

Chapter 10

The Fight Against Corruption

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ABSTRACT

Corruption, generally speaking, can be defined as “abuse of power for private gain” that can be classified as grand, petty, and political, depending on the amounts of money lost and the sector where it occurs. Therefore, it is a phenomenon that compromises rule of law, weakens public institutions and democracy, impacting negatively on productivity and economy. Indeed, because of all these implications, it can be analyzed stressing social, economic, politic, or legal perspectives. These features have allowed experts from different fields to investigate the phenomenon, which does not exclusively concern conduct punishable by criminal law, but also conduct that can be considered just an “expression of maladministration” in both the public and private sectors. This chapter seeks to address the legal aspect of corruption. In particular, it overviews the main anti-corruption measures international community has adopted in recent years. By showing the evolution and steps that led to the actual treaty situation, the Authors offer a hint on the goals achieved and those to be achieved.

INTRODUCTION

First of all, it must be said that – unfortunately - bribery is a widespread phenomenon.

It raises serious moral, economic and political concerns, undermines good governance, hinders development and distorts competition. It erodes justice, undermines human rights and is an obstacle to the relief of poverty. It also increases the cost of doing business, introduces uncertainties into commercial transactions, increases the cost of goods and services, diminishes the quality of products and services, which may lead to loss of life and property, destroys trust in institutions and interferes with the efficient operation of markets.

Governments – as we will see - have made progress in addressing bribery through international agreements such as the Organization for Economic Co-operation and Development’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nations Convention against Corruption and through their national laws. In most jurisdictions, it is an

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offence for individuals to engage in bribery and there is a growing trend to make organizations as well as individuals liable for bribery.

Nevertheless, the law alone is not sufficient to solve this problem: corruption is also a global phenomenon, indeed, over the past two decades, large improvements have been rare, if progress is made it is thanks to continuous and difficult work over decades. Drawing on Rose-Ackerman and Palifka, corrupt acts include the following actions (among others):

- **Payment of bribes** (offered or extorted) to get public services or to evade taxes;
- **Embezzlement and public service fraud**, even if not involving bribes (for example, officials may steal money from investment funds);
- **Nepotism**, or cronyism to benefit a particular family or group;
- **Buying influence and conflicts of interest**, when individuals take advantage of their position in government to extract favors or personal benefits from a government decision. Kleptocracy is the most extreme form of state capture, in which the state is managed to maximize the personal wealth of its leaders.

When corrupt activities are pervasive and deeply concealed in the public sector, it can have significant negative impacts in other areas, including regulatory and judicial State functions. Beyond the leakage of funds, the effects include the negative impact on the quality of public policies; wasted talent and effort in the private sector, to which economic revenues and works are denied in favors to individuals and firms engage in unproductive activities; the curb of economic growth (Krueger, 1974, pp. 291-303).

There are essentially three rationales that underpin criminalization of corruptive behavior and the fight against public corruption in general, both in a domestic and an international context:

- The need to uphold the integrity of the public administration and the confidence of citizens in the public administration;
- Safeguard the proper functioning of the public administration;
- The necessity to safeguard the transparent functioning of the market and fair competition.

The internationalization of the fight against corruption should of course in the first place be explained by reference to the internationalization of the phenomenon of corruption itself, that is that an increasing number of corruption cases involves a foreign element (International Monetary Fund, 2019, pp. 39-41). The Multidisciplinary Group Against Corruption, which was set up by the Council of Europe's Committee of Ministers in 1994, identified four parameters which are important in distinguishing corruption cases: the persons involved; the service rendered; the undue advantage that is offered; circumstances in which that advantage is offered. Each of these parameters may involve a foreign element, which allows qualifying a corruption case as international, or transnational (Jaeger, 1988, p. 163).

Even the internationalization of the economy, that have been a significant impact on the evolution and persistence of corruption, is not recent, it is only in the course of the second half of the 1990 that the international community has succeeded in adopting international instruments to fight corruption on an international level.

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Nowadays, there are four main international anti-corruption conventions, namely: Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention issued by the Organization for Economic Co-operation and Development - OECD) of 1997; Council of Europe Criminal Law Convention on Corruption of 1999 and Additional Protocol to the Criminal Law Convention on Corruption of 2003; the Council of Europe Civil Law Convention on Corruption of 1999; United Nations Convention against Corruption (UNCAC) of 2003.

BACKGROUND

The global awareness on the issue of corruption raises only in the last decades. The introduction of penalties to combat corruption in public life dates back to the nineteenth century, when French Napoleonic *Code pénal* of 1810 State's concern to make public officials' misuse of their offices a serious offence against public confidence in the administration's probity and impartiality has taken measures to respond to the need of the State. After the French revolution, the political idea that government powers are derived from the people and hence should be used only to the interest of the people became firmly entrenched. It is this fundamental modern, democratic political concept, which lies at the basis of the criminalization of corruption (Stessens, 2001, pp. 891-892).

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It is from 1970s that it was put into the international agenda. The principal influencer of this changing was the United States of America, because of domestic events linked with Watergate investigations. This case highlighted the ambiguous conduct of prominent political and businessman, guilty of exchanging political favors, or manipulated public procurement with questionable financing to political campaigns, bringing disdain to public opinion, but also greater reflection on the matter. As investigations continued, it was discovered that more than 400 American companies were involved in corruption cases and participation in illicit payments to foreign governments. The evidence brought to the attention of the Congress, that started a series of discussions, conducted to the adoption of Foreign Corrupt Practices Act of 1977 (FCPA), the first to introduce corporate liability, responsibility for third parties and extraterritoriality for corruption offences, meaning companies and persons can be held criminally and civilly responsible for corruption offences committed abroad. Though doubts remain about its success in the areas of compliance and enforcement, the FCPA has unequivocally entered the business culture of American companies operating internationally (Posadas, 2000, pp. 348-354). Thus, the strictness of FCPA provisions feared US corporations for possible business loss as there were differences in the international playing field, hereupon US struggled to advocate an international anti-corruption treaty, forcing to adopt a minimum standard of criminalization also in other States.

The negotiations started with the UN Economic and Social Council (ECOSOC), but the different objectives and the continuous contrast between North and South of the Globe led to a failure of the debate. In particular, "Northern States", pressed for a Convention condemning the offering of bribes by transnational companies; on the contrary, "Developing States", pushed for the simultaneously adoption of a code of conduct for those corporations. The former refused that condition and negotiations were abandoned. It was only in 2003 that UN finally adopted a Convention against Corruption (UNCAC).

