Report

THE RULE OF LAW 2021

ITALY

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EU Affairs Unit
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"…the magistrates who administer the law, the judges who act as its spokesmen, all the rest of us who live as its servants, grant it our allegiance as a guarantee of our freedom".
Cicero (106 BC - 43 BC)

Introduction

The first annual Rule of Law Report was published on 30 September 2020. It lies at the centre of the new European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues.

In order to facilitate the appropriate involvement of Member States, the Commission has asked all Member States to appoint their national contact points, who are part of a network of contact points on the rule of law. In the preparation for the 2020 Rule of Law Report, all Member States, through these contact points, provided detailed input on presenting the summary of the legal framework and significant developments as regards the topics covered. The input assisted the Commission in the drafting of the first Rule of Law Report using comparable information covering all Member States. The input was complemented by the other contacts and sources set out in the document on methodology, including through networks such as the *Group of contact persons on national justice systems* and the *National contact points on corruption.*

The Commission would like to invite the national contact points to provide contributions to the 2021 Rule of Law Report. This document provides information on the type of information and topics that will be covered in the 2021 Rule of Law Report, in order to allow Member States to provide input. More targeted input may be requested at a later stage of preparation of the 2021 Rule of Law Report, including in the context of country visits, or bilateral contacts, as well as the later consultation on the draft country chapters.

The 2021 Rule of Law Report will be a transitional cycle aimed at consolidating the first report. The contribution to be provided should address ***(1) the feedback and progress made and developments with regard to the points raised in the respective country chapter of the 2020 Rule of Law Report and (2) any other significant developments since January 20201 falling under the 'type of information' outlined in section II.*** This should also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

1 Unless the information was already submitted in the input for the 2020 Rule of Law Report.

The input should consist of a short summary, if possible in English, to cover the areas referred to below. The contribution should aim at not exceeding 30 pages. Legislation or other documents may be referenced with a link (no need to provide the full text). Contact points will be asked whether they agree to publish their input on the Commission's website. In order to avoid duplication and excessive administrative burden, contact points are encouraged to answer as many questions as possible by making explicit reference to any contribution already provided in a different context including under Council of Europe, OECD, OSCE and UN bodies or procedures. Information covered in the 2020 Rule of Law Report should be referenced where relevant and does not need to be repeated.

Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

2. Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

A) Legislative developments

- Newly adopted legislation
- legislative drafts currently discussed in Parliament

- legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- evaluations, impact assessment, surveys
- white papers/strategies/actions plans/consultation processes
- follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- important administrative measures
- generalised practices

C) Developments related to the judiciary / independent authorities

- important case law by national courts
- important decision/opinions from independent bodies/authorities
- state of play on terms and nominations for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the request for input2)

D) Any other relevant developments

- National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic under the relevant topics.

If there are no changes, it is sufficient to indicate this and the information covered in the 2020 Rule of Law Report should not be repeated.

3. Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) feedback and progress made and developments with regard to the points raised in the respective country chapter of the 2020 Rule of Law Report and (2) any other significant developments since January 20203. This would also include significant rule of law developments in relation to the COVID 19 pandemic falling under the scope of the four pillars covered by the report. Please always include a link to and reference relevant legislation/documents (in the national language or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

PILLAR I.

JUSTICE SYSTEM

A – Independence

1.Appointment and selection of judges, prosecutors and court president

With regard to conferral of functions of legitimacy, and assignment to the “Ufficio del Massimario e del Ruolo della Corte di Cassazione” (Abstracts and Rolls Office of the Court of Cassation) and to the Direzione Nazionale Antimafia e Antiterrorismo – (National Anti-Mafia and Counter-Terrorism Directorate) in 2020, the Consiglio Superiore della Magistratura (CSM) – hereinafter the CSM – contributed important amendments to Circular No. 13778 of 24 July 2014.

In particular, via Resolution dated 9 September 2020, the CSM brought significant changes to the existing text of the Circular in order to adapt secondary legislation to the legislative innovations occurred in recent years, and to amend Part III of the Circular with main reference to the procedure, criteria and scores to be adopted when assigning magistrates to the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”, and when assigning deputy posts within the National Anti-Mafia and Counter-Terrorism Directorate, and for functions of legitimacy as counsellor and deputy attorney-general at the Court of Cassation.

Further amendments were made to Part IV of the Circular, concerning the appointment of university professors and lawyers as counsellors at the Court of Cassation (so-called "Meriti insigni" – i.e. distinguished merits).
A number of amendments were therefore introduced to rationalise the related relocation procedures.

With specific regard to the main reforms, in order to guarantee rational management of mobility as a whole and in line with most recent CSM decisions on transfers to hardship posts, following the relocation decision and prior to taking office in the assigned destination, it is not possible to submit a request for relocation, and likewise it is not possible to submit a declaration of availability to be assigned to hardship posts – although such transfers take place in derogation from ordinary legitimacy standards as per Art. 1(4) of Law No. 133/1998. Failing to take on the assigned office, no legitimacy period may begin and, consequently, no exception may apply.

With regard to contests for assignment of deputy posts at the National Anti-Mafia and Counter-Terrorism Directorate, in compliance with the legislative reform attributing new functions to the National Anti-Mafia Directorate, the mentioned Circular recognises major importance to the specific experience and skills shown in handling proceedings related not only to organised crime (as already provided) but also to terrorist phenomena and accumulation of illicit assets, as well as to the experience gained in the field of international cooperation. Furthermore, as far as skills are concerned, express reference is made to the major importance attributed to participation in working groups of counter-terrorism experts at Public Prosecutor's Offices – besides the adequately lengthy experience matured in the domain of prosecution functions and, notably, at Anti-Mafia District Directorates.

With regard to skills assessment, scores were revised both to bring them more in line with the 2015 indications provided by the legislator and to better specify the conditions justifying their assignment. In particular, emphasis is placed on the exercise of all prosecuting functions and not only on first degree. With a view to enhancing the

exercise of prosecuting functions, additional scores have been provided for the exercise of the same functions for at least eight – no longer four – years in the last fifteen years. Additional scores for the exercise of prosecution functions in director and semi-director posts may be assigned upon condition that such functions carried out in a positive manner and for an adequate and recent period of time, so as to reveal effective coordination, analysis and investigative skills. Furthermore, the incidence of the latter score on the overall score has been decreased.

As to relevance, for skill-related purposes, of activities carried out outside the organic role of the Judiciary, the amendments repealed the reference to assignment cases involving activities that assume specific study and legal research skills. As a matter of fact, it is held that such experience could be mostly significant for functions of legitimacy and assignment to the Ufficio del Massimario, whereas investigative skills on organised crime and counter-terrorism are held to be pre-eminent when assigning a magistrate to the National Anti-Mafia and Counter-Terrorist Directorate (DNAA).

As far as "merit" is concerned, the amendments repeal the rule that granted excessive discretion as to increasing the merit-related score in the event of magistrates engaged for prolonged and nonstop periods of time in particularly complex and demanding tasks. On the other hand, the amendments highlight the relevance of the positive performance of judicial activity for at least three years in the last five years with respect to the date when the decision to publish the posts was issued, so as to assess the degree of effective commitment in recent times.

In order to ensure maximum transparency of CSM works, the amendment provides that the Third Commission shall publish, on the cosmag website, the self-report and the latest two professional opinions related to each candidate.

The amendments furthermore concern the procedure and criteria to be adopted when assigning magistrates to the “Ufficio del Massimario e del Ruolo della Corte di Cassazione” and when assigning the functions of legitimacy as counsellor and deputy attorney-general at the Court of Cassation. The changes introduced are intended to enhance the transparency of assessments made by the Commission and ensure a thorough examination of the profiles of all candidates both through scores and better defined scoring criteria, with emphasis on the positive professional experience gained by candidates in the course of their judicial activity.

From the point of view of transparency, in relation to the procedures for assigning the functions of magistrate at the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”, and of counsellor and deputy attorney-general at the Court of Cassation (likewise for the functions of Deputy at the DNAA), the Commission shall publish, on the cosmag intranet site, the self-report produced and the latest two opinions for evaluating their professional skills and expertise, subject of course to the obligation for the Commission to remove sensitive data and, in any case, entitling candidates to specify which personal and sensitive data should not be published.

Furthermore, it has been provided that the disciplinary convictions are, as a rule, an obstacle to the entrustment of the functions of Magistrate at the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”, of Counsellor and Deputy Attorney General at the Court of Cassation, as well as of Deputy at the DNAA, whereby the candidate has been inflicted a disciplinary sanction not inferior to the loss of seniority, or the candidate has been censured for facts committed in the last ten years.

In order to enhance the assessment of the professional experience acquired through successful performance of judicial activity, the following applies:

a) introducing, for comparative evaluation purposes, the sample scrutiny of the actions undertaken, in compliance with the terms laid down in the related notice;

b) b) providing for more precise criteria to assess scientific capacity and legal analytical skills with reference both to the judicial actions undertaken (to be assessed by the Technical Commission ahead of scientific qualifications) and to scientific qualifications, also taking account of ANVUR classification criteria;

c) providing for merit-related scores based: on the one hand, on the years of effective and positive performance of meritorious functions, with slight differentiation, only within contests for conferral of functions of legitimacy as counsellor and deputy attorney-general at the Court of Cassation, of the merit-related scores that may be annually assigned in consideration of the different functions performed; on the other hand, on the posting in recent years of such effective and positive performance of judicial functions.

With regard to the sample analysis of the judicial actions undertaken, the nature and quantity of the documents that each candidate must and may spontaneously submit have been established, setting specific rules for temporarily detached magistrates that take account of their particular position.

For skill-related purposes, the candidates' overall professional experience shall be considered, with reference both to the exercise of judicial activity and to any assignments carried out outside the Judiciary, with the exclusion of any preferential criterion in relation to the extent of the judicial activity carried out in judicial offices in terms of a notably relevant skill-related indicator.

Furthermore, as to the activities carried out by magistrates in temporarily detached posts, for skill-related purposes and in the context of transfer procedures referred to in Part III of the Circular, the activities carried out will have a different weight depending on the nature and characteristics of the assignment.

With a view to rationalisation and simplification, the Circular has been supplemented in the part regulating the activity of the Technical Commission when assigning functions of legitimacy, better specifying the criteria by which the body is called upon to express its opinion.

As a matter of fact, the specific elements for assessing both the scientific capacity and regulatory analysis capacity – which are not always clear even to candidates – are now indicated in greater detail. It has been decided to steer the Commission towards certain key aspects for correct exercise of functions of legitimacy, including the synthesis and completeness of the analysis performed, the novelty, complexity and difficulty of the interpretative questions posed, the reconstructive effort on particularly complex questions in fact and in law, as well as the concrete and punctual response to the questions and exceptions proposed by the parties and arising in the course of the proceedings. As far publications are concerned, the Technical Commission is required to assess the scientific value of the work produced, based on the reputation and scientific reliability of the publication series or the national importance of the law reviews/journals publishing the candidates' contributions, also in line with ANVUR criteria. The Technical Commission shall firstly assess the judicial actions undertaken by the candidate, and secondly his/her scientific qualifications. For each action and qualification, the Commission formulates a summary judgement and then assesses whether the scientific capacity and legal analytical skills are high, good or fair, disjointedly for the judicial actions as a whole and for the scientific qualifications as a whole, respectively. Finally, also based on the sample provisions acquired, the Commission formulates an overall judgement of entitlement or non-entitlement.

Scientific qualifications still play a subordinate role compared to professional qualifications. Reference to the aforementioned ANVUR criteria has been provided to make the evaluation of publications more stringent: the aim is to introduce a guideline and objective criterion for such evaluation, as current rules already impose that notes and/or articles must be published in legal journals of national standing.

For the same purpose, still with reference to the qualifications that may be evaluated in a further and subordinate manner versus professional qualifications, importance is attached, for skill-related purposes, to the possession of the national scientific qualification as full professor or associate professor of law subject matters.

The "Merit" profile has been profoundly innovated, with greater emphasis on positive professional experience acquired in the exercise of judicial functions.

Based on the new legislation, the maximum score may be attained after 18 years of successful performance of first-degree merit functions. The years necessary to reach this maximum score will be slightly reduced whereby the magistrate also performed second-degree functions successfully or in the case of a magistrate at the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”. A further slight reduction in the time required to reach the maximum score will be made if the magistrate has effectively and positively performed functions of legitimacy or functions as a magistrate attached to the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”, in the case of service at Court of Cassation sections pursuant to Article 115(3) of Royal Decree No. 1941 of 30 January 1941. Shortening the time required to attain maximum scores – quantitatively limited if we consider the seniority required to access the functions provided for therein – is intended to take account of the extent of the professional background acquired through successful performance of functions in various degrees and various offices due to the greater flexibility required for performing functions of legitimacy. Hence, whereby a magistrate has been convicted of a disciplinary offence due to delayed filing of orders, the score for the positive exercise of the functions of merit may not be attributed for the years to which the delays refer. Conversely, whereby a disciplinary proceeding is pending against a candidate for delayed filing of orders complemented with requests for hearings, it is left to the discretion of the CSM whether to exclude the aforementioned score in relation to the years to which the delays refer, also taking account of the number and scope of such delays.

As a result of greater appreciation of the positive professional experience acquired in the exercise of judicial functions, it was decided to repeal the rule that used to acknowledge major importance, for skill-related purposes, whereby the candidate had carried out effective judicial activity in merit functions for at least 15 years.

In this case, too, failure to repeal such provision would indirectly have resulted in duplicating the evaluation of the same element (i.e., professional experience acquired in the exercise of judicial functions) in the context of the different scores to be awarded. Such repeal was then followed by the repeal of the provision expressly establishing the equivalence of functions performed by magistrates serving at the Constitutional Court and magistrates in service at the CSM (members, assigned to the Secretariat and to the Research Office (“Ufficio Studi”). Removing such a major indicator (i.e. performance of judicial activity in offices of merit for at least 15 years) has made the provision superfluous, as it deletes any preferential criterion that might preclude the attribution of maximum scores – in terms of skills – to all the magistrates serving outside their organic role (including magistrates serving at the Constitutional Court and magistrates serving at the CSM in the above-mentioned capacities).

