategies at the domestic level, it can be posited that the prevention of corruption and the broader anti-corruption policy in Italy have undergone a swift paradigm shift over the past fifteen years, culminating in a nadir in recent times. European reports insufficiently underscore the inadequacies of the Italian prevention system[47], despite their occasionally critical stance. The recurrent introduction of legislative proposals aimed at reinforcing the system – including those addressing conflicts of interest and lobbying regulation – remains a persistent theme; however, such proposals have yet to be enacted into law.

A decade following the inception of the anti-corruption prevention policy, the organisational development of ANAC demonstrates significant progress toward establishing an independent and authoritative oversight body, crucial for the effective operation of the Italian administrative system. This development merits far greater scholarly attention, as it illuminates the challenges inherent in the complex amalgamation of prior organisational entities, each marked by weaknesses and deficiencies, and, above all, the broader context within which the National Anti-Corruption Authority has sought consolidation. The prevailing adherence to the principle of financial invariance – which mandates investment in the Authority to secure enhanced impartiality[48], efficiency, transparency, and competitiveness while concurrently reducing national expenditure – has been predominant.

A background shaped by a latent and pervasive apprehension regarding the excessive expansion of functions and powers – haunted by the spectre of the «gendarmic» authority, allegations of a «criminalising drift», and fears of the «subordination» of transparency and public procurement to anti-corruption imperatives. This has been accompanied by the recurring inclination of governmental actors – particularly the Minister for Public Administration and the Department for Public Administration (DFP) – to reclaim powers previously conferred upon ANAC, and by the long-standing inability of successive governments and legislatures to reform the public administration through meaningful investment in its

quality, so as to ensure operation in accordance with the constitutional principles of good performance (*buon andamento*) and impartiality.

In this context, the legislator has on the one hand, endowed the Authority with legal standing, functions, and formal independence, and, on the other hand, progressively weakened its effectiveness – through the retrenchment of transparency obligations, the systematic delegitimisation of public procurement regulation via emergency legislation and derogations, and a broader climate of mistrust towards public administrations. A «successful» institutional experiment, if measured by the strong support received from international organisations engaged in anti-corruption efforts – but nonetheless incomplete and vulnerable to regression, and at risk of a reversion to past models.

6. What can we learn from the Italian anti-corruption authority's trajectory?

Unlike the conventional model of administrative agency establishment, which typically relies on a single legislative act to define its creation and mandate, the institutional genesis and functional prerogatives of ANAC cannot be ascribed to a singular statutory provision[49]. Rather, ANAC's legal status and competencies have been progressively crystallized through a series of legislative interventions, beginning with Law No. 190 of 2012, further elaborated by Legislative Decree No. 90 of 2014, and subsequently refined by additional normative enactments. Consequently, from a legal-theoretical standpoint, ANAC may be regarded as an authority characterized by progressive institutional formation, embodying a dynamic and adaptive regulatory construct responsive to the evolving imperatives of anti-corruption governance.

The evolution of the national anti-corruption authority confirms and reinforces the core theoretical propositions advanced in academic literature concerning anti-corruption agencies. However, a close examination of the developments across the two ANAC boards reveals distinctive characteristics inherent to the Italian model, thereby meriting further analysis within a comparative context.

The success of the initial phase of ANAC was undoubtedly fostered by the Authority's intensive activity in providing guidance and support to public administrations in the implementation of administrative anti-corruption and transparency measures. Equally significant, however, was the political investment underlying its institutional role. Citing a

work by Professor Jon S.T. Quah, President R. Cantone and his board embodied an attempt to deploy the Authority as an «attack dog» against political opponents[50]. In particular, the Renzi government pursued the enhancement of anti-corruption policies – beginning with the empowerment of the Anti-Corruption Authority – as a strategy to reduce the political traction of the Five Star Movement, which at the time was the most electorally supported party and had built much of its political messaging around anti-corruption rhetoric.