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The first international organization to adopt a binding international instrument in the fight against corruption was the Organization of American States (OAS), with the 1996 Inter-American Convention against Corruption, concentrated in both domestic and transnational cases of bribery. Actually, it is ratified by 23 states and, apart from the obligation to provide for effective incriminations of corruption, provides a number of preventive measures and lays down rules on jurisdiction, such as extradition and international assistance, and co-operation in the fight against corruption – including co-operation in the field of the identification, seizing and confiscation of proceeds from corruption (Organization of American States, 1996).

In 1997, the Organization for Economic Co-Operation and Development (OECD) has been signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which issued the first global anti-corruption measures based on a mechanism of monitoring and supporting towards Member States (Organisation for Economic Co-Operation and Development, 1997).

As the title indicates, its application field is limited to active corruption of foreign officials, consequently, the convention is not concerned with passive corruption by foreign public officials, nor with corruption in purely internal situation. This limited application field is the reflection of, on the one hand, the remit of the international organization under whose auspices the convention was drawn up – the Organization for Economic Cooperation and Development; on the other, the anti-corruption legislation of the most prominent member state of the OECD, the United States of America, from which it was directly inspired.

The Convention introduced deeply innovative provisions¹ that is binding on the Member States (even non-OECD members), in subject to ratification. The verification mechanism focuses on the “peer review” tool: the first phase consists in the generic evaluation of the degree of adaptation of national legislation to the Convention; the second, focuses on the judgment expressed by the OECD evaluators in relation to the effective application of the Agreement, in the country examined, from a legislative, administrative and regulatory standpoint. The work of OECD against international corruption continues with the monitoring of recommendations. It is important to underline that the OECD Convention and the related implementation rules, including the penal ones issued the member States, are not limited to pursuing the corruption of officials from other Member States but extend, without the constraint of reciprocity, to the corruption of public officials of any country in the world. An act of corruption is therefore considered a crime punishable in Italy, regardless of the citizenship of the corrupt official and the state or international organization to which it belongs (Organisation for Economic Co-Operation and Development, 2007, pp. 23-24).

From its side, the European Union (EU) has benefited from this international anti-corruption movement and has progressively strengthened the anti-fraud measures against EU economic interests. This need is evident if we consider that in 2009 it has been estimated that corruption alone costs the EU economy €120 billion per year, just a little less than the annual budget of the European Union. Because corruption and low rates of inclusive growth are mutually reinforcing, fighting corruption is of key importance if structural reforms are to be sustainable. So, the Union continued to develop initiatives of protection of the internal market, including anticorruption proposals, fight against organized crime, anti-money laundering measures, etc. (European Semester Thematic Factsheet, 2017).

In 1999 the Council of Europe, an institution that work for develop and uphold a pluralist democracy, the human rights and the rule of law, has taken a lead in fighting corruption as it poses a threat to the very foundations of these core values. Its multidisciplinary approach is based on three interrelated elements:

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- **Setting of European Norms and Standards:** Such as legal instruments for the criminalization of corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties – that improving the capacity of States to fight corruption, domestically as well as at international level;
- Monitoring of compliance with the standards, entrusted to the Group of States against Corruption (GRECO), which also control the respect of the Criminal Law Convention on Corruption (CETS No. 173) and the Civil Law Convention on Corruption (CETS No. 174);
- Capacity building offered to individual, Countries and Regions, through technical co-operation programs.

On the legislative level, two instruments have been approved by the Council of Europe: The Protocol to the Convention on the Protection of the Communities' Financial Interests ("EC Corruption Protocol") and two Conventions on Corruption ("EU Corruption Convention"). The first Protocol to the Convention, adopted in 1996, differentiates between "active" and "passive" corruption of public officials (both at national and EU levels), emphasizes the importance of cooperation between States and harmonizes the penalties for corruption offences with conferring an interpretative jurisdiction on the European Court of Justice (ECJ). Therefore, it allows national courts, when in doubt as to how to interpret the Convention and its Protocols, to petition the Court of Justice of the European Union for preliminary rulings (Council Act, 1996).

The EU Corruption Conventions, respectively on Civil and Criminal Law, have been ratified in parallel with the EC Corruption Protocol. They share similar language but are distinguished by the scope of their application: while the second applies to corruption affecting the financial interests of the European Communities, firsts are not restricted to this area alone (Posadas, 2000).

The Criminal Law Convention on Corruption, entered into force on November 2002 (Council of Europe, 1999a), aiming to coordinated criminalization of a large number of corrupt practices, inserting provisions concerning aiding and abetting; immunity; criteria for determining the jurisdiction of States; liability of legal persons²; the setting up of specialized anti-corruption bodies; protection of persons collaborating with investigating or prosecuting authorities; gathering of evidence and confiscation of proceeds. After ratification, States are required to provide for effective and dissuasive measures and its implementation will be monitored by the Group of States against Corruption (GRECO). The Civil Convention on Corruption, entered into force on 2003, aims to strengthen international cooperation in the fight against corruption, recognized as a strong threat to economic development and the proper functioning of markets. It is divided into three parts: the first, "Measures to be taken at national level", prescribes to provide for effective appeals in favor of people who have suffered damage resulting from a corrupt act (with specifications regarding compensation and precautionary measures to protect the parties); the second part, highlighted the importance of cooperation between the member states (regarding notifications of documents, obtaining evidence, recognition of foreign sentences), entrusting control over the implementation of these provisions to GRECO; in the final clauses there are some clarifications, including the possibility of proposing amendments and concluding multilateral agreements between States to strengthen the application of the provisions contained in the Convention (Council of Europe, 1999b).

As mentioned above, the Group of States against Corruption is a Council of Europe anti-corruption control body, that helps to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms. The Group, established in 1999 with an agreement of 17 member States of the Council of Europe, currently consists of 49 member States (48 countries from

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EU and the United States of America). Membership in GRECO, which is an enlarged agreement, is not limited to Council of Europe member States: any State which took part in the elaboration of the enlarged partial agreement, may join by notifying the Secretary General of the Council of Europe. Moreover, any State which becomes Party to the Criminal or Civil Law Conventions on Corruption automatically accedes to GRECO and its evaluation procedures.

GRECO monitoring comprises:

- **A “horizontal” evaluation procedure** (all members are evaluated within an Evaluation Round) leading to recommendations aimed at furthering the necessary legislative, institutional and practical reforms.