In assigning a magistrate to the “Ufficio del Massimario e del Ruolo della Corte di Cassazione”, as counsellor and deputy attorney-general at the Court of Cassation and deputy at the National Anti-Mafia and Counter-Terrorism

Directorate, equal opportunity relevance is acknowledged to ensure and promote gender balance of judiciary personnel also in the aforementioned offices.

As to the appointment of university professors and lawyers as Counsellors to the Court of Cassation, it is mandatory – and not discretionary – for candidates to officially notify the respective bodies of their publications, reports/addresses delivered on the occasion of conferences, trial acts and any other documentation revealing their specific scientific merits and rich professional experience. With reference to the designation process, the Third Commission identifies university professors and lawyers endowed with distinguished merits (also taking account of CUN/CNF opinions), upon condition, as far as university professors are concerned, that in no case may they be appointed based on their distinguished merits if they fail to meet the requisites established by university legislation for participation, as Commissioners, in first- and second-ranking fit assessments (within their respective SSDs).

Furthermore, it is worth highlighting that via Legislative Decree No. 9 of February 2021, provisions were adopted to adapt national legislation to Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office ("EPPO").

With regard to the appointment and selection of directors of judicial offices, at primary legislation level, Article 12(10) of Legislative Decree No. 160/2006 ("*Requirements and criteria for conferral of functions*") provides that the conferral of functions referred to in Article 10, including direction, shall be made upon request of the interested parties by means of a competitive procedure focusing on qualifications only: magistrates who have attained at least the required professional evaluation may participate, except as provided for by paragraph 11. In the event of negative outcome of two competitive procedures due to the unsuitability or lack of candidates, whereby the CSM deems a situation of urgency is preventing a new competitive procedure, functions may be assigned also *ex officio*.

For conferral of functions referred to in Article 10(7) (first-degree semi-director functions: judges and prosecutors), at least the second professional evaluation is required. For conferral of functions referred to in Article 10(8) (first-degree semi-director functions: judges and prosecutors), at least the third professional evaluation is required. For conferral of functions referred to in Article 10 paragraphs 7-bis (national coordination semi-director functions: prosecutors), 9 (second-degree semi-director functions: judges and prosecutors) and 11 (first-degree high-level director functions: judges and prosecutors), at least the fourth professional evaluation is required. For conferral of functions referred to in Article 10(10) (first-degree director functions), at least the third professional evaluation is required. For conferral of functions referred to in Article 10, paragraphs 12 (second-degree director functions: judges and prosecutors), 13 (national coordination director functions: prosecutors) and 14 (director functions of legitimacy: judges and prosecutors), at least the fifth professional evaluation is required. For conferral of functions referred to in Article 10(15) (senior director functions: judges and prosecutors), at least the sixth professional evaluation is required. For conferral of functions referred to in Article 10(16) (top director functions – judges and prosecutors), at least the seventh professional evaluation is required.

For conferral of functions referred to in Article 10, paragraphs 7, 8, 9, 10 and 11, in addition to the elements deduced from the evaluations referred to in Article 11, paragraphs 3 and 5, any previous experience in direction, organisation, collaboration and coordination of national investigations shall be specifically evaluated, with major regard to the results attained, the organisational/management training courses attended, and any other element/asset, also acquired outside service in the Judiciary, which proves direction skills. For conferral of functions set forth in Article 10, paragraphs 14, 15 and 16, in addition to the elements deduced from the

evaluations set forth in Article 11, paragraphs 3 and 5, the magistrate, at the date of the vacancy of the post to be filled, is required to have performed functions of legitimacy for at least four years; in addition, any past experience in direction, organisation, cooperation and coordination of national investigations must be specifically evaluated, with major regard to the results attained, the organisational/management training courses attended also prior to joining the Judiciary and any other element/asset that may highlight specific direction skills.

Direction skills concern the ability to organise, plan and manage activities and resources in relation to the type and structural condition of the office and to the relative endowment and personnel. Managerial skills also refer to the propensity to use advanced technologies, as well as the ability to enhance the skills of magistrates and officers, while respecting individuality and institutional autonomy, to operate management control over the general performance of the office, to devise, plan and implement, in a timely manner, organisational and management solutions and give full and complete implementation to what is indicated in the relevant organisational plan.

With the so-called "Testo Unico sulla Dirigenza Giudiziaria" (consolidated text on judicial sector managers/directors), adopted via Circular P-14858/2015 of 28/07/2015 (replacing Circular P-19244 of 03/08/2010 – Resolution 30/07/2010 and subsequent amendments), in implementing the delegation received, the CSM supplemented the primary legislation by identifying, as essential prerequisites for conferral of directive and semi-directive offices and related confirmation (Art. 1) – independence, impartiality and balance – and also establishing that the general parameters applying are "*merit*" and "*skills*".

The "*merit*" primarily results from the assessed judicial activity carried out and aims to reconstruct, in a complete manner, the professional figure of the magistrate, having regard to the (sub-)parameters of ability, industriousness, diligence and commitment, defined by Art. 11 of Legislative Decree No. 160/2006.

In particular:

a) "ability" is inferred from: legal education/qualification and degree of updated knowledge of new legislation, doctrine and case-law; possession of argumentation and investigation techniques, also in relation to the outcomes of affairs in the subsequent phases and stages of proceedings; performance of hearings by the person who directs or chairs them; suitability to use, direct and control the contribution ensured by collaborators and aides; ability to cooperate according to criteria of appropriate coordination with other judicial offices having related or connected competences;

b) "laboriousness" is inferred from: productivity, meant as the quantity and quality of the affairs handled in relation to the type and organisational/structural condition of offices; the time taken to accomplish the work; the collaboration activity ensured within the office;

c) "diligence" is inferred from: frequency and punctuality in attending the office and the hearings and on scheduled days; compliance with the deadlines for compiling and filing orders, or in any case for carrying out judicial activities; participation in the meetings established by the judicial system for discussion and examination of legislative innovations, as well as for knowledge and evolution of case-law;

d) "commitment" is inferred from: availability to replacing/substituting, which can be traced back to applications and substitutions, if and insofar as they comply with legislation in force and CSM directives, and are necessary for proper functioning of the office; frequency of participation in permanent training/refresher courses organised by the CSM, or, however, as admission does not only depend on magistrates' requests, from the availability to attend such courses and the relevant courses organised

by the CSM, until the ad-hoc school has become operative; from the problem-solving collaboration ensured to cope with organisational and juridical issues, which becomes important, whereby required, to prevent resort to useless and uncoordinated initiatives.

With regard to "skills", however, the new Consolidated Text has broken down the relevant indicators into "general" and "specific".

General indicators are evaluation elements common to the procedures for conferral of all direction positions and are aimed at reconstructing, in a complete and exhaustive manner, the professional figure of the magistrate.

General indicators can be inferred from:

a) his/her current or past directorial and semi-directorial functions;
b) b) his/her judicial experience;
c) his/her office management experience;
d) the solutions he/she developed in organisational proposals drawn on data and information relating to the tendered offices;
e) (e) his/her organisational and regulatory experience;
f) (f) his/her specific organisational training;
g) other organisational and regulatory experiences, also outside the judicial activity.

As regards specifically the experience gained in judicial work, the new Consolidated Text aimed to "... attach importance to the plurality of experiences in the various sectors and matters of jurisdiction and to the quality of the judicial work carried out, to the results achieved in relation to management of affairs, to effective use of advanced technologies, to organisational and investigative coordination experiences and skills, as well as to participation in projects and activities of innovation and study", having to consider that "... multifaceted professional expertise in the exercise of jurisdictional functions and the positive results achieved must necessarily assume relevance in the appreciation of the profile of the magistrate and, in the final analysis, in the evaluation of his/her skills, given the task of indispensable reference point in the exercise of the jurisdictional functions which pertains to the subject called to hold directorial or semi-directorial posts" (page 7 of the introductory report to the new Consolidated Text).

With regard to office management experiences, the 2015 Consolidated Text highlighted the organisational delegations received and the activity carried out in execution of such delegations, the activity as reference magistrate for information technology, the *de facto* coordination of sectors or sections, as well as collaboration with the top management level on specific projects.
With regard to legal/regulatory and organisational experience, emphasis was placed on experience gained, inter alia, within the CSM and Judicial Councils.

The specific indicators – first introduced by the new Consolidated Text – differ, however, according to the type of tendered offices. They give "... concrete implementation to the innovative principle of the distinction of skill requirements according to the type of management office" (page 17 of the introductory report on the new Consolidated Text).
The purpose of this provision is to "... identify judicial experiences that prove the magistrate is specifically suitable to cover those specific functions", with a view to "... enhancing CSM discretion in adopting choices that are appropriately tailored to the needs of the offices concerned" (page 5 of the introductory report).

2.Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

With regard to the retirement regime for magistrates in general, it is worth noting that their retirement is regulated by Article 5 of Royal Legislative Decree No. 511 of 31 May 1946 on guarantees for magistrates ("Guarentigie della Magistratura"), according to which all magistrates shall retire at the age of 70. Till the entry into force of Decree-Law No. 90/2014, it was then possible for all civil servants to remain in service for another two years, pursuant to Article 16(1) and (1-bis) of Legislative Decree No. 503/1992, and for another five years for magistrates only, pursuant to Article 34 of Law No. 289 of 2002 amending the above mentioned Article 16.

With Decree-Law No. 90/2014, the retention in service was repealed; however, in order to safeguard offices functionality, the legislator provided for a transitional phase extended to 31.12.2015 for civil servants, to 31.12.2016 for ordinary magistrates, and to 31.12.2017 for some senior positions within the ordinary, administrative and accounting courts (Article 5 of Decree-Law No. 168/2016).

Having said that and coming to the pension rules applicable to ordinary magistrates, it should be noted that, being civil servants of the State, they are now enrolled in the INPS Fund for State Employees' Pension Schemes (so-called “CTPS”) and therefore enjoy the general pension scheme provided for State employees.

Article 3(e) of Law No. 22/1942 entrusted ENPAS (Ente Nazionale di Previdenza e Assistenza per i dipendenti Statali – National welfare and assistance fund for State employees) with the task of providing State administrations employees and their families with welfare and healthcare. Subsequently, Article 4 of Legislative Decree No. 479/1994 established INPDAP (Istituto Nazionale di Previdenza per i Dipendenti dell'Amministrazione Pubblica – National welfare institute for Public Administrations’ employees) and provided for that institution to take over, inter alia, the tasks previously entrusted to ENPAS.

Law No. 335/1995 (Reform of the compulsory and complementary pension system – so-called “Dini Reform”) then provided, as of 1 January 1996, for the establishment, under INPDAP, of separate management of the pension treatments of State employees and of other categories of personnel whose pension treatments are borne by the State budget as per Article 4(4) of Legislative Decree No. 479 of 30 June 1994.

Finally, Article 21(1) of Decree-Law No. 201 of 6 December 2011 abolished INPDAP as of 1 January 2012 and transferred its functions to INPS, thus bringing the members of the various funds managed by INPS to 95% of workers, confirming the transition towards a universal social security model that began with Law No. 335/1995 (a.k.a. “Dini Reform”).

The social security system provides that all workers, both (private and public) employees and self-employed workers/professionals are covered by compulsory social security schemes.

The General Compulsory Insurance (so-called “AGO” – Assicurazione Generale Obbligatoria) – to be considered a direct implementation of Article 38 of the Constitution – includes private sector employees, as well as self-employed workers and professionals (without an ad-hoc fund). In particular: private sector employees are included in the Employees Pension Fund (FPLD) managed by INPS; self-employed workers are enrolled in special funds according to their work activity; for self-employed professionals and collaborators, instead, Law No. 335/1995 established the so-called “separate management” scheme.

The so-called “AGO substitutive forms” (Forme Sostitutive dell'AGO), on the other hand, include certain types of private sector employees for whom the legislator decided to guarantee a different and more favourable treatment compared to AGO (General Compulsory Insurance) with regard to pension size and retirement age by virtue of the characteristics of the employment relationship. However, the workers enrolled under these funds

have gradually been included in the FPLD as part of the general compulsory insurance scheme, as only specific Funds (i.e. Fondo Volo, Fondo Dazieri, Fondo dello Spettacolo, and Fondo degli sportivi professionali) managed by INPS and the journalists' social security fund managed by INPGI are confirmed as “AGO substitutive forms” until the existing resources are exhausted.

Finally, employees of State administrations, local authorities and healthcare entities are enrolled in the so-called “AGO exclusive forms” (CTPS – separate pension fund for State employees, CPDEL – local government employees' pension fund, CPUG – judicial officers' pension fund, CPI – teachers' pension fund, and CPS – healthcare providers pension fund), as well as postal workers and railway personnel enrolled in the Special Fund of State Railways.

With regard to the pension regime for workers enrolled under the various schemes, Article 1(25) of Law No. 335/1995 provides that the right to a retirement pension for employees covered by the general compulsory insurance scheme for invalidity, old age and survivors and its exclusive and substitute forms shall be obtained ... omissis ..., thus defining its scope of application with exclusive reference to the type of social security scheme applying to workers.

Similarly, Decree-Law No. 201/2011 expressly refers to the applicability of its rules to members under the general compulsory insurance scheme and its exclusive and substitutive forms, as well as to the separate management scheme referred to in Article 2(26) of Law No. 335 above.

As magistrates are CTPS members within the framework of “AGO exclusive forms”, their pension regime – despite the peculiarities of their respective pension schemes (e. g., with regard to the age limit for retirement) – is now the general regime applying to other civil servants.

The rules introduced by Law No. 335/1995 therefore apply to magistrates with reference to the requirements for access to pensions and salary and contribution-based systems, as well as the pension institutions provided for by the above-mentioned general system: old age pension and so-called early retirement pension (previously a.k.a. “seniority pension”).

The rules introduced by Decree-Law No. 201/2011, converted with amendments by Law No. 214/2011 – which redefined the requirements for access to the old-age pension in both salary and contribution-based systems – also apply to magistrates who accrued the right to retirement pension from 1 January 2012, while the system under Law No. 335/1995 continues to apply to magistrates who accrued the right to retirement pension by 31 December 2011. As a matter of fact, the general rules on retirement pensions were considered unquestionably applicable to magistrates by INPS and the National Association of Magistrates.