Although the Italian Anti-Corruption Authority (ANAC) holds powers and responsibilities aligned with international conventions and soft law instruments – such as the United Nations Convention against Corruption (UNCAC) and the recommendations of the OECD and GRECO – its institutional activity has undergone significant changes over the past decade. In its initial phase, ANAC performed a robust regulatory and policy-coordination function in the field of corruption prevention and the promotion of integrity within the public sector. However, in recent years, such functions have been considerably reduced. Since the beginning of the mandate of the board chaired by President Giuseppe Busia, the Authority has focused predominantly on the adoption of regulatory acts and oversight measures concerning public procurement.

This strategic shift is largely justified by the adoption of Legislative Decree No. 36 of 31 March 2023 (the new Public Procurement Code), which introduced a comprehensive reform of the legal framework governing public contracts in Italy. Additionally, recent administrative reforms – within the broader context of the National Recovery and Resilience Plan (PNRR) – have led to a surge in public works and infrastructure projects, many of which rely on complex and varied procurement procedures.

Nevertheless, several public administrations appear to be adversely affected by ANAC's diminished engagement with corruption prevention plans (Three-Year Plans for the Prevention of Corruption and for Transparency), transparency obligations, and codes of conduct for public officials. This perceived institutional rebalancing raises critical questions concerning the Authority's future role as both a regulatory and preventive actor in the broader architecture of public sector integrity in Italy.

The main lesson to be drawn from the case of the Italian Anti-Corruption Authority is that, although the legal framework of anti-corruption law has remained substantially unchanged over time, the nature of the approach adopted by the Authority's board members – as well as the external influence exercised by the national executive – has played a decisive role in shaping both the operational activities of the Authority and the

broader implementation of anti-corruption policy. This observation aligns with comparative analyses in the field of regulatory governance[51], which underscore how the effectiveness and scope of action of independent administrative authorities are not determined solely by their formal legal mandates, but are also profoundly influenced by political context, institutional design, and leadership orientation[52.] In the Italian case, the evolution of ANAC reflects a broader tension between formal independence and de facto autonomy, revealing how external political pressures and internal strategic choices can significantly redirect the trajectory of regulatory institutions, even in the absence of substantial legislative reforms. The experience of the anti-corruption body thus confirms the theory that strong political will is crucial for the effectiveness of the ACAs[53].

The independence that defines the legal nature of the Authority – an essential structural requirement of ACAs – remains a cornerstone of their institutional legitimacy. However, such formal independence is not sufficient to ensure the Authority's effectiveness. While the initial appointment process of the President and board members does not formally compromise their legal capacity or autonomy, it nonetheless exerts a significant influence over the Authority's strategic direction and operational priorities throughout the duration of its five-year mandate. This dynamic may be conceptualized as a form of *hollowing out without formal reform*, whereby the institutional architecture remains unchanged, yet the Authority's functional capacity is gradually constrained by external political and contextual factors. Similar phenomena have been documented in other jurisdictions, such as Georgia, Indonesia, and Nigeria, where anti-corruption agencies – despite having formal independence – have faced systematic political interference or resource limitations that have eroded their capacity to effectively fulfil their mandates[54.]

As noted by Meagher[55], even when minimum political, legal, and socio-economic conditions for effective anti-corruption governance are in place, these may prove insufficient over the long term in the absence of sustained institutional support and operational autonomy. The broader governance environment thus plays a crucial role in determining whether the Authority can fulfil its mandate independently and effectively, beyond the formal guarantees enshrined in law.

In the Italian case, this issue is particularly significant for two reasons: first, the central role and importance of the Anti-Corruption Authority in the implementation of the anti-corruption strategy within public administrations; second, the current historical context marked by substantial reforms and a heightened level of corruption risk.

Public administrations are currently facing a period of considerable challenge. On the one hand, they are required to comply with and promote measures and actions aimed at implementing the reforms set forth in the National Recovery and Resilience Plan (PNRR), which places a strong emphasis on transparency, integrity, and the prevention of corruption as fundamental pillars for the effective use of EU recovery funds. The PNRR expressly recognizes that corruption represents a major threat to public investment efficiency and governance quality and therefore includes specific provisions to strengthen anti-corruption frameworks and monitoring mechanisms. On the other hand, considering recent modifications to the prevention system – such as the integration of anti-corruption plans into the broader Integrated Activity and Organization Plan (PIAO)[56] – there appears to be a relaxation of attention towards anti-corruption prevention policies. This shift raises concerns given the increased risks of corruption associated with the rapid deployment of significant public resources under the PNRR, particularly in sectors historically vulnerable to illicit practices.