The evaluation process follows a well-defined procedure, where a team of experts is appointed by GRECO for the evaluation of a particular member. Following the on-site visit, the team of experts drafts a report which is communicated to the country under scrutiny for comments before it is finally submitted to GRECO for examination and adoption. The conclusions of evaluation reports may state that legislation and practice comply – or do not comply – with the provisions under scrutiny. The conclusions may lead to recommendations which require action within 18 months or to observations which members are supposed to take into account but are not formally required to report on in the subsequent compliance procedure³.

- **A compliance procedure** designed to assess the measures taken by its members to implement the recommendations.

The assessment of whether a recommendation has been implemented satisfactorily, partly or has not been implemented at all, is based on a situation report, accompanied by supporting documents submitted by the member under scrutiny 18 months after the adoption of the evaluation report. Compliance reports contain an overall conclusion on the implementation of all the recommendations, with the purpose of decide whether to terminate the compliance procedure in respect of a particular member⁴.

- **A Rules Procedure**, a special procedure based on a graduated approach, for dealing with members whose response to GRECO’s recommendations has been found to be globally unsatisfactory.

GRECO provided a platform for sharing best practices on the prevention of corruption. The main objective of GRECO is to improve the capacity of its members in the fight against the phenomenon by using a dynamic process of mutual evaluation and peer pressure.

The World Bank and the International Monetary Fund (IMF) did not take an active role against corruption until the emergence of anti-corruption initiatives in the mid-1990s (Elliot K. A., 1997).

The World Bank’s corruption efforts have focused on improving the procurement processes of the Bank’s funded projects and in a recent paper on the subject, the General Counsel pointed out that the World Bank can hardly insulate itself from major issues of international development policy, such as the fight of corruption. The Bank can take many actions in this direction: it can conduct research on the causes and effects of this worldwide phenomenon; it can provide assistance, by mutual agreement, to enable its borrowing countries to curb corruption; finally, if the level of corruption is high so as to have an adverse impact on the effectiveness of Bank assistance and the government is not taking seri-

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ous measures to combat it, the Bank can take this as a factor in its lending strategy towards the country. The major problem in this respect is that in doing so the Bank and its staff must be concerned only with the economic factors and should refrain from intervening in the country's political affairs. Therefore, the concern here is not with the exercise of state powers in the broad sense but specifically with the appropriate management of the public sector and the creation of an enabling environment for the private sector (World Bank, 1997).

The IMF intervention, instead, has focused on promoting the importance of fighting corruption as a principle of good governance. A growing recognition that systemic corruption can undermine prospects for delivering sustainable and inclusive growth has determined a more vigorous commitment in this area by the organization. The IMF's work in both economic reviews and Fund-supported programs, with regard of the standard outlined in *The Role of the IMF in Governance Issues: Guidance Note from 1997*, which refer to corruption as an issue that should be covered, in particular where assessed to have a significant short - to medium-term macroeconomic impact. Although the organization has found that it has indirectly brought benefit in the fight against corruption through its technical and fiscal monitoring work, recently updated its policy on governance and corruption. The policy inaugurated on 2017, focuses on both the "supply side" of corruption (the bribe given) and the "demand side" (the bribe taken), believing that to effectively eliminate corruption it is necessary include steps to curb corrupt practices, whether direct (for examples bribing foreign officials), or indirect (for examples with money laundering) (Press Release No. 17/315, 2017).

One of the most promising developments is about the role of NGOs. In 1993 a group of former executives of the World Bank established an international non-governmental organization entirely committed to anti-corruption initiatives: Transparency International (TI). From this date, it has been extremely active in this field, raising the visibility of the subject around the world, with useful tools such as the Corruption Perception Index, that rates Countries by their perceived tolerance of governmental corruption and, recently, the "Bribe Payers Index", which ranks developed Nations by the extent to which they are perceived to use corrupt practices in international business transactions.

These statistics have important effects on the reputation of a Country at world level and, consequently, contribute to orienting the choices both of investors and governments with which they have diplomatic relations. Precisely for this reason it is believed that they can exert considerable pressure on Countries by influencing them to make progress towards standardization in the international measures against corruption.

As for Italy, the fight against corruption is one of the areas in which the State's collaboration with the OECD has developed more recently, with excellent results on various levels – including the synergies of action and the promotion of transparency of corporate structures. Italy was among the first countries to ratify the Convention, in force since 2001 and, more precisely, from the date of Legislative Decree No. 231, which introduced the administrative liability of companies, even without legal personality, according to article 11 of the Law No. 300/2000.

The Italian Penal Code criminalize active and passive bribery of public officials defined, by article 357, as those who perform legislative, judicial or administrative "public functions", employment that the jurisprudence interprets in the widest possible extension and may include employees of public enterprises which have been officially granted licenses to perform public services. Italy does not provide for any immunities or jurisdictional privileges in relation to offences under the Convention and entrusts the task of preventing and combating corruption to the Ministry of Justice, the various law enforcement authorities (*Guardia di Finanza* – Financial Police, *Carabinieri*, State Police), the Financial Information

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Unit (FIU), the Anti-Corruption National Authority (ANAC) and the Public Administration Department. Legislative Decree no. 231/2001, as amended by Legislative Decree no. 146/2006 on money-laundering, and by Law no. 190/2012, *Provisions for the prevention and repression of corruption and illegality* in the public administration, so-called “Anti-Corruption Law”, that establishes new provisions for whistle blower protection in the public sector for public officials and employees who report cases of misconduct to the judicial authorities, Court of Auditors, or their hierarchical authorities. Additionally, several measures taken to establish whistle blower protection in the private sector were also reported during the consultations with stakeholders (United Nations Office for Drug and Crime, 2015). The term of “whistle blowing” has many different facets and, due to this, it has many of different definitions. Generally, the most used and current definition is: the disclosure by an employee of confidential information, which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of a fellow employee(s). Whistle blowing is generally viewed as a process rather than an event and it can be internal (the agent reports the irregular activities to an internal control body) or external (the agent indicates the irregular practice to an external body) to an organization. Increasing awareness of the problems faced by whistleblowers in terms of loss of jobs, victimization and other types of retaliation and their role, particularly in detecting and preventing fraud, has led to the development of whistleblower protection legislation. The first regulation on whistle blowing is introduced by the US Sarbanes Oxley Act of 2002, but the finding that whistle blowing regulations plays an important role to encourage employees to report their suspicion, has led many states, including Italy, to include this provision within their own legislation. Moreover, whistle blowing rules also help to develop a culture of openness, accountability, and integrity (Law Teacher, 2018).

