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2020 Albanian OSCE Chairmanship Conference

**“Good Governance and the Fight against Corruption in the Digital Era:
Strengthening the Principles of Transparency, Integrity and Accountability”**

Vienna, 6-7 July 2020

AGENDA

Monday, 6 July 2020

10:00 – 12:00 Opening Session

Welcoming Remarks:

- **H.E. Mr. Edi Rama**, OSCE Chairperson-in-Office, Prime Minister and Minister for Europe and Foreign Affairs, Republic of Albania
- **H.E. Ambassador Thomas Greminger**, OSCE Secretary General
- **H.E. Ms. Etilda Gjonaj**, Minister of Justice, Republic of Albania

High-Level Panel:

- **H.E. Ms. Ghada Fathi Waly**, Executive Director of the United Nations Office on Drugs and Crime (UNODC) and Director General of the United Nations Office at Vienna
- **H.E. Mr. Nikola Dimitrov**, Minister of Foreign Affairs, Republic of North Macedonia
- **H.E. Mr. Lord Ahmad of Wimbledon**, Minister of State, Foreign and Commonwealth Office, United Kingdom
- **H.E. Mr. Rustam Badasyan**, Minister of Justice, Republic of Armenia
- **H.E. Ms. Suzana Pribilović**, Minister of Public Administration, Montenegro
- **Mr. Vittorio Ferraresi**, Under Secretary of State for Justice, Italy
- **Mr. Sherzod Asadov**, Deputy Minister of Foreign Affairs, Uzbekistan
- **Mr. Gocha Lortkipanidze**, Deputy Minister of Justice, Georgia

Moderator: Ambassador Igli Hasani, Chairperson of OSCE Permanent Council, Permanent Representative of Albania to the OSCE



12:00 – 12:30 **Coffee break**

12:30 – 14.00 Session I: Strengthening accountability: the impact of combating corruption and enhancing good governance on security, stability and economic growth

Suggested topics:

- Building trust and confidence in national institutions and the economy through effective, accountable and transparent governance;
- Facilitating enhanced economic growth by strengthening anti-corruption measures;
- Combating corruption in the security sector;
- Raising awareness about the links between corruption, money-laundering and transnational organized crime.

Speakers:

- **Mr. Jonathan Parish**, Deputy Assistant Secretary General, Operations Division, North Atlantic Treaty Organization (NATO)
- **Ms. Kirsten Madison**, Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs, United States of America
- **Mr. Jürgen Stock**, Secretary General, INTERPOL
- **Mr. Marin Mrčela**, President, Group of States Against Corruption (GRECO)

Discussion

Moderator: Ambassador Florian Raunig, Permanent Representative, Permanent Mission of Austria to the OSCE

14:00 – 15.00 **Lunch break**



15.00 – 16:30 Session II: Anti-corruption strategies and anti-corruption bodies in the OSCE area: best practices and lessons learned

Suggested topics:

- Development and implementation of anti-corruption policies;
- Anti-corruption monitoring and evaluation bodies – challenges and successes;
- Effective collaboration between anti-corruption bodies in international operations;
- International cooperation in the development of anti-corruption performance indicators;

Speakers:

- **Mr. Andrey Avetisyan**, Ambassador-at-Large for International Anti-Corruption Cooperation, Ministry of Foreign Affairs, Russian Federation
- **Mr. Thomas Stelzer**, Dean, International Anti-Corruption Academy (IACA)
- **Prof. Nicoletta Parisi**, Member of the Board responsible for International Relations, Anti-Corruption National Authority (ANAC), Italy

Discussion

Moderator: Ambassador Radomír Boháč, Permanent Representative, Permanent Mission of the Slovak Republic to the OSCE

16.30 – 18:00 Session III: The role of digital technologies and innovation in preventing and combating corruption

Suggested topics:

- Fighting the culture of corruption through the use of digital solutions, simplified procedures and open data;
- Promoting the use of technology for more efficient, transparent, and responsive public service delivery;
- Digital tools to promote transparency in electoral processes;
- Preventing and combating corruption in public procurement through digital tools;



Speakers:

- **Ms. Ingibjörg Sólrún Gísladóttir**, Director, Office for Democratic Institutions and Human Rights (ODIHR)
- **Dr. Christian Manquet**, Head, Unit for Substantive Criminal Law, Ministry of Justice, Austria
- **Ms. Judita Brzobohatá**, Expert, Department of Corruption Prevention, the Government Office, Republic of Slovakia

Discussion

Moderator: **Ambassador Wolfgang Amadeus Brühlhart**, Permanent Representative, Permanent Mission of Switzerland to the OSCE, the United Nations and to the International Organizations in Vienna