As regards, however, the termination of service of magistrates for other reasons, please refer to the examination of disciplinary sanctions under Legislative Decree No. 109/2006, and to Presidential Decree (DPR) No. 3/1957, which provides for disqualification from employment for unjustified absence for more than 15 days (Art. 127, letter c). Furthermore, reference is made to Article 3 of Royal Legislative Decree No. 511 of 31 May 1946, "Exemption from service or official leave ex officio due to mental weakness or infirmity" – the first paragraph provides for exemption from service which may result in termination of employment relationship for unforeseen and unexpected reasons. Article 3 provides that "If due to any infirmity, assessed as permanent, or due to newly arisen ineptitude (unsuitability), a magistrate is not adequately and effectively able to perform the duties of his/her office, he/she shall be exempted from service, subject to CSM assent. If the infirmity or newly arisen ineptitude (unsuitability) however allows for effective performance of administrative duties, the exempted magistrate may be assigned, upon request and within available posts, to the Ministry of Justice, based on comparative terms and criteria defined via decree issued by the Minister of Justice in agreement with the Minister for Civil Service and the Minister of Economy and Finance, consistently with the type and seriousness of the infirmity or newly arisen ineptitude (unsuitability). The dismissed magistrate shall retain the right to his salary in use, with possible allocation of a reversable ad personam allowance, equal to the difference between the salary in use at the date of the dismissal and the salary corresponding to the qualification acknowledged".

The same provision (paragraphs 2 and 3) also provides that whereby the infirmity is temporary, the magistrate may, upon CSM advice, be placed on leave up to the maximum period allowed by law. At the end of such period, a magistrate who is not yet in a position to be recalled from the leave shall be exempted from service.

3. Promotion of judges and prosecutors

To date no updates have been reported on the item.

4. Allocation of cases in courts

To date no updates have been reported on the item.

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.

To date no updates have been reported on the item.

7. Remuneration/bonuses for judges and prosecutors

8. Independence/autonomy of the prosecution service

To date no updates have been reported on the item.

9. Independence of the Bar (chamber/association of lawyers) and of lawyers

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

B - Quality of Justice

11. Accessibility of courts (e.g. court fees, legal aid, language)

The project on “Proximity Offices”, carried out by the Directorate General for the coordination of cohesion policies, is now widely operational.
As already underlined in the previous contribution, the concrete usefulness of this project aimed at bringing citizens closer to justice services in territories where there are no judicial offices, should be reaffirmed. The project aims to maximize the use of the potential of the digital civil trial with the effect of relieving the pressure on Courts by offering a network of uniform services that ensure assistance, especially in the field of non-contentious jurisdiction, in particular to the so-called "vulnerable groups”.

12. Resources of the judiciary (human/financial/material6)

Judiciary staff policies have been strategically focused on enhancing the human resources of the different office allocated along the territory, through increasing staff numbers, and on developing of more flexible interventio tools in critical organizational situations through the introduction of the so-called flexible human resources (piant organiche flessibili).
Following the increase of 600 units in the fixed plan of the “ordinary” judiciary established by Law no. 145, wit the consequent increase in the allocation from 10,151 to 10,751 units, in 2019 the work for the redeterminatio of the establishment plans had already successfully begun. Upon completion of the procedure, and taking int account the opinion given by the High Council of the Judiciary, by Ministerial Decree of 14 September 2020, th

human resources of the judicial offices judging on the merits were redefined through an increased distribution c
a total of 422 units.
As stated above, in addition to the increase in the overall staffing, particular mention should be made to th
introduction of the district flexible establishment plans.
Building upon an experience similar to the one of other European legal systems (France, Spain), the aim was t
provide a flexible and effective tool to deal with temporary difficult situations in judicial offices due to the sudde
increase in the demand for justice or the absence from office of the magistrates in charge.

In this path, in October 2020 the Explanatory Technical Report was sent to the High Council of the Judiciary for th
required opinion, accompanied by the draft Ministerial Decree, concerning the proposal to establish the distri
flexible human resources which provides, in compliance with the legislative framework of reference an
consistently with the criteria followed for the redefinition of fixed number of magistrates, for the determinatio
of both the total national contingent - set at 176 units, 122 of which with judicial functions and 54 with prosecutin
functions - and of the contingents for individual districts, identified as a result of the evaluation of a combinatio
of indicators.
As for administrative staff, recruitment procedures are being carried out in relation to the following job profiles:
- 97 disabled auxiliary staff, on a permanent contract (recruitment notice of 27 August 2019). The procedur
involves 21 districts of the Court of Appeal. At the moment, 13 employees have been employed.
- Recruitment of 616 judicial operators on a permanent contract (call of 4 October 2019). The procedure
implemented through the Employment Centers and involves 14 Districts of the Court of Appeal. At the momen
38 units have been employed (24 in the Ancona District and 14 in the Genoa District). 11 and 27 units will b
employed in the near future, for the Florence and Venice districts respectively
- Recruitment of 7 bailiffs on a permanent contract to be employed in the judicial offices of the Autonomous Regio
of Valle d'Aosta (recruitment notice of 4 February 2020). The carrying out of the written tests of the procedur
was repeatedly blocked by national health measures to combat the spread of the pandemic.
- Recruitment of 1,000 judicial operators on a permanent contract (recruitment notice of 15 September 2020); th
procedure, based on qualifications and interviews, was provided for by decree-law no. 34 of 19 May 202
converted, with amendments, by law no. 77 of 17 July 2020, Article 255, and is currently underway, with th
invitations to candidates admitted to the interview starting from 16 December 2020.
- Recruitment of 400 directors on a permanent contract (recruitment notice of 17 November 2020); the procedur
based on qualifications and oral examination, was provided for by decree-law no. 34 of 19 May 2020, converte
with amendments, by law no. 77 of 17 July 2020, Article 255, and is currently underway. Similar simplifie
procedures have been launched for the recruitment of 150 judicial officers and 2,700 experienced clerks.

With regard to material resources, in 2015 the Ministry of Justice was given the responsibility for the dire
management of properties intended for judicial activity. This allows an increasingly adequate monitoring of th
existing structures, needs and requirements of each territory.
The maintenance activities of the buildings in question have therefore continued and a strong focus has bee
placed on the functional reorganization of the judicial offices through the setting up of Justice Poles (so-calle
"Judicial Citadels"). The pursued need is to concentrate the judicial offices in terms of location so that user
lawyers and the judiciary can have easier access to them with obvious positive effects on the usability of justic
services. The projects on "Judicial Citadels" concern: 1) Bari; 2) Benevento; 3) Bergamo; 4) Bologna; 5) Catania; 6
Catanzaro; 7) Foggia; 8) Genoa; 9) Latina; 10) Lecce; 11) Locri; 12) Messina; 13) Milan; 14) Modena; 15) Monza; 16
Naples; 17) Perugia; 18) Rome - Manara Barracks; 19) Rome - Piazzale Clodio; 20) Rovigo; 21) Sassari; 22) Tarant
23) Trani; 24) Udine; 25) Venice; 26) Velletri; 27) Vercelli.
Among the projects with the greatest impact the following can be mentioned:
Bari: the aim of the project is to bring together all the judicial functions of the Apulian capital in a single place. Th
total estimated cost of the project is € 450,000,000.00, 94,700,000.00 of which were already funded by the Ministr
of Justice;
Bologna: the project concerns the construction of the "judicial citadel" of Bologna. According to the time schedul
drawn up by the territorially competent State Property Agency, the works should be completed by the secon
quarter of 2030, for an estimated total cost of € 140,158,224.34;
Rome: the redevelopment project of the Manara Barracks to house part of the bailiffs of the Rome district

Lecce: the construction of new judicial offices is planned on land confiscated from organized crime. The implementation agreement has been signed and, therefore, the State Property Agency will organize tender procedures..

13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)

The training of administrative staff was carried out through specific and accurate training programs for differer job profiles; particular attention was paid to training relating to digitalization and the inclusion of new resources It should be emphasized that, during the COVID-19 period, the innovative e-learning platform represented a important resource for the remote involvement of staff engaged in smart working.
As for the ordinary judiciary, please refer to the detailed information available on the Higher School of the Judiciar website, the body responsible for training activities of judges and prosecutors.
https://www.scuolamagistratura.it/web/portalessm/la-formazione-dei-magistrati-in-italia/

Training and promotion of legal culture represents one of the pillars of the rule of law. This having been said, should be noted that the State Budget for the financial year 2021 and the multi-year Budget for the three-yea period 2021-2023 adopted by law no. 178, in its Article 1 paragraph 573 state that “In order to promote leg culture in the field of international criminal law and the protection of human rights, a fund shall be set up in th statement of estimates of the Ministry of Justice, with capital of 2 ml euros for each of the following years: 202 2022 and 2023, to be allocated to outstanding training projects. By decree of the Minister of Justice, in agreemer with the Minister of Economy and Finance, to be adopted within ninety days from the date of entry into force c this law, the criteria for access to resources of the fund referred to in the first sentence, considering as a priorit requirement the multi-year performance of documented collaboration, consultancy and cooperation activitie with international organizations and institutions ".
This provision was first implemented through the introduction, in the Decree for the division into Chapters of th State Budget adopted by the Ministry of Economy and Finance, relating to the Ministry of Justice, of the Chapter assigned to the Department for Justice Affairs:
- 1388 Fund for the financing of top-level training programs provided by bodies or associations on internation criminal law and protection of human rights, with an allocation of 1 million euros for each of the following year 2021, 2022 and 2023;
- 1390 Fund for the financing of top-level training programs provided by research bodies on international crimin law and protection of human rights, with an allocation of 1 million euros for each of the following years: 202 2022 and 2023.
The criteria for access to the fund’s resources shall also be established by 1 April 2021 by an ad hoc decree of th Justice Minister, in agreement with the Minister of Economy and Finance.
As this is a highly innovative provision, the analysis and study activities preliminary to the implementation of the provision and the establishment of access criteria are underway.

Being the legitimising foundation of the judicial function, training is of primary importance to ensure collective, shared and generalised benefit. For every magistrate, training is one of the preconditions for the legitimacy of his/her work and independence. Together with professional expertise evaluations, disciplinary procedures and work organisational criteria within offices, training contributes to perfecting the level of professional expertise and becomes an essential objective in light of the institutional position of the judicial order.

Based on these assumptions, all the bodies in charge of training tasks act assuming it is necessary for every magistrate not only to acquire adequate technical and legal training, but also to be aware of his/her own role and of the effects of his/her own actions. Such skills are essential for the necessary qualitative improvement of the jurisdiction and cannot be entrusted to optional individual initiatives; they necessarily require wide-ranging organised dissemination of theoretical, practical and deontological knowledge, in addition to the expertise resulting from operational work.

Based on Council of Europe deliberations, training should be conceived not only aimed at magistrate's skills, rather as an expression of the deontological duty to be updated and constantly grow professionally. This implies, for the judicial system, creating the conditions for ensuring an adequate and independent training offer for all.

Legislative Decree No. 26 of 30 January 2006, amended by Law No. 111 of 30 July 2007, defined the regulatory framework and the scope of the respective tasks of the CSM and the Scuola Superiore della Magistratura in the field of permanent professional training of magistrates.

Based on the current regulatory framework, therefore, the CSM is required to set out "programmatic lines" for ongoing and further professional training on a yearly basis. The task is carried out consistently with the characteristics and contents of the trainings carried out in the early years of the School's activity, and drawing upon a rich set of teaching and training (central, decentralised, international) experiences built by the CSM itself (within its entrusted bodies: Ninth Commission and Scientific Committee) in the years preceding the entry into force of the reform innovating magistrates training. The reference to past experience helps identify the "crucial" issues of training activities, aimed at constantly supporting, magistrates' professional needs and hence acting as a precondition for the independence and autonomy of jurisdiction.

On such assumptions, the link between the School and the CSM is essential. Such solution stems from Article 105 of the Italian Constitution (any decision concerning the professional life of the magistrate must fall within the scope of the self-government system) and can more effectively guarantee cultural pluralism in contents and methods, and in the selection of teachers and participants for training initiatives.

14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)7

The Ministry has funds of approximately 1.7 billion euros for digitalization, already largely committed or spent on various projects: the evolution of the PCT, PPT, assistance, AI projects, remote access systems, interceptions. Civil sector systems, as already happened with the digital Civil Trial, are being significantly developed, aiming at the unification of technologies and functionalities that will allow the sharing of data and documents in a circular manner by the Justice of the Peace and "Honorary" Judges, up to the Supreme Court with an ever greater involvement of external qualified parties in particular from the Bar.
About civil justice, the most significant and innovative areas can be specified as follows:
-Civil Sectors of the Supreme Court of Cassation and of the General Prosecutor's Office at the Court of Cassation:, a Protocol, signed by the Ministry of Justice with the Court of Cassation, the Avvocatura Generale dello Stato [State Legal Advisory Office], the CNF [National Lawyers' Council] and the Lawyers' Congress Body [Organismo Congressuale Forense] planned the use, on an experimental basis, of e-filing - which started on 26 October 2020 - by lawyers, through the use of a new management module for these filings, integrating the functionalities of the current electronic registers of the Court's Registry.
-For Supreme Court judges, an application called "desk of the legality judge" was developed which allows remote access to the computer file of proceedings, the drafting of measures and their consequent electronic filing. The use of the new module for the management of filings and the desk will also be extended to the civil sector of the Prosecutor General's Office at the Court of Cassation.
- Portal of e-Services, PEC Registers and e-payments: activities are underway aimed at updating the portal of e-services with which citizens, companies and professionals interact with the Judicial Offices, using some online services. Moreover, access to services will be possible through SPID, the National Service Card and the Electronic ID Card pursuant to the new provisions of the code.
- Computerized registers: to allow smart working of staff, remote access was implemented, through the use of smart cards and laptops registered in the justice domain, to the management system of civil registers of civil litigation, non-contentious jurisdiction and labor disputes, in use by the courts and appellate courts;