However, corruption in the Public Administration is a widespread phenomenon and involves both managers and administrative leaders, as well as individual officials willing to accept money or other advantages in exchange for a favor to get around a bureaucratic obstacle or, perhaps, to obtain the award of a public contract. In Italy the National Anti-Corruption Authority (ANAC) is an independent public body established with administrative functions in the sensitive sector of corruption prevention in Public Administrations, which can intervene with inspection, regulation and sanction. The ANAC was entrusted with functions that were once attributed to the AVCP (Authority for the Supervision of Public Contracts) and to the Commission for the evaluation, transparency and integrity of public administrations (CIVIT) (Cantone, 2018). The Authority is called above all to analyse the causes and factors that favor corruption in the organization and processes of Public Administrations, identifying interventions to prevent and counter it. This includes the preparation of the annual National Anti-corruption Plan, a document, which contains guidelines and useful indications for Public Administrations called upon to implement all the obligations provided for by the law against corruption. The ANAC also has the task of supervising and controlling the application and the effectiveness of the measures adopted by the public administrations. In particular it can:

1. Request the transmission of news, information and deeds to public administrations;
2. Order the adoption of deeds, or provisions, requested by the anti-corruption plans or by the law;
3. Order the removal of behavior or acts that conflict with anti-corruption plans, or the law.

With regard to public appointments, ANAC is also assigned an advisory function. In particular, it is called to express mandatory opinions on ministerial directives and circulars concerning the interpretation of provisions on the matter of impossibility of conferment –cases in which it is not possible to accept

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a public office – and incompatibility – cases in which it is not possible to carry out two tasks simultaneously. If the activity and the organization of the Public Administration are transparent, the chances of producing corruption phenomena diminish. For this reason, the ANAC has the task of monitoring compliance with the obligations to publish the documents and information required by law, for example public announcements, appointment orders.

On January 31, 2019, after months of intense discussions, new legislation introducing amendments to the Italian Criminal Code aimed at preventing and punishing corruption involving public agencies entered into force. Italy has placed 54th in 2017's Corruption Perceptions Index (CPI) with a score of 50 out of 100 points, one of the lowest in EU, this is a huge problem and a heavy annual cost for the economy (Transparency International, 2018a).

The so-called “bribe - destroyer law” (“*spazzacorrotti*”) expands existing crimes related to corruption activities to include *those who, exploiting or boasting of an existing or alleged relationship with a public official, improperly give or promise to give to others money or other benefits in return for the illicit intervention of the official, or who provide or promise to provide a remuneration in return for the exercise of the official's functions or powers*. Additionally, it modified the definition of “foreign public official” to include also the individuals that perform functions and activities within a public international organization, as well as members of international parliamentary assemblies, members of international organizations and officers and judges of international courts. Another important provision is introduced by amending the Decree which rectified the United Nations Convention against Transnational Organized Crime (UNTOC) and the introduction of new opportunities to conduct investigations. Although it has been 15 years since Italy signed the UNCAC, it is only now that the bill attributing to Public Prosecutors investigating in bribery cases the possibility to use under covered agents, which the Convention requires. In addition, wiretapping, as well as the use of Trojans, will be now permissible in investigating these crimes (Italian Official Gazette, 2019).

The most controversial part of Law 3/19 is the reform of the statute of limitations, a provision that entry into force on January 1, 2020. In this regard, it is envisaged that after the decision of the judge of first instance, the limitation period will be tolled until the final decision, regardless whether the defendant was convicted or acquitted by the first instance sentence (Petronio & Piantanida, 2019). Although it will take time to assess its actual impact on the business climate in the country, this bill is undoubtedly an important step toward a more comprehensive anti-bribery regime, particularly with regards to combating corruption in public administration.

But the greatest testimony of the international community's effort to fight corruption as a transnational phenomenon is the United Nations Convention against Corruption (UNCAC) adopted by the General Assembly in Merida on October 31, 2003, with Resolution no. 38/4. The document is divided into a Preamble, dedicates to explain the aims and the *raison d'être* of the text in question, VIII chapters and 71 articles which briefly could be summarized as follows:

- **Articles 1- 4:** General Provisions.

These preliminary articles have been written with the intent to further clarify the aims pursued with the ratification of the Convention, in fact, there are mentioned *the promotion and strengthening of measures to prevent corruption*, the promotion of international cooperation and integrity, responsibility and good faith in the management of public affairs as the mains purposes.

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- **Articles 5- 14:** Preventive measures.

This chapter indicates which measures the States can undertake to combat corruption. As written also in the Legislative Guide, the prevention of corruption is more effective in environments that encourage integrity, allow transparency, enjoy strong and legitimate regulatory guidance and integrate the efforts of the public, private and civil society sectors together. The articles, briefly formulated, does not specifies the role of an eventual organ for the fight of corruption, but underlines the absolute importance that this entity is endowed with independence, means and personnel. Therefore, it represents a “special authority” with a task of carry out identification and repression activities.

Finally, deserves attention the art.13, which requires States to stimulate the participation of civil society (individuals, communities and non-governmental organizations) in the fight against corruption, promoting information campaigns, but above all transparency and participation in decision-making processes. In particular, letter b) of this article calls for *ensuring effective public access to information*, for examples, Italy has taken this invitation by providing the institution of generalized civic access, pursuant to art. 6 of Legislative Decree 33/2013, as amended by Legislative Decree 97/2016, which, *in order to promote widespread control over the pursuit of institutional functions and the use of public resources and to promote participation in the public debate*, guarantees anyone the right to access data and documents held by public administrations (Italian Official Gazette, 2016).

- **Articles 15- 42:** Criminalization and law enforcement.

The firsts five articles incentive the Member States to adopt such legislative and other measures to establish a criminal offence for bribery of foreign public official, or official of a public international organization, when offering or giving an undue advantage, for himself or another person or entity. The seconds five are focusedd on bribery in the private sector, when committed intentionally in the course of economic, financial or commercial activities. Finally, there are a series of “support” standards that specify and add elements to the previous rules, in particular:

- Probative standards, prescription and judicial proceedings;
- The protection of the victims, experts, injured parties and the so-called whistle-blowers;
- The consequences of the acts of corruption, including the reparation of damage;
- The specialized authorities for the fight against corruption;
- Banking secrecy;
- Previous judicial proceedings.
 - **Articles 43- 50:** International cooperation.