The Italian Authority appears to have reverted primarily to performing functions related to public procurement, thereby neglecting the fields of corruption prevention and transparency. Considering this, the Department of Public Administration and the National School of Administration (Scuola Nazionale dell'Amministrazione, SNA) have been stepping in to fill this gap by organizing courses, events, and various training activities focused on integrity.

The role of education and training in anti-corruption efforts has been widely recognized in the literature. As Persson, Rothstein, and Teorell[57] argue, fostering a culture of integrity within public administrations is essential to enhancing the effectiveness of anti-corruption policies. Moreover, Quah[58] emphasizes that continuous capacity-building programs targeting public officials contribute significantly to institutionalizing ethical standards and reducing corruption risks. Similarly, Bovens and Zouridis[59] emphasize that training initiatives play a crucial role in bridging the gap between formal regulatory frameworks and their practical implementation. This dimension is crucial to the effectiveness of anti-corruption policies.

The interaction between the overarching governance framework and the design, prioritisation, and sequencing of anti-corruption measures constitutes the decisive benchmark for assessing both the continuity and the substantive effectiveness of an anti-corruption body such as the Italian National Anti-Corruption Authority. While the statutory anti-corruption framework and the regulatory provisions governing the Authority have

remained, in formal terms, largely unchanged, the Authority's concrete actions, institutional initiatives, and policy orientations are in practice significantly shaped, and, to a considerable extent, constrained, by the composition of its governing board.

Furthermore, several exogenous factors – extending beyond the narrow anti-corruption mandate – significantly affect the Authority's operational capacity. These include administrative reforms, supranational political decisions and dynamics (in particular, the proposal of an anti-corruption directive) and geopolitical developments that hinder the national political agenda and affect the allocation of resources available for public policy implementation.

The Italian Anti-Corruption Authority, while remaining aligned with international guidelines in the field, appears to be in a clear phase of decline. Looking ahead, two scenarios can be envisaged: either a return to the exercise of activities carried out during the Authority's initial phase, or a «painful» regression characterized by a split of the Authority into two entities, one with limited powers focused on anti-corruption (like the CIVIT model), and a stronger body exclusively dealing with public procurement.

Recent scholarship has increasingly focused on the evolving role of the Italian National Anti-Corruption Authority (ANAC) considering its changing institutional functions. According to Enrico Carloni[60], ANAC's shift towards a predominant focus on public procurement reflects broader challenges in maintaining the balance between preventive and enforcement functions within anti-corruption governance. Similarly, other scholars[61] argue that political dynamics and institutional design continue to shape the Authority's operational capacity, potentially limiting its effectiveness in combating systemic corruption. More recently, Alan Doig[62] highlights concern regarding the fragmentation of the Authority's mandate, warning that such institutional splits could undermine coherent anti-corruption strategies and reduce public trust.

In conclusion, the role and efficacy of ACAs remain, both historically and contemporaneously, of paramount significance – not solely regarding the oversight of the national anti-corruption strategy but also considering the fundamental functions such entities perform within the architecture of democratic governance. When operating in strict adherence to essential legal and ethical principles, ACAs not only provide public administrations with support in the effective implementation of corruption prevention measures, but more crucially, they contribute to enhancing the integrity of public institutions, officials, and society.

ACAs therefore constitute one of the primary institutional bulwarks for the promotion and safeguarding of public integrity, a circumstance that underscores the necessity of sustained and, where appropriate, reinforced investment in these bodies to strengthen the democratic fabric of the State, particularly in the context of the present phase of political and social turbulence.

The contribution of public administration to the production of democratic quality is, in this regard, premised upon the recognition of an intrinsic democratic dimension in anti-corruption bodies, whose legitimacy, effectiveness, and accountability are inseparable from their capacity to operate as institutionally autonomous yet democratically grounded actors within the constitutional order[63].

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