-Justices of the peace: more than two hundred offices have experimented with e-service of documents, starting the procedure for the recognition of their legal value. To date, 145 offices of the Justice of the Peace have concluded the relevant administrative procedure and are currently operational. By April, the PCT [Digital Civil Trial] will be launched at the offices of the Justice of the peace experimenting with the filing of appeals for injunctions and remote access to the registers by the Registry staff.
In 2020, following the needs resulting from the pandemic containment, some important steps were speeded up in the digital criminal trial, in the transformation and remote access of systems for smart working purposes.
The full implementation of this process requires constant dialogue with lawyers' and other institutions' representatives (CSM, ANM, Supreme Court, etc.).
Here are some of the digital activities that will be launched in the near future and their priorities:
a) Lawyers will soon be able to access criminal electronic files from the Portal, at an increasing rate in districts, already being successfully tested in the district of the Court of Appeal in Milan.
b) After the experimental phase of the portal for the filing of criminal procedural documents for trial has been completed, the Minister's decree may be issued pursuant to Art. 24 paragraphs 1 and 2 of Legislative Decree 137/2020 for the mandatory e-filing of trial documents in criminal proceedings.
c) On March 31st, the Civil Digital Trial will be launched in the Supreme Court with the legally valid filing of document by lawyers.
d) In mid-April, prosecutor's offices will be allowed electronic access to the national backlog.
e) The release of a computerized form the so-called Model 37 (wiretapping register) is expected at the end of May and the filing of electronically produced documents by the magistrates of the prosecutor's office and the GIP in the wiretapping sub-proceedings. This is the first step towards the full digitalization of the wiretapping procedure and the new penal console.
At the same time, new videoconference rooms were created and ad hoc software for the computerized management of wiretapping was developed and securisation of the relevant rooms was carried out.
14.a) The challenge of the pandemic in judicial offices
The Ministry of justice tackled the very serious epidemic emergency following two lines of action: safeguarding the operators' health; ensuring that justice services were affected as little as possible by disruptions connected with "confinement" measures intervened in the various phases of the crisis.
After supplying protective equipment, smart working was regulated, allowing a reduced use of the workforce physically present in the office, in order to limit the possibilities of contagion in the workplace and during journeys to and from offices.
The expenditure of the offices for the purchase of protective devices (masks, breath barriers, sanitization, sanitizing material) amounts to 31 million euros. In order to make remote working effective, 13,000 employees were authorized to remotely manage the administrative and judicial systems and were supplied with specific PCs (over 17,000 are currently being distributed), while ordinary and honorary magistrates are totally equipped.
In this respect, it is noteworthy that the administrative staff, the ordinary and honorary judiciary have continued to carry out their work in difficult conditions, always with professionalism.
The Courts and Courts of Appeal in the civil sector settled more cases than those entered in the register: as at Dec. 31,.2020, first and second instance pending civil cases decreased also compared with the 2019 figure (229,959 in 2020 against 2019 for the Courts of Appeal and 1,988,477 against approximately 1,989,905 for the courts).
Especially in the second half of the year (phase 2 of the health emergency) the productivity of the civil sector offices was such as to determine a positive clearance rate: 1.12 in Courts of Appeal; 1.08 in Courts.
The emergency legislation essentially introduced a series of provisions on computerization which allowed, inter alia: the remote management of civil hearings, the electronic filing of acts and documents, the remote management of preliminary investigations, as well as the electronic filing of documents in this phase, participation in any hearing of persons detained, interned or in pre-trial custody, where possible, by videoconferencing or by remote connections. Finally, the remote management of interviews with prisoners in prisons and penal institutions for juveniles.

It should be noted that the CSM has been tackling the emergency since its onset early 2020.

The COVID-19 outbreak strongly affected CSM works, requiring the autonomous governing body to strive to ensure both own ongoing functions and those of the Judicial Offices to which it addressed ad-hoc guidelines for organisational solutions to cope with the emergency. The CSM also paid special attention to ensuring ongoing training to trainee magistrates. Furthermore, pursuant to Article 10 of Law No. 195/1958, the CSM contributed its opinions to the several regulatory interventions undertaken to tackle the pandemic.

Changes to CSM functioning

As to the former aspect, it is worth mentioning the changes required to undertake organisational measures, also within the CSM, aimed at tackling the COVID-19 emergency and ensure ongoing performance of CSM functions. In this regard, the opinions issued by the Second Commission to allow individual Councillors to take part in CSM activities via telematic means, as per regulations in force, should be mentioned first of all. While highlighting that the physical presence of Councillors in the institution has a fundamental and irreplaceable value for sharing ideas, constant dialectical interaction and debate, timeliness of analysis and resolution of issues, the opinions nevertheless affirmed that the remote performance of CSM activities was however compatible with the regulatory discipline in force.

Finally, on 5 May 2020, the regulatory amendment proposed by the Second Commission was approved, introducing a provision into the Rules of Procedure (Art. 91) that is "temporary" in nature, being it is linked to the duration of the national state of emergency stated by the Council of Ministers on 31 January 2020, and which allows the Presidency Committee to authorise individual members of the CSM to participate remotely in plenary meetings by means of an online connection. Compliantly with the national rules restricting freedom of movement to prevent the spread of the COVID-19 pandemic, the authorisation may be granted to members affected by such restrictions or who declare to be exposed to high epidemiological risk due to personal health conditions or those of family members living in the same house. The provision then regulates the terms for remote participation, including in Commissions' works, and voting.

Guidelines adopted by the CSM for offices operation

Upon suggestion from the Sixth and Seventh Commissions, the CSM also adopted a series of resolutions instructing Judicial Offices' directors to adopt organisational solutions in line with legislative measures and aimed at protecting people's health while ensuring ongoing judicial activities during the health emergency, overall through increased use of IT tools.

Among the several deliberations on this matter (collected in an ad-hoc folder on the Council's website) we should primarily mention the guidelines adopted on 5 and 11 March 2020 suggesting, by virtue of the primary emergency legislation adopted, that the directors of judicial offices adopt the necessary organisational measures to cope with the pandemic emergency by involving the office magistrates, administrative staffs and lawyers.

The guidelines addressed a number of issues, such as: stability of organisational measures; management of criminal hearings (to contain the burden of procedural requirements and avoid the risk of contagion); handling civil hearings through electronic filing of orders via models to be imported onto the console; suspension (or extension) of deadlines for management programmes, weekday schedules and opinions on increases in the staffing plan entrusted to Judicial Councils.

The subsequent guidelines adopted on 26 March 2020 play a significant role, fully replacing the previous guidelines and instructing office directors as to scheduling and handling civil and criminal hearings both for the first phase of the health emergency (9 March – 15 April 2020) – i.e., all hearings were to be postponed ex officio except for the so-called urgent proceedings pursuant to Article 83(3) of the above-mentioned Decree-Law – and the second phase of the health emergency (16 April – 30 June 2020), suggesting suitable methods to contain the increase in procedural requirements and avoid the risk of contagion – i.e., out-of-court postponement for criminal proceedings and remote connection for urgent hearings, as well as memoranda of understanding with the bar associations and charters and electronic transmission of urgent acts; for civil cases: adjournments via

telematic measures, possible adjournments to dates after 30 June, handling unavoidable hearings via remote connection or written procedures, encouraging, to this end, memoranda of understanding with local bar associations/charters, telematic filing of parties' requests, provision of remote council chambers.
The CSM also envisaged out of court adjournment for juvenile courts and supervisory offices, and remote connection for undeferrable hearings.

As to the implementation of organisational measures, the Resolution recommends applying participatory procedures to involve – also informally, in a consultative capacity – office members, lawyers and administrative staffs.

Furthermore, indications were provided regarding the organisation of services (through shifts of magistrates to ensure undeferrable hearings and/or acts, relying – for those not on duty – on holiday arrears or, in any case, on remote working) primarily in those offices experiencing major difficulty, for which the resolution identified possible solutions (district or inter-district application).

The aforementioned guidelines also regulate the meetings of the Judicial Councils, allowing for remote meetings whereby necessary to handle urgent issues. Finally, the guidelines provide for: postponed deadlines to adopt the new organisational projects of prosecutors' offices, suspension of requests for extra-district application and filing of working/vacation schedules and management programmes pursuant to Article 37 of Law No. 111 of 2011 (subsequently, via the Resolution issued on 2 December 2020, the CSM postponed the formats of management programmes for civil proceedings to March 2021 and the management plans for the criminal sector to 2022).

Similarly, supplementary resolutions were issued on 1 April 2020 and 8 April 2020 to approve two decisions, one for juvenile courts and one for probation offices, respectively.

In the framework of guidelines for organisation of judicial offices, it is worth mentioning Resolution dated 4 June 2020, which incorporated the results of the monitoring activity carried out, on behalf of the Seventh Commission, by the Working Group on the application of the "Guidelines on proceedings relating to gender and domestic violence crimes" within relevant offices. The above Resolution analyses guidelines and application methods aiming to identify best practices for best protection of women and minors during the health emergency, with reference both to the activities carried out by investigative/prosecuting offices and to the trial phase.

Subsequently, via Resolution dated 4 June 2020 and upon proposal of the Seventh Commission, the CSM adopted ad-hoc guidelines on executive and contest procedures for the second phase of the emergency. While in the first phase of the pandemic, the instrument of ex officio postponement and suspension of time limits (except for the declaration of urgency) applied in the above sectors, in the second phase the Resolution called for adequate organisational measures to reactivate the liquidation and distribution of proceeds, so as to channel the resources into the economic system by urging unavoidable hearings to be performed, whether in paper or telematic form.

Finally, with Resolution dated 4 November 2020, given the prolonged emergency resulting from the pandemic escalation, new guidelines were adopted for judicial offices, which addressed various organisational and regulatory profiles. Furthermore, indications were provided on the solutions to be adopted for magistrates in fragile condition and magistrates in quarantine or so-called fiduciary home isolation who are not in a state of certified illness.

While adopting the guidelines, the implementation of protocols was also encouraged, involving legal professions and compliantly with primary legislation, so as to ensure specific procedural and trial steps (via ad-hoc forms).

Opinions pursuant to Article 10 of Law No. 195/1958 on regulatory interventions to address the pandemic emergency

Upon proposal of the Sixth Commission, the CSM adopted three opinions revealing some critical issues – also of an interpretative nature, and some amendments and integrations were suggested – as to the urgent regulatory

texts adopted to cope with the ongoing pandemic emergency, taking into account the impact of the new provisions on offices organisation and, hence, on the timeliness and effectiveness of the judicial activity.

In particular, following an in-depth study carried out by the Sixth Commission, the opinion on the bill converting into law Decree-Law No. 18 of 17 March 2020 on "Measures to strengthen the National Healthcare Service and economic support for families, workers and enterprises in relation to the COVID-19 epidemiological emergency" was approved on 23 March 2020.

The Decree-Law is broken down into two parts: the first lays down urgent measures to counter the COVID-19 epidemiological emergency and curb its effects on civil, criminal, tax and military justice; the second sets out emergency provisions on prison overcrowding.

Via Resolution dated 14 May 2020, the CSM also issued a further opinion on the provisions concerning the civil sector as per Decree-Law No. 28 of 30 April 2020 "Urgent measures for operating the systems of interception of conversations and communications, further urgent measures in the domain of penitentiary regulation, supplementary and coordinating provisions in the field of civil, administrative and accounting justice, and urgent measures for introducing the Covid-19 alert system".

Still in the field of emergency legislation, on 17 June 2020, the CSM approved the opinion on Article 2 of Decree-Law No. 28 of 30 April 2020 and on Decree-Law No. 29 of 10 May 2020 on penitentiary matters.

15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

Over the past year, the Ministry of Justice carried out activities for the collection, corroboration, processing and publication of statistical data concerning the judicial activity with the aim of: a) supporting the Minister, the Head of the Department and all those within and outside the judicial administration, which for various reasons expressed a need for information; b) participating in meetings with delegations of international organizations (European Commission, Monetary Fund, World Bank); c) transparency towards citizens, in particular as regards the trends in the demand for justice in our country and the response capacity of the system.
As a statistical office integrated in the National Statistical System [SISTAN] pursuant to Legislative Decree no. 322 of 6 September 1989, the Statistics Department of the Ministry coordinated all the official statistics of the Ministry, verifying compliance with privacy legislation. In addition, it provided support for the definition of the National Statistical Plan through the contribution provided by quality Circles.

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation

As regards the judicial geography, which did not undergo significant changes in 2020, with the distribution throughout the national territory of new human resources resulting from the increase in the number of judiciary staff, a general increase was achieved in the number of magistrates - both judges and prosecutors - assigned to individual first and second instance offices.

C. Efficiency of the justice system

17. Length of proceedings

Other – please specify

With regard to the proposed reform of the CSM, we hereby forward the link to the website of the Chamber of Deputies for relevant updates on the parliamentary proceeding.

https://www.camera.it/leg18/126?tab=&leg=18&idDocumento=2681

PILLAR II.

ANTI-CORRUPTION FRAMEWORK

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format.

There are no changes to the institutional anticorruption framework, already provided in the 2020 Rule of Law Report

In the past few years, ANAC has been active on many different fronts concerning both the implementation of anticorruption measures in the Italian Public Administration and the oversight on public contracts.

As regards the anticorruption measures, the Authority provided support through regulatory and advisory activities, aimed at providing interpretative and application guidelines.

A summary table of the activities carried out by the Authority in the last five years is reported below.

Table 1.1 -The Authority in numbers (2015-2019)

AREA of ANAC's MANDATE	CASES	2015	2016	2017	2018	2019	TOTAL
Anti-corruption and transparency	Proceedings relating to the prevention of corruption	929	842	241	285	187	2.484
	of which sanctions	0	12	8	6	7	33
	Transparency proceedings	341	193	300	219	271	1.324
	of which sanctions	23	19	19	7	6	74
	Disqualification, incompatibility and conflict of interest	183	149	200	150	175	857
	Whistleblowing	125	183	364	783	873	2.328

Public procurement	Supervision on public contracts for works, services and supplies	2.480	1.500	1.100	679	792	6.551
	Supervisory procedures in the area of enterprises' qualification (SOA + SOA certification checks)	2.560	2.147	2.022	1.612	2.711	11.052
	- of which sanctioning proceedings	71	43	60	86	106	366
	Public procurement sanctioning proceedings	772	846	878	713	854	4.063
	Pre-litigation advices	653	460	297	541	258	2.209
	Advices on public procurement legislation	290	196	272	144	160	1.062
Audits		41	76	40	38	30	225

Main Activities in 2019

- In 2019, the legal and economic status of the Authority's staff was definitively aligned with that of the other independent authorities. Art. 52-quater, of the Decree Law 24 April 2017, no. 50, gave the Authority more autonomy, including the power to define:
  - - the organization;
  - - the operations;
- - the legal and economic status of its staff

  The Authority has implemented the aforementioned provisions by adopting the Regulation on the legal and economic status of its personnel. The Regulation entered into force on 1 January 2019.