The Convention places a strong emphasis on the need to cooperate between Member States. In particular, within these articles are mentioned various types of international cooperation such as extradition, mutual legal assistance, law enforcement cooperation, transfer of criminal proceedings and special investigative techniques, such as electronic or other forms of surveillance and undercover operations.

- **Articles 51- 59:** Asset recovery.

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This chapter focuses on one of the major problems faced by the Convention: the money laundering. In order to facilitate implementation of the measures provided in the preceding paragraphs, each State can develop regional, interregional and multilateral initiatives such as investigation, prosecution and confiscation.

- **Articles 60- 62:** Technical assistance and information exchange.

With the aim of increase the ability to fight the corruption, each State Party shall develop specific training programs for the personnel responsible for preventing and combating corruption, as well as assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects and costs of corruption in their respective countries.

- **Articles 63- 64:** Mechanisms for implementation.

In those articles there are a clarification of the role and the composition of a Conference of the States Parties to the Convention, established to improve the cooperation between States Parties and the capacity to achieve the objectives of the Convention, and the Secretary-General of the United Nations.

- **Articles 65- 71:** Final provisions.

This chapter is intended to further explain the mechanisms of signature, ratification, approval and entry into force of the Convention for each Member States, besides to providing the possibility of making amendments or to withdraw from the Convention (United Nations Office on Drugs and Crime, 2004).

Actually, there are 183 member countries of the United Nations Convention against Corruption (UNCAC), including Italy, which ratified the convention with Law 116/2009.

In the years following the drafting of the UN convention, there have been important developments in the fight against corruption at the regional level, particularly in African States.

The Organization of African Unity (OAU) demonstrated a high degree of insensitivity and passivity towards corruption, allowing the phenomenon to develop into a pandemic. All that is changed, as the African Union (AU) – which has replaced the OAU in 2002 – has taken a bold step towards this problem; in fact, at the second annual summit of the AU Assembly holding in Maputo, Mozambique, in July 2003, the AU adopted the African Union Convention on Preventing and Combating Corruption (AUCPCC). The Convention is a shared roadmap for States to implement governance and anti-corruption policies and systems on a national and regional level, as there is no general international law on the problem.

However, the AUCPCC and the initiative of the AU to address a problem that, though *universally disapproved yet is universally prevalent*, is only feasible if individual countries adopt and implement these provisions nationally. The overall structure of the Anti-Corruption Convention is similar to that of the Inter-American Convention against Corruption and it is comprising of a Preamble and 28 articles which criminalize corruption in the public and private sector, obligating State parties to adopt legislative, administrative and other measures to tackle corruption, that cost to Africa approximately \$148 billion annually (Ordinary Assembly of the Union, 2003). The Anti-Corruption Convention aims to achieve four objectives:

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1. Promote and strengthen the development in Africa of anti-corruption mechanisms;
2. Promote, facilitate and regulate cooperation among state parties;
3. Remove obstacles to the enjoyment of human rights, including economic, social and cultural rights;
4. Establish conditions necessary to foster transparency and accountability in the management of public affairs.

By signing this document, African states promise to adopt effective measures to combat corruption and embezzlement, in the hope that developed countries will, inter alia, set up coordinated mechanisms to combat corruption effectively, as well as commit themselves to the return of monies (proceeds) of such practices to Africa.

The obligations listed in the Convention include measures to establish, “as offences”, the acts of corruption as defined in the Convention; to establish, maintain and strengthen independent national anti-corruption authorities or agencies and to create, maintain and strengthen internal accounting, auditing systems, in particular, in the public income, expenditures and procedures for hiring, procurement and management of public goods and services.

Mention must also be made of the obligation to strengthen national control measures to ensure that the setting up and operations of foreign companies in the territory of a State Party shall be subject to the respect of the national legislation in force (Udombana, 2003).

In addition to criminalization, the Anti-Corruption Convention also focuses on preventive measures, that also regarding the public awareness and education. In fact, there is a strong attack both on the demand and supply sides of corruption that requires state parties to criminalize both the solicitation or acceptance, and the offering or granting of bribes (Olaniyan, 2017).

While in such document AU leaders and governments promoting initiatives to fight corruption, according to a 2018 report of Transparency International, many African countries, lose an average of 25 per cent of all resources dedicated to development, through the procurement process due to misappropriation of funds and corruption. So, despite these efforts and international commitments, such as the United Nations Convention against Corruption, corruption is and remains a significant threat and hindrance to African states, particularly in establishing democratic institutions and attaining sustainable development goals (Transparency International, 2018b).

On the contrary, in the ASEAN region, where there are some of the richest, fastest-growing economies, as well as some of the planet’s poorest people, no treaty against corruption was drafted. According to the estimates of Transparency International, corruption continues to plague most of this States, furthermore almost 50 per cent of people in ASEAN countries surveyed believe corruption has increased, while only a third say their government’s efforts to fight corruption have been effective (Transparency International Secretariat, 2015). Recent corruption cases, prosecuted by foreign jurisdictions, have brought to light the fact that large amounts of bribes are being paid in Southeast-Asia using intermediaries to secure contracts, such as the 2017 Rolls Royce case, \$18.8M in bribes were given in Thailand and the 2018 Panasonic executives illegitimately paid a public official \$750,000 over six years to obtain information (Burke, Kawai, & Gargaro, 2018). To address these issues, the development and implementation of regulatory frameworks to forbid bribery of foreign public officials and establish the liability of legal persons are key. ASEAN Member States have all ratified the United Nations Convention Against Corruption (UNCAC), but now it is evident the need to establish a joint public- private action to address bribery involving companies in the ASEAN region, but also to provide a platform for key stakeholders, govern-

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ments, anti-corruption national bodies and civil society to engage in practical discussions about the future of businesses and their role in fighting corruption (United Nation Office on Drugs and Crime, 2018).

As said before, organizations therefore have a responsibility to proactively contribute to combating bribery. This can be achieved through leadership commitment to establishing a culture of integrity, transparency, openness and compliance. The nature of an organization's culture is critical to the success or failure of an anti-bribery management system.

This International Standard is intended to support the establishment of such a culture by providing an anti-bribery management system framework.

A well-managed organization should have a compliance policy supported by appropriate management systems to assist it in complying with its legal obligations and commitment to integrity. An anti-bribery policy is a component of an overall compliance policy.