18.00 Reception hosted by the Albanian OSCE Chairmanship (upon invitation):
“Palmenhaus”, Burggarten 1

Tuesday, 7 July 2020

09.00 – 10:30 Session IV: The role of whistleblowers, media and civil society in tackling corruption *Suggested topics:*

- Effective mechanisms for the protection of whistleblowers in OSCE participating States;
- The role of investigative journalism and civil society organizations in the fight against corruption;
- The importance of media and national awareness-raising activities in the fight against corruption;

Speakers:

- **Mr. Harlem Désir**, OSCE Representative on Freedom of the Media
- **Ms. Marija Ristic**, Regional Director, Balkan Investigative Regional Network (BIRN)
- **Mr. Ivan Odeljan**, Head, Anti-Corruption Sector, Directorate for European Affairs, International and Judicial Cooperation, Republic of Croatia



- **Mr. Sotirag Hroni**, Executive Director, Institute for Democracy and Mediation (IDM), Republic of Albania

Discussion

10.30 – 11:00 **Coffee break**

11:00 – 12:30 Session V: International co-operation in the investigation and prosecution of corruption with the view to asset declarations and recovery

Suggested topics:

- International joint investigation teams as an effective tool to investigate trans-border corruption cases - national and international co-operation on asset recovery
- Regulating disclosure of interest and assets by public officials;
- The role of law enforcement and national authorities in relation to asset declarations and the prevention of conflicts of interest;
- Applicability of the upcoming: “*International Treaty on Exchange of Data for the Verification of Asset Declarations*”;
- Effective mechanisms to seize, manage and re-use assets recovered from corrupt practices;

Speakers:

- **H.E. Ms. Renata Deskoska**, Minister of Justice, Republic of North Macedonia
- **Ms. Jennifer Moore**, Crown Prosecution Service, United Kingdom
- **Mr. Vladan Joksimović**, Head, Regional Anti-Corruption Initiative (RAI)
- **Ms. Evgjeni Bashari**, Secretary General, High Inspectorate of Declaration and Audit of Assets and Conflicts of Interests, Republic of Albania
- **Mr. Jonathan Spicer**, Senior Asset Recovery Specialist, International Centre for Asset Recovery, Basel Institute on Governance, Switzerland

Discussion

Moderator: Ambassador Kairat Sarybay, Permanent Representative, Permanent Mission of the Republic of Kazakhstan to the International Organizations in Vienna



12.30 – 14.00 Lunch break

14.00 – 15.00 Concluding Session

Statements by delegations

Concluding remarks:

- **Professor Paola Severino**, Special Representative of the Chairperson-in-Office on Combating Corruption
- **Mr. Agron Tare**, Deputy Minister for Europe and Foreign Affairs, Republic of Albania

Moderator: Ms. Inid Milo, Head, OSCE Albanian Chairmanship Task Force

Thank you, Mister Chair Ambassador Boháč, for giving me the floor (the screen???)
Albanian Authorities, Excellencies, Distinguished Participants,
Ladies and Gentlemen,
Thank you so much for this unique opportunity to share experiences from our works
and common commitments to the fight against corruption.

1. By way of introduction, allow me to provide some pieces of information about ANAC. (slide 2)

The Italian National Anti-corruption Authority was created in 2012 to implement art. 6 of the UN Convention against corruption, ratified in 2009

ANAC has political independence: its President and the members of the Board are appointed for a non-renewable mandate of six years, not coinciding with the term of the Legislature. The members must have specific skills in the area of anticorruption and legality.

It enjoys financial independence: ANAC is funded with the contributions from the contracting authorities, the economic operators (national and foreign) and the Companies Certification Entities (SOA) for the verification of the general requirements of the economic operators.

ANAC is competent in preventing corruption through risk-based strategy and transparency inside the Public Administration, integrity of civil servants, with a specific focus on integrity, legality and corruption prevention in the sector of public procurements.

The current legislative framework is the expression of the Legislator's choice to concentrate the whole strategy of corruption prevention in the hand of one single independent institution: it is an attempt to control a highly economic and strategic sector, exposed more than others to the risk of illegality and maladministration.

2. The Authority pursues its goals (slide 3) through
 - a regulatory activity, through the adoption of guidelines, bandi tipo?, etc.
 - an advisory function, through the adoption of binding/non binding opinions
 - a supervisory activity
 - along with some inspection and sanctioning powers

These competences are accompanied by an important monitoring activity through the collection of data on public tenders: for this purpose an Observatory for public contracts is operational within ANAC. This database is made public through an institutional website, in order to increase the transparency of the market.