- On June 24, 2019, the "Regulations for the discipline of relations between ANAC and special stakeholders of the National Anti-Corruption Authority and the establishment of a Public Agenda of Meetings" entered into force. At the same time, the Code of Conduct for the President and the members of the Board and the Code of Conduct for employees were also adapted to the duties introduced by the new regulation. The Regulation governs the relations between the Authority's decision-makers (members of the board and managers) and the stakeholders, ensuring transparency and establishing the organizational procedures and criteria for meetings requested by the stakeholders. The public agenda of meetings identifies the citizens met, the methods and purposes of the meetings. The Agenda is published on the Authority's website in the "Transparent Administration" section and is updated weekly.

- ANAC adopted the **National Anti-Corruption Plan (NAP) for the three-year period 2019-2021 (Resolution no. 1064 of 13 November 2019)** which includes some innovations compared to the previous Plans. This Plan brings together in a single document, all the indications contained in the previous NAPs including updates adopted from 2013 to 2018. The aim of this document was to simplify the regulatory framework and make the NAP a useful tool to facilitate the activity of administrations in the implementation of the three-year-anticorruption plans (PTPCT). It is complemented by three annexes: Annex 1 contains methodological indications for the management of corruption risk; Annex 2 provides information on the rotation of officers; Annex 3 contains a review of the current legislation on the role and functions of the RPCT (*responsabile per la prevenzione della corruzione e della trasparenza* i.e. the person in charge of prevention of corruption and transparency).

- The Authority, in collaboration with the Tor Vergata University of Rome and the Luigi Vanvitelli University in Campania, has developed an online platform (on the ANAC website from 1 July 2019) for the collection of information on the preparation of PTPCTs and their implementation. The adoption of an IT platform, which systematically acquires the relevant information on the planning and implementation of corruption prevention measures, allows for a detailed and in-depth statistical analysis of the data, facilitating ANAC both in its supervisory activity and in the study and analysis of corruption.

- During 2019, ANAC also launched the Experimental Project on Transparency the purpose of which is to study what is the state of play in the demand for transparency seven years after the entry into force of Legislative Decree 33/2013 and what the potential demand for transparency could be in the future.

- For the year 2019 the Authority's investigation activity can be summarized as follows: 2,900 complaints received on works, services and supplies contracts, of which 1,000 for works, with 550 investigations open and about 1,900 notifications of possible irregularities for the services and supplies sector, with 242 open investigations and 30 inspections carried out.

- The experience gained on the awarding procedures for contracts for the EXPO 2015 in Milan has led the Authority to implement a new form of collaborative supervision, consisting of the preventive verification of tenders in order to guarantee the correct execution of the tender procedures and prevent criminal infiltration attempts. In 2019, 12 new "MoUs" for collaborative supervision were stipulated with contracting authorities for a total of 13 new proceedings, averaging over several hundred million euros in contract value.

- In 2019, 482 pre-litigation requests were received. The Authority has approved 197 opinions, of which 37 in the simplified form of Art. 11, paragraph 5, of the Regulations and issued 61 opinions signed by the manager of the Office , for a total of 258 opinions; 30 of the approved opinions are binding opinions. In 3 cases, the unsuccessful party asked the Authority to review the opinion and in only 6 cases it filed a judicial appeal. Finally, they were affected by one of the reasons for inadmissibility or enforceability, referred to in Art. 7 of the Regulation, 195 instances whose proceedings ended with a ruling in the rite. In January 2020, the remaining 29 requests are under investigation.

- During 2019, 160 opinions were issued in the course of the consultation activity.

For the year 2020, in conjunction with the epidemiological emergency from Covid-19, the Authority has continued its work.

In particular, ANAC:

- in order to speed up tender procedures, offered contracting authorities to stipulate collaborative surveillance protocols to support administrations in emergency management even beyond the ordinary limits imposed by legislation and available resources;

- in order to favour a consistent interpretation of the numerous Law Decrees, issued a provision indicating to the administrations how to operate in the area of public procurement in light of the emergency Decree Laws which - by not dealing directly with the subject of tenders, but generally affecting administrative procedures - had created considerable disorientation for the contracting authorities;

- in order to avoid a freezing of public tenders, sent an urgent report to the Government and Parliament, with reference to the Decree Law 18/2020 and to the Decree Law 23/2020, underlining the risk that the general suspension of administrative proceedings envisaged therein could lead to unjustified paralysis

of tenders and offering regulatory solutions to allow a rapid resumption of interrupted or slowed-down administrative procedures;

- in order to allow the Administrations to concentrate on the activities related to the health emergency, suspended all the obligations envisaged towards the Authority by the contracting authorities and by the administrations in general, well beyond the provisions of the legislation, foreseeing that the supervisory activity would not have started in any case due to the delay in the fulfillment of activities whose term could not be suspended through a provision of the ANAC;

- in order to guarantee immediate liquidity to companies, asked the Parliament and the Government to amend the legislation in order to allow administrations to make payments in favor of companies for work in progress (SAL) not yet due, that is, partial payments for work already performed but not yet welded.

- in order to reassure the contracting authorities regarding the possibility of using the simplified procedures already provided for by the law in the event of an emergency and in order to ensure their rapid use, published an operational handbook summarizing all the emergency provisions of the Contracts Code, as well as special rules and civil protection acts; similar initiatives were taken by the European Commission, which issued a specific communication on the matters within its mandate and by numerous governments around the world;

- in order to concretely help the recovery, made part of its budget available to the community by proposing to the Government to use 40 million euros ANAC had in cash to exempt the business system from paying the Tender Identification Code (CIG) for the entire current year; the Government included this provision in the relaunch decree;

- in order to ensure legality in the emergency phase, carried out a special supervisory activity in relation to emergency tenders, making sure that the investigations did not affect the operations of the administrations by slowing down the procedures;

- in order to deal with the unjustified rise in prices of goods purchased by administrations during the emergency period, accompanied its supervisory activity with a monitoring of the economic conditions aimed at providing benchmarking indications to contracting authorities;

- in order to promote economic recovery, it drawn up a document, sent to the Prime Minister and the competent Ministers, containing various proposals to speed up procedures to support the economic recovery.

ANAC is particularly keen in its commitment at the international level (in accordance with article 6.3 UNCAC). Indeed, ANAC is engaged internationally through its participation to different anticorruption and transparency fora (such as UNODC, G20, G7, OECD, OSCE, Council of Europe and GRECO, European Union, World Bank as well as Open Government Partnership).

• Above all, in this period ANAC considers very important the functioning of two networks that it contributed to establish:

- NCPA (Network of Anticorruption Authorities) .ANAC's most recent (2018) and high result is the creation of the Network of Corruption Prevention Agency (www.coe.int/en/web/corruption/ncpa-network). The aim of this Network is to, inter alia: establish models of cooperation and mutual assistance; creating working groups for the development, implementation and monitoring of their functions; elaborate common positions and sectorial standards and propose them to the attention of multilateral institutions, thus actively feeding the advancement of international law; harmonize, deepen and foster domestic rules on corruption prevention by, for example, exchanging domestic practices and information.

- The "Network of European Authorities for Integrity and Whistleblowing" (NEIWA).NEIWA is a coordination network between 21 state authorities with competence in the field of whistleblowing belonging to EU member countries for the exchange of information and practices regarding whistleblowing. It was held in The Hague in May 2019. The discussion in NEIWA is focused on the European Directive 2019/1937 on the protection of people who report violations of Union law (published in the Official Journal of the European Union on 26.11.2019) and on the transposition of the same into the laws of the Member States.

• ANAC requested and obtained technical assistance from the European Commission in the form of a Structural Reform Support Service (SRSS) that financed the services of an international expert on whistleblowing for an eighteen-month period.

• In addition, ANAC is the beneficiary of two more SRSS projects :

- the "Reinforcing the Institutional Corruption Prevention Community in Italy" project, with the objective to establish a platform of communication for the responsible persons for corruption prevention and transparency in each public administration, and

-the "ANAC's role in leading and coordinating national corruption strategies" project, to enhance the coordination between ANAC and international, national, and local actors involved in the prevention and fight against corruption.

B. Prevention
19. Integrity framework including incompatibility rules (e.g.: revolving doors)

Anac's supervisory activity on the impartiality of public officials is divided into two main areas:

a) the assessment of the legitimacy of the appointments of managerial positions in public administrations, public entities and private entities under public control, pursuant to Legislative Decree 8 April 2013, no. 39;

b) the evaluation of the correct behaviour of public officials, particularly in the event of a conflict of interest.

To these profiles is added the investigation of cases of so-called "Pantouflage" or "subsequent incompatibility".

It is, therefore, an investigation activity on individual concrete cases, which is expressed in the forms of supervision, as well as consultative activity and which led to the formulation of general rules and principles, based on a sort of "case law".

The supervisory activity can be defined as an "a posteriori" control, that is, it concerns the legitimacy of the assignment of an office or behaviour already in place and involves a censure or a sanction to the administration concerned, in case of violation of the Law of reference.

The supervisory procedures are generally activated on third-party reporting; in this sense, there are numerous solicitations that reach the Authority from its stakeholders or from ordinary citizens through certified mail. The procedure takes place in contradiction with the interested parties and ends with a Resolution approved by the Council of the Authority which is published on the institutional website, possibly obscuring sensitive data. The Resolutions that declare the disqualification or incompatibility of public offices are generally subject to appeal in court by the interested parties; the appeal was rarely accepted by the competent administrative judge.

In the case of Resolutions concerning hypotheses of conflict of interest, in the absence of specific and binding powers, the Resolutions approved by the Council leave the necessary assessment to the RPCT (official responsible

for prevention of corruption and transparency, appointed in each administration) and/or to the political body of the entity. In the most serious cases, the supervisory Resolutions are transmitted to the competent Public Prosecutor's Office or the Court of Auditors.

No less important is the consultation activity on the matters of disqualification/incompatibility and conflict of interest, solicited by various interlocutors: from private individuals to local administrations asking for support, to the top bodies of central administrations who need to ascertain the legitimate conferment of offices.

In 2019, the Authority investigated 175 files with in-depth examination and dealt with simplified tools (e.g.: sending communications to whistleblowers/applicants) many other issues that are counted in the hundreds.

ANAC monitors compliance with the obligation of the adoption of the codes of conduct. The decree law n. 90 of 2014 has furthermore introduced the possibility for ANAC to impose a pecuniary sanction against those public entities lacking anti-corruption plan, the transparency program and/or the code of conduct.

Following the analysis of existing practices and a paper issued by a dedicated working group, the Authority has deemed necessary issue new guidelines. This is in order to promote a substantial relaunch of codes of conduct at the administrations as a tool to prevent corruption risks to be harmonized and coordinate with the PTPCTs (anticorruption plans) of each administration. As this regard, ANAC adopted the resolution n. 117/2020.

The procedures of the Authority are established in its regulatory acts on the supervisory and sanction powers.

In October 2019, the Italian Anticorruption Authority was identified as both the supervisory and sanctioning authority on the issue of ‘revolving doors’.

In its judgement, the Council of State stated that Art. 16 of Legislative Decree 39 of 2013 assigns to the National Anti-Corruption Authority the general task of supervising "compliance by public administrations, public entities and private law entities under public control, of the provisions of this decree, also with the exercise of powers of inspection and ascertainment of single cases of assignment of the office" in turn, Art. 21 of the same decree explicitly refers to the discipline referred to in Art. 53, paragraph 16-ter of Legislative Decree 165 of 2001 for the specific purpose of extending the field of application in this context. Therefore, Art. 16 of Legislative Decree 39/2013 establishes a specific, though non-textual, attribution of competence in favour of ANAC also with regard to ascertaining the nullity of the contracts in question "as a natural and coherent predicate of the attribution of competence to ascertain system violations ".

The Council of State therefore established that the envisaged sanctioning powers belong to ANAC.

As highlighted in the press release of the President of ANAC of 30 October 2019, the finalistic link between the regulation assisted by the administrative sanction and the functions given to the Authority identify in ANAC the subject who has the task of ensuring, upon the outcome of the assessment of a pantouflage situation, the nullity of the contracts signed by the parties, as well as the adoption of the consequent sanctions.

The decision of the Council of State is certainly useful and relevant to overcome some of the interpretative questions, however, doubts remain, in particular, on the automaticity of the consequences deriving from the assessment, in addition to the opportunity to clearly establish in the norm that it is ANAC the competent Authority for ascertaining the prohibition and for imposing the consequent sanctions. For these reasons, the Authority issued a specific report to the Government and Parliament, approved by Resolution no. 448 of 27 May 2020.

20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

As regards asset disclosure, in 2020 the transparency regime for holders of political offices provided for by art. 14 of Legislative Decree 33 of 2013 remained unchanged. Holders of political offices, at the central , regional and local level, are required to fill in forms indicating their sources of income, assets and external positions, along with a copy of the tax return to be published on the website of each administration.

Significant changes occurred instead for public managers.

The Constitutional Court with sentence no. 20/2019 declared the constitutional illegitimacy of article 14, paragraph 1-bis of the Legislative Decree no. 33/2013 in relation to the obligation for public administrations to publish the asset declarations of all holders of managerial positions. The Court ruled that such obligation should concern the General Secretaries of ministries and managers of equivalent levels and general top managers (paragraph 3 and 4 of the legislative decree 165/2001).

According to the Court, the contested provision fails to graduate the obligations in relation to the role, responsibilities and office held by managers.

Following the judgment of the Court, the legislator adopted a provisional decree law 30 December 2019, no. 162. It provides that, pending the adoption of new measures by the legislator, public administrations will publish for the holders of those managerial positions all data indicated in article 14 of Legislative decree no. 33/2013, included asset declarations. (Article 1, paragraph 7).