Moreover, the anti-bribery policy helps an organization to avoid or mitigate the costs, risks and damage of involvement in bribery, to promote trust and confidence in business dealings and to enhance its reputation.

This International Standard reflects international good practice and is applicable across all jurisdictions: it's applicable to small, medium and large organizations in all sectors, including public, private and not-for-profit sectors.

The bribery risks facing an organization vary according to factors such as the size of the organization, the locations and sectors in which the organization operates and the nature, scale and complexity of the organization's activities. Therefore, this International Standard specifies the implementation by the organization of policies, procedures and controls which are reasonable and proportionate according to the bribery risks the organization faces. Annex A provides guidance on implementing the requirements of this International Standard.

Conformity with this International Standard cannot provide assurance that no bribery has occurred or will take place in relation to the organization as it is not possible to completely eliminate the risk of bribery. However, this International Standard can help the organization implement reasonable and proportionate measures designed to prevent, detect and address bribery.

This International Standard can be used in conjunction with ISO 19600 and other management system standards such as ISO 9001, ISO 14001, ISO 22000, as well as ISO 26000 and ISO 31000.

This International Standard specifies requirements and provides guidance for establishing, implementing, maintaining, reviewing and improving an anti-bribery management system. The system can be standalone or can be integrated into an overall management system. This standard addresses the following in relation to the organization's activities:

1. Bribery in the public, private and not-for-profit sectors;
2. Bribery by the organization;
3. Bribery by the organization's personnel acting on the organization's behalf or for its benefit;
4. Bribery by the organization's business associates acting on the organization's behalf or for its benefit;
5. Bribery of the organization;
6. Bribery of the organization's personnel in relation to the organization's activities;
7. Bribery of the organization's business associates in relation to the organization's activities;
8. Direct and indirect bribery (e.g. a bribe offered or accepted through or by a third party).

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This International Standard sets out requirements and provides guidance for a management system designed to help an organization to prevent, detect and address bribery and comply with anti-bribery laws and voluntary commitments applicable to its activities.

In this International Standard, the term “bribery” is used to refer to the offering, promising, giving, accepting or soliciting of an undue advantage of any value (which could be financial or non-financial), directly or indirectly, and irrespective of location(s), in violation of applicable law, as an inducement or reward for a person acting or refraining from acting in relation to the performance of that person’s duties.

This International Standard does not specifically address fraud, cartels and other anti-trust/competition offences, money-laundering or other activities related to corrupt practices (although an organization may choose to extend the scope of the management system to include such activities).

The requirements of this International Standard are generic and are intended to be applicable to all organizations (or parts of an organization), regardless of type, size and nature of activity, and whether in the public, private or not-for-profit sectors.

If the whole or part of any requirement in this International Standard is in conflict with, or prohibited by, any applicable law, then the organization will not be obliged to conform with the relevant whole or part of that requirement. In particular, the organization shall determine external and internal factors that are relevant to its purpose and that affect its ability to achieve the objectives of its anti-bribery management system. These factors will include, without limitation, the following:

1. Size and structure of the organization;
2. Locations and sectors in which the organization operates or anticipates operating;
3. Nature, scale and complexity of the organization’s activities and operations;
4. Entities over which the organization has control;
5. Organization’s business associates;
6. Applicable statutory, regulatory, contractual and professional obligations and duties.

The International Organization for Standardization (ISO) is a worldwide federation of national standards bodies (ISO member bodies) and each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

The procedures used to develop this document and those intended for its further maintenance are described in the ISO/IEC Directives, Part 1. In particular the different approval criteria needed for the different types of ISO documents should be noted.

For an explanation on the meaning of ISO specific terms and expressions related to conformity assessment, as well as information about ISO’s adherence to the WTO principles in the Technical Barriers to Trade (TBT).

ISO 37001, anti-bribery management systems, specifies requirements and provides guidance for establishing, implementing, maintaining and improving an anti-bribery management system. The system can be independent of, or integrated into, an overall management system and it addresses the following bribery risks in relation to the organization’s activities:

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- In the public, private and not-for-profit sectors;
- By/ of the organization, or by its personnel, or business associates acting on/ for its behalf;
- Direct and indirect bribery (e.g. a bribe paid, or received through, or by a third party).

The term “bribery” is used to refer to the offering, promising, giving, accepting or soliciting of an advantage (which could be financial or non-financial), directly or indirectly, in violation of applicable law, as an inducement or reward for a person acting, or refraining from acting, in relation to the performance of that person’s duties.

However, this general use of the term “bribery” will be further informed by — and an anti-bribery management system will need to be designed to help an organization comply with — the antibribery laws applicable to the organization.

Bribery can take place in or through any location, it can be of any value and it can involve financial or non-financial advantages or benefits. Top management shall demonstrate leadership and commitment with respect to the anti-bribery management system by:

1. Ensuring that the anti-bribery management system, including policy and objectives, is established, implemented, maintained and reviewed to adequately address the organization’s bribery risks;
2. Deploying adequate and appropriate resources for the effective operation of the anti-bribery management system;
3. Communicating both internally and externally regarding the anti-bribery policy and of conforming to the anti-bribery management system requirements;
4. Ensuring that the anti-bribery management system is appropriately designed to achieve its objectives;
5. Directing and supporting personnel to contribute to the effectiveness of the anti-bribery management system;
6. Promoting an appropriate anti-bribery culture within the organization and encouraging the use of reporting procedures for suspected and actual bribery;
7. At planned intervals, reporting to the governing body (if one exists) on the content and operation of the anti-bribery management system and of allegations of serious and/or systematic bribery.
8. The anti-bribery objectives shall:
 1. be consistent with the anti-bribery policy;
 2. be measurable (if practicable);
 3. be achievable;
 4. be monitored;
 5. be communicated;
 6. be updated as appropriate.

The organization shall determine and provide the resources needed for the establishment, implementation, maintenance and continual improvement of the anti-bribery management system. In relation to the personnel, it shall provide adequate and appropriate anti-bribery awareness and training, taking into account the results of the bribery risk assessment.

Documented information required by the anti-bribery management system and by this International Standard shall be controlled to ensure that it is available and suitable for use and that it is adequately protected (e.g. from loss of confidentiality, improper use, or loss of integrity).

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For the control of documented information, the organization shall address the following activities, as applicable:

1. Distribution, access, retrieval and use;
2. Storage and preservation, including preservation of legibility;
3. Control of changes (e.g. version control);
4. Retention and disposition.

Documented information of external origin determined by the organization to be necessary for the planning and operation of the anti-bribery management system shall be identified as appropriate and controlled.

The organization shall evaluate the anti-bribery performance and the effectiveness of the anti-bribery management system. In this view, it shall conduct internal audits at planned intervals to provide information on whether the anti-bribery management system.

When a nonconformity occurs, the organization shall react promptly to the nonconformity, and take action to control and correct it, evaluate the need for action to eliminate the causes of the nonconformity and, if necessary, make changes to the anti-bribery management system.

In conclusion, the organization shall retain documented information as evidence of the nature of the nonconformities and any subsequent actions taken; or the results of any corrective action.

CONCLUSION

Much has been done, but there is still a lot to do in the field of anti-corruption. The trend that has been settled is that of a transition from the adoption of typically repressive measures to preventive ones, from criminal to administrative instruments, all with a view to increase involvement of civil society.

Prevention is now a key pillar in the fight against corruption and many States have set up specific rules and institutions to prevent corruption and enhance integrity in the public sector. Preventive measures, based on a careful diagnosis of risks and vulnerabilities, need to be targeted at the problems they seek to remedy and be used where there is a real need. In fact, the UN Convention of Merida of 2003 contains, next to one aimed at reinforcing the repressive and criminal action, another that aims to strengthen the preventive one. In particular, the art. 5 textually written provide that each State must develop *effective and coordinated policies to prevent corruption that favor the participation of society and reflect the principles of the rule of law, good management of business and public goods, integrity, transparency and responsibility* (United Nations Convention Against Corruption, 2003).

In this context, great importance is gaining the supervisory role of anti-corruption authorities. These entities have proved to be a fundamental link in the chain of the fight against corruption, for example by increasing awareness of governs and professionals; with the continued support, or training, of the agents; the incentive to introduce legislative reforms and reinforce anti-corruption provisions (including a better definition of offences, higher sanctions where they are needed, and fast-track provisions) (European Semester Thematic Factsheet, 2017).

The Fight Against Corruption**REFERENCES**

- Burke, M., Kawai, W., & Gargaro, D. (2018). Anti-corruption enforcement in the ASEAN region. *The Asia-Pacific Investigations Review, Global Investigation Review*. Retrieved from: <https://globalinvestigationsreview.com/benchmarking/the-asia-pacific-investigations-review-2018/1147518/anti-corruption-enforcement-in-the-asean-region>
- Cantone, C. (2017). *La Convenzione delle Nazioni Unite contro la Corruzione (UNCAC)*. Associazione italiana trasparenza ed anticorruzione (AITRA). Retrieved from: <http://aitra.it/la-convenzione-delle-nazioni-unite-contro-la-corruzione-uncac/>
- Cantone, R. (2018). *Contrasto alla corruzione: il modello italiano*. ANAC. Retrieved from: <https://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anadocs/Comunicazione/Interventi/Interv.Cantone.BuenosAires.13.09.2018.pdf>
- Council Act. (1996). Protocol to the Convention on the Protection of the European Communities'. *Financial Interests. O.J., C*, 313.
- Council of Europe. (1999a). *Criminal Law Convention on Corruption (ETS No.173)*. EU. Retrieved from: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173>
- Council of Europe. (1999b). *Civil Law Convention on Corruption (No. 174)*. European Treaty Series.
- Elliot, K. A. (1997). *Corruption as an International Policy Problem: Overview and Recommendations*. Institute for International Economy.
- European Semester Thematic Factsheet. (2017). *Fight Against Corruption*. European Commission.
- International Monetary Fund. (2019). *Fiscal Monitor International Monetary Fund. Curbing Corruption*. IMF.
- Italian Official Gazette. (2016). *Legislative Decree May 22, 2016, n. 97*. "Revision and simplification of provisions on the prevention of cohesion, publicity and transparency, corrective of the law November 6, 2012, No. 190 and the legislative decree March 14, 2013, No. 33, pursuant to article 7 of the law of August 7, 2015, No. 124, in the matter of reorganization of public administrations. June 8, 2016, No. 132. Retrieved from: http://www.funzionepubblica.gov.it/sites/funzionepubblica.gov.it/files/Decreto_legislativo_25maggio_2016_recante_Revisione_e_semplificazione_delle_disposizioni_in_materia_di_prevenzione_della_corruzione_pubblicita_e_trasparenza.pdf
- Italian Official Gazette. (2019). *Law No. 3 of January 9, 2019*. "Measures to Combat Crimes Against the Public Administration, as well as on the Statute of Limitations for Crimes and the Transparency of Political Parties and Movements". G.U. Retrieved from: <https://www.gazzettaufficiale.it/eli/id/2019/01/16/18G00170/sg>
- Jaeger, M. (1988). Action internationale contre la corruption- Le groupe multidisciplinaire sur la corruption du Conseil de l'Europe (GMC). In *Corruption de fonctionnaires et fraude européenne*. Antwerp: Maklu.
- Krueger, O. A. (1974). The Political Economy of the Rent-Seeking Society. *The American Economic Review*, 64(3).

The Fight Against Corruption

Law Teacher. (2018). *Introduction to the Process of Whistleblowing*. Retrieved from: <https://www.law-teacher.net/free-law-essays/employment-law/introduction-to-the-process-of-whistleblowing-employment-law-essay.php>

Olaniyan, K. (2017). The African Union Convention on Preventing and Combating Corruption: A critical appraisal. *African Human Rights Law Journal*.

Ordinary Assembly of the Union. (2003). *African Union Convention on Preventing and Combating Corruption*. Retrieved from: https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_e.pdf

Organisation for Economic Co-Operation and Development. (1997). *Convention on combating bribery of foreign public officials in international business transactions*. OECD.

Organisation for Economic Co-Operation and Development. (2007). *Corruption A glossary of international criminal standards*. OECD.

Organization of American States. (1996). *Inter-American Convention Against Corruption (B-58)*. OAS Central Authorities.

Petronio, F., & Piantanida, M. (2019). The So-Called “Bribe Destroyer” Law on Corruption Adopted in Italy. *Paul Hasting*. Retrieved from: <http://www.paulhastings.com/publication-items/details/?id=62755e6c-2334-6428-811c-ff00004cbded>

Posadas, A. (2000). *Combating corruption under international law*. Duke Journal of Comparative & International Law.

Poverty Reduction and Economic Management. (1997). *Helping Countries Combat Corruption. The Role of the World Bank*. World Bank.