The decree anticipates that with a regulation to be adopted by 30 April 2021, the legislator will define the data referred to in paragraph 1 of article 14 of the legislative decree 14 March 2013, no. 33, to be published for holders of top management and managerial positions, however named, as well for managers of the national health service, in compliance with the following criteria:

a) graduation of the disclosure obligations in relation to the external relevance of the position held , to the level of managerial and decision-making power exercised, to the managerial functions, to the complexity of the structure;
b) provision that asset declarations may also be subject to communication to the administration and not to publication on the website;
c) identification of managers of the administration of the ministries of internal affairs , foreign affairs and international cooperation, of the police forces, the armed forces and the prison administration for which asset declarations are not published, based on the potential prejudice to national security and public order.

In order to ensure the immediate and effective application of the protection measure referred to in letter c), the administrations indicated therein may identify, by decree of the competent Minister, the managers for whom the data referred to in Article 14 of the legislative decree 14 March 2013, n. 33, are not published.

On the issue of lobbies, ANAC has been involved on such issue following the introduction of the crime of influence peddling (article 346- bis of the Penal code). In the National Anticorruption Plan (PNA) 2019, and before in PNA 2015, the Authority encouraged administrations to adopt measures to regulate relations with "representatives of special interests" (lobbies).

On 20 October 2020, the President of ANAC hold an audition on three bills currently under discussion on the representation of interests in front of the I Commission of the Chamber of Deputies.

ANAC has introduced a specific regulation governing the relations between ANAC and stakeholders (Resolution no. 172 of 6th February 2019). The Regulation governs the relations between the Authority's decision-makers (the component of the board and the managers) and the stakeholders, ensuring the maximum transparency and establishing the organizational procedures and criteria for the meetings requested by the stakeholders.
This new kind of regulation has introduced the public agenda of meetings, which contains the information required to get to know the citizens, the subjects met, the methods and purposes of the meetings. The Agenda is published on the Authority's website in the "Transparent Administration" section and is updated weekly.

21. Rules on preventing conflict of interests in the public sector

A draft law that establishes a comprehensive discipline of conflicts of interest has been under discussion at the Chamber of Deputies since May 2019 (I Commission, Draft Law, C. 1461).
The draft text - almost entirely replacing the current law on conflict of interest (no. 215 of 2004) -:

- contains more stringent measures in the discipline of conflicts of interest for holders of national government offices and members of independent administrative authorities
- these measures are also applied to holders of regional government offices and to holders of local offices municipalities with more than 100,000 inhabitants)
- expands cases of ineligibility for the office of member of Parliament and regional councilor;
- provides for new rules on the ineligibility of judges and provisions on the regulatory regime to be applied to judges who are candidates in elections;
- delegates to the Government the definition of a more stringent discipline for the prevention and contrast of conflicts of interest in the public administration, entrusting ANAC with specific powers of intervention and sanctions and providing for new measures of transparency in the current regulatory framework;
- expands the cases of appointment ban (currently governed by Legislative Decree no. 39/2012), together with limits to the possibility of double roles in administrative bodies and publicly controlled companies;
- extends the subjective scope of rules on conflicts of interest. To prevent conflicts of interest, for holders of government offices , the law places on the Authority for the competition and the market (AGCM) controlling, supervisioning and sanctioning functions.

22. Measures in place to ensure whistleblower protection and encourage reporting of corruption

The § dedicated to whistleblowing in the Report 2020 refers to private sector but its contents refers to public sector. The paragraph can be better focused on the difference between the two sectors.
Following the revision of the legal framework in 2017[82] on whistleblowers, the protection was extended to the private sector (through amendments to Legislative Decree n. 231 of 2001). However, protection of whistle-blowers in the private sector remains limited to the employees of private enterprises that adopted compliance programs ANAC does not receive reports from private employees and has not the power to issue sanctions for this sector.

Law No. 179/2017 also extended the interpretation of employees of the public administration who receive protection when reporting unlawful conduct. They now include workers and employees of private enterprises providing goods or services and performing works in favour of public administration too.

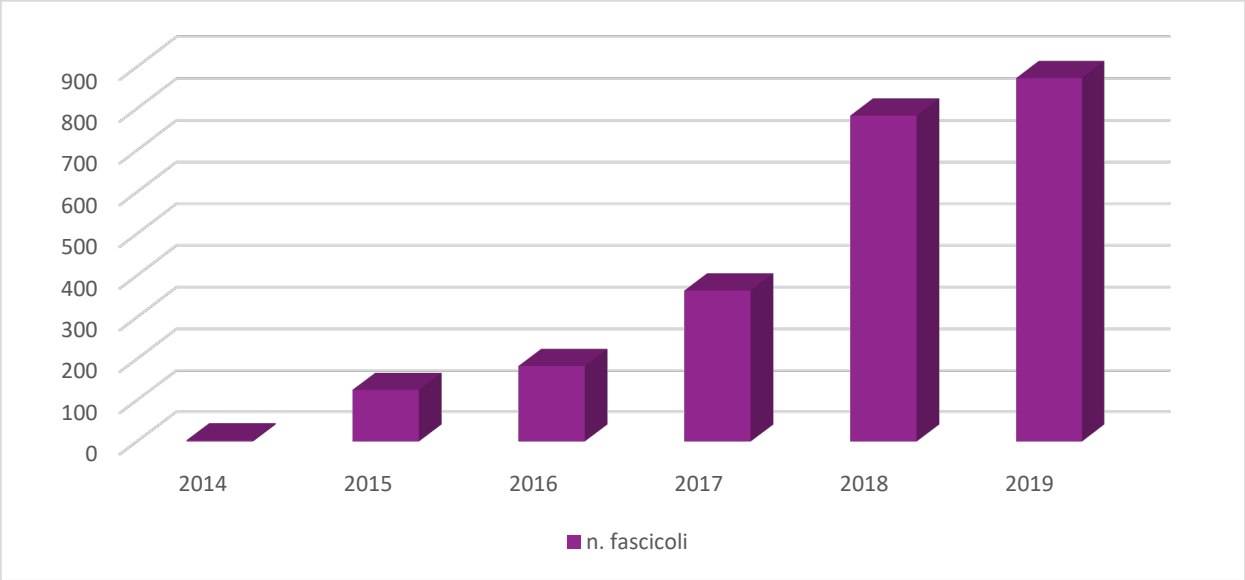
This has contributed to determine a rise in reporting in the public sector. According to the most recent ANAC annual report, the use of the whistleblowing instrument saw an exponential rise in recent years, increasing from 125 reports in 2015 to 873 in 2019, with a total of 2,330 reports in the period 2015-2019.

Table 6.1 - Number of whistleblowing communications and reports received per year

YEAR	2014	2015	2016	2017	2018	2019
Number of cases	3	125	183	364	783	873

Source: ANAC

Figure 6.4 - - Number of whistleblowing communications and reports received per year

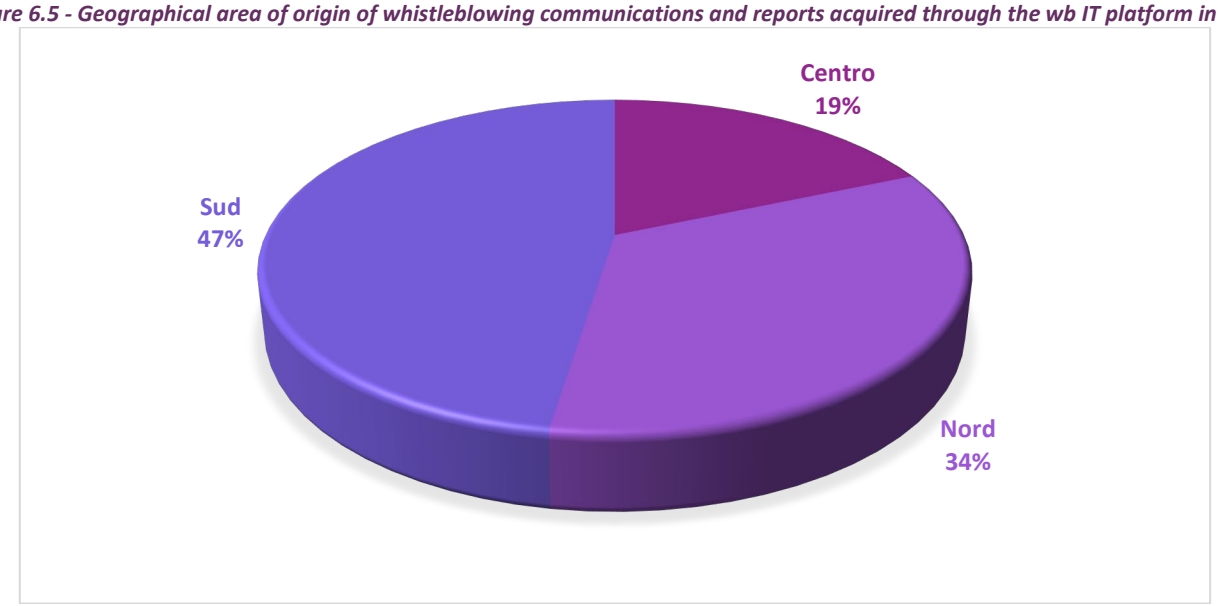


Source: ANAC

From a geographical perspective, it is noted that in 2019 most of the reports were acquired from south and north of Italy.

With regard to the body in which the communication or reporting is carried out, for the year 2019, there was a prevalence of complaints from local entities, followed by administrations and public entities in general, as well as by educational, training and research institutions and conservation and by health care or hospital companies.

Figure 6.5 - Geographical area of origin of whistleblowing communications and reports acquired through the wb IT platform in 2019



Source: ANAC

Table 6.2- Type of entity referred to in whistleblowing communications and reports acquired through the wb IT platform in 2019

Administration Type	%
Regions and local entities (including associations and local police)	42.92%
Other administrations and public entities	21.74%
Educational, training, research and conservation institutions	11.08%
Health care or hospital companies (including Scientific Institute for Hospitalization and Healthcare)	10.52%
In-house or publicly owned company	5.89%
Private Law subjects	3.51%
Law enforcement	1.96%
Anonymous and unclassified	2.38%
TOTAL	100,00

Source: ANAC

Table 6.3 Percentage of incidence of the type of abuse in whistleblowing reports acquired through the wb IT platform in 2019

Predominant type	%
Unlawful procurement	21.60%
Corruption and maladministration, abuse of power	21.18%
Unlawful employment competitions	13.46%
Adoption of discriminatory measures by the administration or entity	9.82%
Poor management of public resources and fiscal damage	9.82%
Unlawful offices and appointments, including in violation of Legislative Decree 39/2013	8.70%
Conflicts of interest	5.75%
Failure to implement the anti-corruption regulations	4.77%
No RPCT response - Unlawful offices and appointments, including in violation of Legislative Decree 39/2013	1.12%
Absence of procedures for submitting and managing reports or adoption of procedures that do not comply with those referred to in paragraph 5 of Art. 1 of the Law no 179/2017	0.70%
None and unclassified	3.08%
TOTAL	100,00%

Source: ANAC

The transposition process of Directive (EU) 2019/1937 on the protection of persons who report breaches of EU law is ongoing. A commission has been established to that end.

22. Measures in place to ensure whistleblowers protection and encourage ereporting of corruption-
With regard to national prevention, the Ministry has put in place an IT whistleblowing portal, to allow employees of the Administration to report cases of maladministration, which they have become aware of while carrying out their work, ensuring protection of the identity of the reporting party and the confidential treatment of the contents of the report and any attached documentation.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

Law No. 190/2012 *"Rules for the prevention and repression of corruption and unlawfulness in public administration"* identifies areas at a high-risk of corruption with reference to all public administrations consisting

of: public procurement; management of economic benefits, grants, and financial aids; authorizations or concessions; recruitment of civil servants and career advancement (Article 1, paragraph 16).

In line with the Italian anti-corruption system, the regulation to mitigate public integrity risks is adopted both at the central level (three-year National Anticorruption Plans (PNAs) approved by the Italian National Anti-corruption Authority) and at the local level (the three-year prevention of corruption and transparency plans (PTPCTs), approved every year by public administrations, economic public bodies, professional associations, state controlled enterprises, private controlled entities).

Since 2015, the PNAs focused on specific sectors exposed to a significant risk of corruption: public contracts, healthcare, cultural heritage, territory Government, management of structural and national funds for cohesion policies, waste management. For these sectors, processes exposed to a high risk of corruption have been identified and measures have been suggested to mitigate risks In the form of advice rather than obligations. It remains the full responsibility of the administrations to identify and implement them in the most suitable and appropriate way according to their own characteristics.

For the sector of public procurement, in PNA 2015, ANAC examined the whole cycle of public procurement from the selection of the contractor to the execution and verification of the contract, identifying the critical issues and planning specific measures.

Some indicators have been proposed for each phase. For example, the value/number of contracts awarded without public tender procedures for the same categories in a given period; the increase of costs during the execution, a possible indication of an incorrect calculation of the contract value; the reduced number of offers received, sometimes an alert to detect tenders aiming at favoring a specific company. These indicators allow the internal control to take the consequent initiatives in order to prevent corruption events.

As far as conflict of interest in the public procurement is concerned, pursuant to article 42 of the Code of Public contracts, appropriate measures must be taken by the contracting authorities to prevent and resolve any conflict of interest in the awarding procedures. This to avoid any distortion of competition as well as ensure equal treatment between tenderers. Whoever is in a situation of conflict of interest must inform the awarding authorities and abstain from participating in the procedure.

For a civil servant there is conflict of interest in public procurement if he/she has, directly or indirectly, a financial, economic or other personal interest that may be perceived as a threat to its impartiality and independence in the context of the procurement or concession procedure. In particular, it constitutes a conflict of interest a situation which impose the obligation of abstention provided for in article 7 DPR 62/2013.

ANAC has issued several guidelines to prevent the abuse of public office and conflict of interest in the public procurement process.

The PNA 2021-2023 will be focused on public procurement with a specific analysis on European contracts.

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic.