Press Release No. 17/315. (2017). The Role of the Fund in Governance Issues—Review of the Guidance Note—Preliminary Considerations. *International Monetary Fund*. Retrieved from: <https://www.imf.org/en/news/articles/2017/08/01/pr-the-role-of-the-fund-in-governance-issues-review-of-the-guidance-note>

Stessens, G. (2001). The international fight against corruption’. General report. *Revue internationale de droit pénal*, 72(3).

Transparency International. (2018a). *Corruption perceptions index 2017*. Retrieved from: https://www.transparency.org/news/feature/corruption_perceptions_index_2017#table

Transparency International. (2018b). *Letter to the African Union on African Anti-Corruption Day*. Retrieved from: https://www.transparency.org/files/content/feature/Letter_to_the_African_Union_EN.pdf

Udombana, N. J. (2003). Fighting Corruption Seriously? Africa’s Anti-corruption Convention. *Singapore Journal of International & Comparative Law*, 7.

United Nation Office on Drugs and Crime. (2018). *ASEAN jurisdictions must hold businesses accountable for corruption offences*. Retrieved from: <https://www.unodc.org/southeastasiaandpacific/en/2018/08/asean-corruption/story.html>

United Nations Office for Drug and Crime. (2015). *Country Review Report of Italy*. UNODC.

The Fight Against Corruption

United Nations Office on Drugs and Crime. (2004). *United Nations Convention Against Corruption*. Retrieved from: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

ADDITIONAL READING

Álvarez Etxeberria, I., & Aldaz Odriozola, M. (2018). The social reputation of European companies: Does anti-corruption disclosure affect stakeholders' perceptions? *Corporate Social Responsibility and Environmental Management*, 25(5), 713–721. doi:10.1002/csr.1488

Berti, C. (2018). Rotten Apples or Rotten System? Media Framing of Political Corruption in New Zealand and Italy. *Journalism Studies*.

Boly, A., & Gillanders, R. (2018). Anti-corruption policy making, discretionary power and institutional quality: An experimental analysis. *Journal of Economic Behavior & Organization*, 152.

Cochrane, C. (2018). Boundary making in anti-corruption policy: Behaviour, responses and institutions. *Australian Journal of Political Science*, 53(4), 508–528. doi:10.1080/10361146.2018.1509942

D'Alberti, M. (2017). *Corruzione e pubblica amministrazione*. Naples, IT: Jovene.

Gemperle, S. M. (2018). Comparing anti-corruption agencies: A new cross-national index. *International Review of Public Administration*, 23(3), 156–175. doi:10.1080/12294659.2018.1518002

Mispansyah, M. (2018). A Comparison Approach in Corruption Eradication: An Empirical Examination. *Hasanuddin Law Review*, 4(2).

Munger, M. (2018). Tullock and the welfare costs of corruption: There is a “political Coase Theorem”. *Public Choice*.

Nieva, R. (2018). Corruption and paradoxes in alliances. *Economics of Governance*.

Orudzheva, L., Salimath, M., & Pavur, R. (2018). Vortex of Corruption: Longitudinal Analysis of Normative Pressures in Top Global Companies. *Journal of Business Ethics*. doi:10.1007/10551-018-4022-z

Pedroza, D. (2018). The Poverty-Corruption Nexus. *Finance & Development*, 55(3).

Razzante, R. (Ed.). (2015). *Corruzione, riciclaggio e mafia. La prevenzione e la repressione nel nostro ordinamento giuridico*. Roma, IT: Aracne.

Suzuki, T. (2018). Corruption, interest rates and business cycles: Comparison of emerging economies. *Economic Change and Restructuring*, 51(4), 303–316. doi:10.1007/10644-017-9206-5

Transparency International Secretariat. (2015). *Transparency International calls on ASEAN to make anti-corruption major part of economic community*. Retrieved from: https://www.transparency.org/news/pressrelease/transparency_international_calls_on_asean_to_make_anti_corruption_major_par

Xu, H., Dao, M., & Wu, J. (2018). The effect of local political corruption on earnings quality. *Review of Quantitative Finance and Accounting*.

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KEY TERMS AND DEFINITIONS

ANAC: The Italian's Anti-Corruption National Authority with administrative functions in the sector of corruption prevention in Public Administrations, which can intervene with inspection, regulation and sanction.

AUCPCC: The African Union Convention on Preventing and Combating Corruption, adopted by the AU Assembly in July 2003, is a shared roadmap for States to implement governance and anti-corruption policies and systems on a national and regional level.

Corruption: Dishonest or illegal behavior that can occur both in public and in private sector and, if pervasive, it can have significant negative impacts in other areas, including the negative impact on the quality of public policies.

FCPA: The US Foreign Corrupt Practices Act of 1977, the first measure that introduce corporate liability, responsibility for third parties and extraterritoriality for corruption offences.

GRECO: The Group of States against Corruption established in 1999 with an agreement of 17 member States of the Council of Europe as an anti-corruption control body, that helps to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms.

OECD Convention: The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which issued the first global anti-corruption measures based on a mechanism of monitoring and supporting towards EU Member States, but with an application field limited to active corruption of foreign officials.

UNAC: The United Nations Convention against Corruption, negotiated on October 2003, is the universal anti-corruption instrument for developing a comprehensive response to a global problem.

ENDNOTES

- ¹ At the time of the conclusion of the Agreement in almost all OECD countries the corruption of foreign public officials did not integrate the details of the crime.
- ² Legal entities will also be liable for offences committed to benefit them and will be subject to effective criminal or non-monetary sanctions.
- ³ For a more detailed analysis on the five GRECO's evaluation road: Group of State Against Corruption. *Evaluation*. Council of Europe. Retrieved from: <https://www.coe.int/en/web/greco/evaluations#%2222359946%22>: [2]
- ⁴ Regarding Italy, the Council of Europe Group of States against Corruption (GRECO) concludes that the State has made progress in preventing corruption in the judicial system, but that much more needs to be done to comply with all the recommendations, in particular those concerning parliamentarians. A justice sector reform launched in 2016, strongly expected by 2020, could improve the efficiency of civil and criminal proceedings, for example with regard to appeals, the decriminalization of minor crimes and accelerated procedures, alternative dispute resolution mechanisms, the organization of the courts, the digitalisation of the management of procedures, etc. For a more detailed analysis see: Group of State against corruption. (2018). *Fourth Evaluation Round Corruption prevention in respect of members of parliament, judges and prosecutors. Compliance Report Italy*. Council of Europe.