(Please, see answer to question -A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution-)

The decree-law No. 18/20, containing "*Measures to strengthen the National Health Service and economic support for families, workers and businesses related to the epidemiological emergency from COVID-19*", contains provisions aimed at encouraging donations in favour of administrations engaged in the health emergency from COVID-19.
Article 99 of the same decree-law *"Liberal donations in support of fighting the epidemiological emergency from COVID-19"* defines specific transparency obligations for all public administrations that receive donations.
Paragraph 5 of article 99 states that *"For the donations referred to in this article, each beneficiary public administration implements a specific separate reporting, for which the opening of a dedicated current account with its treasurer is authorized, ensuring complete traceability. At the end of the national state of emergency due*

to COVID-19, this separate report must be published by each beneficiary public administration on its own website or, failing that, on another suitable website, in order to guarantee the transparency of the source and use of the donations".
This last provision therefore concerns all "public administrations" and introduces specific measures to ensure the transparency of the source and use of donations consisting in the obligation to prepare a separate report to be published - at the end of the state of emergency - on its website or in the absence on another suitable website. The subjective scope of application does not include private individuals.
Considering the generic provision to publish the reporting of donations contained in article 99, the National Anti-Corruption Authority has developed, jointly with the Ministry of Economy and Finance, a form to be used to record the donations received.
With the aim of facilitating the work of the administrations and ensuring the transparency, the form provides for a minimum content that allows to guarantee compliance with the legislation. These content can be integrated by public administrations with additional data (funded interventions, time schedule, progress of any subsidized works, residual funds) in order to promote maximum transparency.

The decree-law 16 July 2020, No. 76 "*Urgent measures for simplification and digital innovation*" contains some relevant innovations in the field of public procurement, aimed at encouraging public investments in the infrastructure and public service sector, as well as to address the negative economic effects following the global health emergency of COVID-19. The decree-law strengthens the measures to prevent corruption extending the use of Protocols of legality.
It has introduced article 83-bis in the Anti-Mafia Code (Legislative Decree 6 September 2011, no. 159).The Ministry of the Interior can now sign protocols or other agreements not only with institutional subjects but also with companies of significant size, as well as with the most representative associations at national level of productive categories. The provision enhances the legality protocols as a measure to fight corruption, in consideration of the traditional interest of criminal organizations in profits linked to the emergency and post-emergency phases.

25. Any other relevant measures to prevent corruption in public and private sector

In December 2020, the work of the Alliance against corruption was launched, a public consultation of experts from different cultural backgrounds, coordinated by a scientific committee composed of the Heads of the highest judicial institutions (Presidents of the Court of Cassation, Council of State, Court of Auditors, National Anti-Mafia and Anti-Terrorism Prosecutor's Office, Prosecutor General's Office at the Court of Cassation) and economic institutions of the country (the Governor of the Bank of Italy) and by highly authoritative representatives from academia.
Economists, statisticians, sociologists, criminologists, criminal law and procedure scholars, administrative law experts, lawyers, magistrates, communication and school operators will exchange views, in an analytical and proactive spirit, not only on the usual issues of prevention through criminal law and investigative strategies promoted by the legislative interventions of recent years (by law no.190 of 2012, law no.3 of 2019 and law no.69 in 2015).
The project provides for the study and verification of the impact of the administrative prevention measures implemented by the so-called Severino law, the ANAC founding measures and a series of subsequent interventions: the codes of conduct for public employees and anti-corruption plans; transparency and "generalized" access to administrative records, in the problematic relation with the privacy needs and data protection; the protection of whistleblowers in the public sector and in private companies, while the process of transposing adapting an important EU directive into our legal system is underway. A focus on the international dimension of corruption is also envisaged.
The project is structured into working groups on: regulatory quality of public contracts in our country; the streamlining of rules and procedures; quality of administrative and accounting controls; new perspectives opened up by information technologies on traceability of administrative procedures and responsibilities; regulatory shortcomings on lobbying activities and conflict of interest.

The objective of avoiding the appropriation of European resources allocated to revitalize the country also characterized the complex activity of transposition of the European Directive on the protection of the Union's financial interests and the legislative action to transpose the Regulation. establishing the European Public Prosecutor's Office into the national system, whose scope of action is defined by the offences affecting the Union's financial interests. The talks with Prosecutor Kovesi and the High Council of the Judiciary led to the drafting of a legislative decree, recently entered into force (Legislative Decree no. 9/2021 implementing EU Regulation no. 2017/1939). The agreement will be shortly finalized between the Justice Minister and the European Chief Prosecutor, provided for by Art. 13 of the Regulation, regarding the number, functional and territorial distribution of EDPs.
In the meantime, an in-depth ministerial reflection was carried out on the organizational option, also corresponding to EPPO's directions, of a contingent of 20 units, probably the largest share of EDPs of the entire European Public Prosecutor's Office. This solution is believed to be suitable to cope with the estimated workload and ensure an adequately widespread presence of the European Public Prosecutor's Office on the national territory without excessive fragmentation of the structure, so as to ensure the maximum operational efficiency of the institution. The High Council of the Judiciary is working on the EDPs selection mechanism, having already identified the criteria and requirements for the future submission of applications by interested magistrates.
The ministerial action followed also other paths in order to promptly launch EPPO's operational activities on the national territory; among the various activities launched, particular reference should be made to the identification of files falling within the competence of the EPPO, to the development of IT systems for EPPO files by identifying ad hoc registers, as well as to the preparation of what is necessary for the next selection of administrative staff.

C. Repressive measures

26. Criminalisation of corruption and related offences

Legislative developments.

Although the Italian legislation is already in line with most of the rules set out in EU Directive 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (the so-called PIF Directive), in 2020 the Italian legislator intervened in order to improve and make the implementation of the aforementioned directive more complete and effective.
Legislative decree no. 75 of 14 July 2020, entered into force on 30 July 2020, was then adopted. It contains a wide range of amendments to the existing legislation, both in the field of criminalisation of fraud offenses and related to corruption, and in the field of administrative liability of entities for offences committed on their behalf or for their benefit. It is an structured intervention aimed at streamlining administrative procedures, eliminating and speeding up the red tape, digitizing the public administration, supporting the green economy and business activity. The decree addresses particularly four main areas: simplifications in the field of public contracts and construction, procedural simplifications and liability, simplification measures for the support and dissemination of digital administration, simplification in the field of business activities, environment and green economy ".
A summary of the most significant changes for the purposes of point 26 is set out below.

A) Amendments to the Criminal Code

• the following were introduced: an aggravated case of embezzlement by taking advantage of another's error (316 of the Criminal Code), undue receipt of funds to the detriment of the State (Art. 316-ter of the Criminal Code), undue inducement to give or promise advantages (319-quater C.C.), in the event that the fact is detrimental to the financial interests of the European Union and the damage or profit exceeds 100,000 euros. In this event, a maximum sentence of 4 years' imprisonment instead of 3 is established for the above-mentioned offences.
• Art. 322-bis of the Criminal Code was amended in order to include, among those punishable for international corruption, also persons exercising functions or activities corresponding to those of public officials and persons

in charge of a public service in non EU Member States, when the fact affects the financial interests of the European Union;
• Finally, an aggravated case of fraud was introduced (Article 640 of the Criminal Code, paragraph 2, no. 1) if the offence is committed to the detriment of the European Union, punished by imprisonment from 1 to 5 years, in addition to a fine of € 309 to 1,549 euros.

The legislation on abuse of office was modified (Art. 323 of the Cr. C.), with an impact on the core of the criminal offence, resulting from the previous reform of 1997. The words violation "of provisions of laws and regulations" were replaced by the following: violation "of specific rules of conduct explicitly provided for by law or by acts having force of law and which allow no room for discretion". In a nutshell 1) the relevance of the violation of provisions contained in regulations has been excluded: the abuse is in fact committed only in case of violation of "rules of conduct ... provided for by law or by acts having force of law", i.e. by primary sources; 2) it was specified that only the failure to comply with "specific" and "explicitly provided" rules of conduct by the aforementioned primary sources is relevant; 3) it was also specified that only rules of conduct "allowing no room for discretion" are relevant. As to the other aspects, the offence remains unchanged: it still provides, as alternative conduct, the non-compliance with the obligation to abstain in the event of a conflict of interest, as well as the double alternative event, of the unfair financial advantage and wrongful damage, object of the malicious intent of the public official or the person in charge of a public service, acting in the performance of his/her duties or service. The political-criminal objective is to circumscribe the area of criminally relevant abuse of office with the aim of reassuring public officials and administrators to facilitate the recovery of the country.

B) Amendments to Legislative Decree no. 74 of 2000 on tax offences

Legislative Decree no. 75/2020 amended the legislation on tax offences, criminalizing even the sole attempt to commit the offences of fraudulent declaration through the use of invoices concerning non-existent transactions (Article 2 of Legislative Decree 74/2000), fraudulent declaration through other artifices (Article 3 of Legislative Decree 74/2000) and false declaration (Article 4 of Legislative Decree 74/2000), when the acts aimed at committing the offence are also committed in the territory of another EU Member State, in order to evade VAT for a total value of no less than 10 million euros. The provision is not applicable when the challenged acts constitute the committed offence of issuing invoices or other documents for non-existent transactions, provided for by Art. 8 of Legislative Decree 74/2000.

C) Amendments to Presidential Decree 43/1973 and Legislative Decree 8/2016 on customs matters

Legislative Decree 75/2020 introduced changes in the legislation on circumvention of customs duties.
First of all, by reforming Legislative Decree no. 8 of 2016, which had decriminalized customs offenses, the new decree restored the criminal relevance for all cases in which the amount of evaded duties exceeds 10,000 euros.Furthermore, by modifying Legislative Decree no. 43/1973, it introduced two aggravating circumstances for smuggling:

- if the customs duties evaded exceed 50,000 euros but not 100,000 euros, the penalty already provided for (not less than five and not more than ten times the fees due) is complemented by imprisonment of up to 3 years.
- if the customs duties exceed the value of 100,000 euros, the penalty of imprisonment from 3 to 5 years is added to the fine.

D) Amendments to Legislative Decree 231/2001 on the liability of entities for administrative offenses resulting from a criminal offence

As regards the liability of entities resulting from a criminal offence, Legislative Decree 75/2020 amended Legislative Decree 231/2001 in order to widen the number of predicate offenses, including the following cases:

• fraud in public supplies (Article 356 of the Criminal Code);

• fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development (Art. 2 l. 898 of 1986);

• embezzlement (Article 314, paragraph 1, Criminal Code), when the fact affects the financial interests of the European Union;

• embezzlement by taking advantage of another's error (316 of the criminal code) when the fact affects the financial interests of the European Union;

• abuse of office (Art. 323 Criminal Code) when the fact affects the financial interests of the European Union;

• some tax offences: false tax return, failure to file a tax return and undue compensation (Articles 4 and 5 and 10 quater of Legislative Decree 74 of 2000), if committed in the context of cross-border fraudulent systems and in order to evade VAT for a total amount of not less than 10 million euros;

• smuggling (Presidential Decree 43 of 1973).

27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

Convictions entered in the criminal records for corruption offenses issued from 2014 to 2019 per year of conviction and offense (natural persons)						
Offences	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
art.314 c.p.	**399**	**400**	**399**	**400**	**407**	**374**
art.316 c.p.	**18**	**16**	**6**	**6**	**4**	**8**
art.316 bis c.p.	**10**	**16**	**12**	**8**	**13**	**4**
art.316 ter c.p.	**99**	**98**	**129**	**156**	**174**	**153**
art.317 c.p.	**62**	**59**	**59**	**56**	**36**	**31**
art.318 c.p.	**13**	**25**	**15**	**18**	**35**	**23**
art. 319 c.p.	**128**	**159**	**143**	**176**	**151**	**104**
art.319 ter c.p.	**4**	**7**	**8**	**10**	**6**	**18**
art.319 quater c.p.	**58**	**65**	**86**	**58**	**56**	**52**
art.320 c.p.	**5**	**3**	**5**	**1**	**6**	**2**
art.321 c.p.	**122**	**96**	**68**	**108**	**68**	**77**
art.322 c.p.	**149**	**91**	**113**	**85**	**79**	**62**
art.323 c.p.	**79**	**86**	**76**	**87**	**71**	**53**
art.328 c.p.	**36**	**36**	**28**	**50**	**41**	**25**
art.346 bis c.p.	**0**	**2**	**3**	**5**	**9**	**9**
art.640 bis c.p.	**176**	**202**	**184**	**165**	**140**	**151**
art.2635 c.c.	**0**	**0**	**0**	**5**	**3**	**4**
art.2635 bis c.c.	**0**	**0**	**0**	**0**	**0**	**1**
art. 28 D.L.vo 39/2010	**0**	**0**	**0**	**0**	**0**	**0**
Total convictions per year	**1.358**	**1.361**	**1.334**	**1.394**	**1.299**	**1.151**

Convictions entered in the criminal records for corruption offenses issued from 2014 to 2019 per year of conviction and administrative offense (Legal persons)						
Offences	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
art. 24 D.L.vo 231/2001	**10**	**21**	**28**	**11**	**17**	**10**
art. 25 D.L.vo 231/2001	**9**	**17**	**9**	**8**	**15**	**7**
art. 25 ter, lettera s bis D.L.vo 231/2001	**0**	**0**	**0**	**0**	**0**	**0**
Total convictions per year	**19**	**38**	**37**	**19**	**32**	**17**

It should be noted that the data of recent years (in particular, 2018 and 2019) could be significantly lower than the real ones due to the existing backlog in the entering of judgments which have recently become final.

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

PILLAR III.

MEDIA PLURALISM

A - Media regulatory authorities and bodies

A. Media authorities and bodies

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

There are no updates on this point

30. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

There are no updates on this point

31. Existence and functions of media councils or other self-regulatory bodies

In Italy there are no Press or Media Councils. It is worthwhile mentioning, however, that in Italy the journalistic profession is regulated by a corporation named "Ordine dei Giornalisti", created by Law no. 1969 of 3 February 1963, prescribing duties connected to the journalistic profession (see also answer to Q 34).

B. Transparency of media ownership and government interference

32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

Pursuant to art. 41 of Legislative Decree no. 177 of July 31, 2005 (a.k.a. "*Testo unico dei servizi di media audiovisivi e radiofonici*" or "Italian AVMS Code") and to the procedural criteria established by the Italian Department for European Policy of the Presidency of the Council of Ministers with its Directive of 28 September 2009, the Italian public administration bodies (around 24,000 public administration institutions/organisms, including the public economic bodies) that purchase advertising space in the mass media, must inform AGCOM about the advertising expenditures of the previous financial year. This information must be sent each year between September 1 and September 30, by means of an electronic tool adopted by AGCOM with its Decision no. 4/16/CONS of 14/01/2016.

Pursuant to the aforementioned art. 41 of the legislative decree 177/2005, the amounts that public administrations or public bodies allocate to the purchase of advertising slots on the mass media, for institutional communication purposes, must respect, for each financial year, the following criteria:

- at least 15% of the advertising expenditures must be spent on advertisements broadcast on private local television and local radio operating in the territories of the EU Member States;
- at least 50% of the advertising expenditures must be spent on advertisements published on daily newspapers and magazines;
- at least 60% of the advertising expenditures must be spent on advertisements published on daily newspapers and periodicals in the transition phase to digital transmission.

AGCOM, also through the CO.RE.COM (Regional Committees), monitors the Public Administrations' compliance with the aforementioned criteria.

33. Rules governing transparency of media ownership and public availability of media ownership information

The rules governing the transparency of media ownership in Italy are established by art. 41 of Legislative Decree no. 177 of July 31, 2005 (a.k.a. "*Testo unico dei servizi di media audiovisivi e radiofonici*" or "Italian AVMS Code"), which identifies the following anti-concentration thresholds:

1. limits related to the supply of national and local television programs (art. 41, co. 7): the same content provider cannot hold licenses allowing it to broadcast more than 20% of the total television or radio programs on DTT, at national level. The same threshold (20% of DTT programmes) is foreseen also within each local area;
2. anti-concentration limits (art. 43, co. 9 and 10):
   - no operator can, directly or through controlled or linked companies, make more than 20% of the total revenues of the Italian *Integrated Communications System* (SIC), a basket that comprises the following sectors: TV, publishing, radio, internet included search engines, social networks and mobile, direct advertising activities, sponsorships, revenues from public service media licence fee, sales of movie tickets, rented or sold DVDs, direct state grants to publishers;
   - when M&A operations between operators active within the SIC occur, or when a broadcaster decides to transfer the licences and related DTT logical channel numbering, an authorization by AGCOM is needed.
   - restrictions on cross-media ownership[1] (art. 43, 12):~~,~~ national broadcasters that make more than 8% of the total revenues of the Italian SIC cannot acquire stakes in daily newspapers (excluding pure online newspapers); in the case of operators simultaneously active in the electronic communications markets and within the SIC, AGCOM is required to initiate an investigation, to be completed within six months, aimed at assessing whether the economic position of the interested parties is suitable for distorting or in any case producing harmful on pluralism[2].
3. Finally, art. 43 (co. 5 and 9) of the AVMS Code prohibits the dominant positions in any of the markets comprised in the Italian SIC and any situation that may hinder pluralism, allowing AGCOM to adopt the consequent measures when such a condition may occur.
   Recently, Law n. 159/2020, art. 4-bis, introduced a new discipline to the safeguard of media pluralism applicable to undertakings active across the electronic communication sector and at least one market enlisted in the SIC, either as a single entity, or by shareholdings which confer the power to exercise significant influence according to art. 2359 of the Italian Civil Code. According to these new rules, the previous mechanism of ex ante monitoring mostly based on quantitative threshold was abolished. As a result, AGCOM has been entrusted with the power to open a market investigation based on a predetermined set of criteria (entry barriers, vertical integration, level of competition in the affected markets, turnover).

The monitoring of the aforementioned rules is carried out by AGCOM. To that end, Law 249 of 31 July 1997 (*art. 1, paragraph 6, lett. a), n. 5 & 6*) entrusts AGCOM with the task to create and manage the *Register of Communication Operators* (hereinafter, ROC), to which (pursuant to art. 2 of Resolution no. 666/08/CONS) all the operators of the Italian communications sector (see the list below) are obliged to register[3]:

[1] In harmony with the judgment of the Court of Justice of the European Communities of 3 September 2020 C- 719/18, the national administrative judge (TAR) considered paragraph 11 of art. 43 of the AVMS Code not applicable (TAR, decision of the 23th of december 2020).

[2] The Law-decree 7 October 2020, n. 125, containing "Urgent measures connected with the extension of the declaration of the epidemiological state of emergency from COVID-19 and for the operational continuity of the COVID alert system, as well as for the implementation of Directive (EU) 2020/739 of 3 June 2020", as converted with amendments by Law 27 November 2020, n. 159 entrusted Agcom with new powers concerning restriction in media pluralism.

[3] The law of 30 December 2020, n. 178, on the "State budget for the financial year 2021 and multi-year budget for the three-year period 2021-2023", in order to ensure the adequate and effective application of the Regulation 1150/2019 ("Platform to business"), has entrusted the Authority with new powers (Art. 1, paragraphs 515-517). The Budget Law has also amended art. 1, paragraph 6, letter a), number 5) of Law 249/97, providing for the obligation to register with the ROC for suppliers of online intermediation services and online search engines as defined by the Regulation 1150/2019.

- network operators;
- AVMS providers;
- conditional access providers;
- advertising companies, even though they are not not established in Italy, as long as they generate revenues on the national territory;
- audiovisual producers and distributors;
- national press agencies;
- publishers of daily newspapers and magazines (even if online-only);
- companies providing electronic communication services;
- economic operators managing a call center activity);
- operators that indirectly use national numbering resources;
- online search engines;
- provider of online intermediation service.

On a yearly basis, the operators of the Italian communications sector required to register to the ROC must fill a number of forms with data regarding their ownership structure:

- name and contact details of the media outlet;
- names and details of the company's shareholders and of their shareholders
- name(s) and contact details of the shareholder(s) who are able to influence the company's activity;
- name(s) of the persons with editorial responsibility;
- any kind of (broadcasting) licence received from any competent Authority
- any changes to the aforementioned data. Pursuant to art. 1, paragraph 6, lett. c), of Law of 31 July 1997, no. 249, any modification to the ownership of radio and television companies must be notified and authorized vy AGCOM (see AGCOM Resolution No. 368/14/CONS, amended by Resolution No. 110/16/CONS)

To assess the correctness of the data, AGCOM can semi-automatically carry out a cross-check with the information held by the national Chamber of Commerce system (*www.impresainungiorno.gov.it*).

C. Framework for journalists' protection

34. Rules and practices guaranteeing journalist's independence and safety

The principle of pluralism and freedom of information constitutes an essential component of our democratic society, as it allows the exercise of the fundamental right to freedom of expression, recognized by art. 10 of the 2TUEuropean Convention on Fundamental Rights ("ECHRU2T") and, lastly, in art. 11 of the 2TEU Charter2T.
In the Italian set of rules, the principle of pluralism finds its foundation in art. 21 of the 2TConstitutional Charter2T, according to which "Anyone have the right to freely express their thoughts with words, writings and any other means of diffusion. The press cannot be subject to authorization or censorship. Seizure can only be decreed by reasoned act of the judicial authority [cf. art.111 c.1] in the case of crimes, for which the law on the press expressly authorizes it, or in the case of violation of the rules that the law itself prescribes for the indication of those responsible".
The jurisprudential interpretation, notably the 2TConstitutional Court2T, has enriched and consolidated the complex of protections and prerogatives related to the exercise of the journalistic profession, in particular with reference to the topics of the right of news and criticism, on the assumption that journalistic activity differs from other forms of manifestation of thought by the peculiar democratic function recognized to it. In recognizing and protecting the prerogatives of freedom and independence of journalistic activity, the regulation requires that the right balance be ensured between those prerogatives and the needs to safeguard fundamental values and rights attributable to the sphere of human dignity and human rights, recognized in article 2 of the Constitution (dignity, honor, image and reputation).
In Italy, in order to practice the profession of journalism, it is necessary to be registered to the 2TOrder of Journalists2T, which guarantees its members, since it basically provides for self-government by the professional category. Journalistic activity is guaranteed by specific laws that protect the exercise of the profession and

governed by the ethical rules of the sector. Fundamental is the "2TConsolidated text of the journalist's duties2T" and the enclosed rules. The ethical rules of self-regulation of the journalistic activity are expressly intended to ensure the latter protections, also in order to prevent judicial interventions on the exercise of the profession.
Moreover, there are other institution and other rules ensuring the journalists' independence and the pluralism. In particular, AGCOM is in charge of guaranteeing pluralism with regulatory power. AGCOM supervises the media sector and conduct a specific monitoring activity on the journalism profession ("Observatory on Journalism", **see also the answer to Q 35).**
In 2019 AGCOM intervened with the "Regulation containing provisions regarding respect for human dignity and the principle of non-discrimination and contrast to hate speech" adopted with resolution no. 157/19 / CONS (hereinafter "Hate speech Regulation"). This settlement is a complementary protection tool to the judicial protection, which contributes to sensitize the information system operators with respect to the need to prevent or not feed expressions of hatred in the audiovisual media sector, while avoiding excessive limitations on the freedom of information recognized to individual journalists. It also represent a means of active protection for the same journalists who are more and more frequently victims of verbal threats and assaults carried out with expressions of hatred on the media, especially online platforms and social networks (which specifically refers to the limits on the exercise of journalistic activities connected with the use of content that can be qualified as "expressions or hate speech".

In November 2020 Agcom published the third Report ("Journalism at the time of the Covid-19 emergency") of the aforementioned Observatory on journalism, aimed at monitoring the evolution of the profession at a critical moment for the information ecosystem. This edition, with a particular focus on the effects of COVID-19 pandemic, has been submitted in December to public consultation (see answer to Q35).

35. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

In Italy there is a strong focus on the threats and the attacks on the journalists (probably for historical reasons due to a painful legacy of mafia and terrorists crimes) and there are different provisions on those issues.
First of all, in case of threats of violence, there is a specific protection protocol involving police, judiciary and local government. There are four levels of protection that vary according to the level of risks to the life of the journalist. They go from providing her/ him with an armored car, to a round-the-clock police escort.
In 2017 has been set up at the Ministry of the Interior the Coordination Center for monitoring, analysis and permanent exchange of information on the phenomenon of intimidating acts against journalists to monitor the phenomenon of threats to reporters and develop the necessary protection measures and last year. This Center represents the first initiative to set up a safety mechanism in Europe.
Also *ad hoc* parliamentary committees have been established, as "Mafia, Journalists and Information World Committee", entrusted with the task of "knowing , monitor and evaluate the relationship between the mafias and information".
In this context, for years, the Communications Authority has conducted intense surveillance and monitoring of the information system; observatories, reports and investigations concerning the various components of the information system are regularly published. Since innovative methodologies should be taken into due account and quantitative data should feed analyses, for the purposes of enhancing monitoring and action-planning to safeguard journalists' freedom, Agcom has established, since 2014, the Observatory on Journalism, aimed at monitoring the evolution of the profession at a critical moment for the information ecosystem. In the public consultation of the Report of the Observatory on journalism released at the end of 2020 - "Journalism at the time of the Covid-19 emergency", almost all stakeholders have underlined the centrality of the theme of the threats on journalists and their safety, and the need of monitoring the phenomenon. Furthermore, many have proposed some reforms and specific policy suggestions on this issue that is one of the topics of consultation that is still ongoing.
Agcom has implemented specific statistical methods and quantitative analysis for investigation of existing threats and safeguards to journalism, because in the context of social phenomena, especially those concern acts of private violence, official statistics often concern only a very limited subset of the problem object of investigation, the emerged part of the phenomenon under examination. It exists a submerged part that can only be analyzed and detected through some reflections on the analysis of social phenomena towards specific field surveys

("survey-based data"). Agcom has identified its own methodology capable of dynamically detecting the different dimensions of the phenomenon. The Authority proceeded, first of all, to classify the intimidating acts in order to correctly identify the perimeter. Subsequently, proceeded to detect the phenomenon through a methodology that integrates qualitative tools with the use of a large survey conducted, in the autumn of 2018, to a very large sample of Italian journalists (equal to 6% of all active journalists), who, through statistical re-weighting techniques, is capable of faithfully representing the universe of reference.
AGCOM also proceeded to integrate at various levels, its methodology with other sources. In particular, takes advantage of the Platform to promote the protection of journalism and safety of journalists Council of Europe and of the collaboration with ONLUS active for the protection of journalists. Moreover, AGCOM collaborates with the Coordination Center for monitoring, analysis and permanent exchange of information on the phenomenon of intimidating acts against journalists Interministerial and the Committee for Human Rights (CIDU), both as regards gender monitoring, and also, from the point of view of intimidation, with specific reference to the world of information. On an international level, the Authority collaborates with UNESCO (for example on the occasion of the celebrations of the World Day for Press Freedom) and presents its analyzes and observations to the UN (OHCHR - United Nations High Commissioner for Human Rights).
As already reported in the "Questionnaire for Member States on selected topics regarding the Protection of journalism and safety of journalists and other media actors - (under the Protection and Prosecution Pillars of the Guidelines of Recommendation CM/Rec(2016)4)" - Council Of Europe, among the monitored intimidations there are also the widespread practice of intimidating through legal action.

36. Access to information and public documents

37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse
No legislative and/or other measures are in place to prevent the abuse of the judicial process, i.e. frivolous, vexatious or malicious use of the law and legal process to intimidate and silence journalists and other media actors. Several draft bills are pending for the abolition of prison for defamation but no one has been approved yet.

Other – please specify

PILLAR IV.

OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

Contribution sent following the country visit

39. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

Contribution sent following the country visit

40. Regime for constitutional review of laws

Contribution sent following the country visit

41. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- *judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic*
- *oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic*
- *measures taken to ensure the continued activity of Parliament (including possible best practices)*

Contribution sent following the country visit

B. Independent authorities

42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions10

Contribution sent following the country visit

C. Accessibility and judicial review of administrative decisions

43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

44. Implementation by the public administration and State institutions of final court decisions

D. The enabling framework for civil society

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

Contribution sent following the country visit

E. Initiatives to foster a rule of law culture

46. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

The institutional campaigns carried out by DIE deal with topics that do not fall within the definition of "Rule of Law" in the strict sense of the word. Some regulations with specific technical contents were the subject of information campaigns aimed at explaining to citizens the related advantages and/or obligations. In particular, in 2020 information campaigns were launched on the subject of the health emergency triggered by the coronavirus outbreak. All the institutional campaigns are published on the Government's website www.governo.it and DIE's website https://informazioneeditoria.gov.it/it/attivita/comunicazione-e-informazione-istituzionale/le-campagne-di-comunicazione-del-governo/: both campaigns currently being disseminated (including on different topics) and those implemented in previous years can be viewed there.

Other – please specify