In addition ANAC is charged with

- exercising an advocacy function through a specific role of impulse and proposal to both the Parliament and the Government.
 - reporting to the Italian Parliament on its activities (only to the Parliament, without “undue interferences” of other bodies)
3. In these few minutes at my disposal I have chosen to illustrate you only five good practices, five of them applied in the public procurement sector from the point of view of transparency, integrity and accountability, ignoring all the other tools. I have done so because of its strategic role in this difficult pandemic crisis. (slide 4)

- 3.1. Coming from the successful “EXPO 2015” experience, **the “collaborative supervision”** (art. 213 of the Code of public contracts) is a mechanism of preventive verification of the tendering processes in collaboration with the contracting authorities.

In 2019 ANAC checked almost 1.000 tenders and issued 2.500 timely non-binding recommendations. Only **7% of the 239 (io questo non lo capisco)** tenders supervised by ANAC was disputed in front of the administrative tribunals.

Almost all the judicial decisions in such cases have been favorable to the administration that had availed itself of the collaboration of the Authority.

Recently during the pandemic crisis, the Authority has agreed to extend the collaborative supervision to the contracting stations in critical situations, such as the Department of Civil Liberties and Immigration of the Ministry of the Interior, implementing emergency activities relating to the rescue of migrants.

3.2.(Slide 6) With the **“pre-litigation” mechanism**, in the last year ANAC provided approximately 2,500 opinions to support administrations and economic operators on issues arising during the tenders, with huge deflationary effects on the judicial disputes. Due to the many requests received, it was not possible to respond quickly in the early stages. However, the Authority has progressively reduced the processing times of the opinions, which in recent months have fallen to an average of 59.5 days, which further decrease to 36.5 for those binding on the parties.

In addition, ANAC provided over 1,000 opinions on issues of interpretation of the law.

3.3.(Slide 7)ANAC exercised **the power to appeal procurement irregularities** directly to the Administrative Judge **for contracts of particular importance for the amount or severity of violations found**. (art. 211, comma 1bis-1ter of the Code). It used this tool only 11 times in all.

Of the total, there are 8 cases of adherence to ANAC's recommendation to modify the tender notice and 3 cases of non-compliance with ANAC's opinion. In one of three cases of non adherence to ANAC's recommendations, the Administrative Judge fully accepted ANAC's opinion, canceling a tender of over 830 million euros carried out by a consortium which was deemed not entitled to operate as a central economic operator.

So, the effectiveness of this tool is self-evident.

The success of both the “collaborative supervision” and the “power of appeal” in protecting the regularity and quality of tenders, makes it desirable a regulatory intervention that extend their applicability to the areas of corruption prevention and transparency.

3.4.(Slide 8) Among the tools supporting the administrations are **the “reference prices”**, calculated by the Authority in relation to various types of goods and services (ie, medical devices, laundry services, active ingredients, paper in reams).

This function is exercised

- **by indicating to** the contracting stations the price limits according to the quantity and quality of the services,
- **by identifying** the potential corruption or distortion risks of the purchase choices. In some cases, in fact, there have also been significant differences in the prices of the same product at the regional level.

3.5.(Slide 9) In the event that illegal behaviour or corruption crimes attributable to a company which has been awarded a public contract occur or are being prosecuted

by a judicial authority, the President of ANAC can suggest to the local government authority either to:

- a) order the renewal of the company's corporate bodies;
- b) engage in the extraordinary and temporary management of the company limited to the complete implementation of the single contract subject to criminal proceedings; or,
- c) appoint experts tasked with supporting the company's organizational and management audit activity.

Since its entry into force (2014), 84 proposals have been made to the local government authority, including 45 for the actual commissioner and 39 for supporting and monitoring the company. The tool proved particularly effective to prevent the prosecutions of crimes committed by the winning companies from blocking the execution of the contract and to avoid the forfeiting of profits resulting from the corrupt conduct.

To be mentioned for its significance is a story about the illicit exchange between the supplier of oncological drugs and the organizer of congresses and scientific conferences: just start of the procedure aimed at proposing the commissioner has induced the companies involved to adopt specific organizational measures and correction. In this sense, the activation of the procedure itself has fulfilled the function of preventive tool.

4. (Slide 10) Finally, to conclude: International cooperation is very important in accordance with art. 5 UNCAC. Also the corruption prevention authorities have to be involved in it and must reciprocally cooperate, also in the framework of international and regional Organizations.

ANAC engages in bilateral and multilateral relations (within OECD, OSCE, G20, G7, EU, CdE, UNODC, etc.).

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

1. NCPA (Network of Anticorruption Authorities)

The NCPA is a network of 27 national corruption prevention authorities, set up - on an Italian, French and Croatian initiative - on October 18, 2018 in Šibenik, during a plenary session of the GrECO. The Network is trying, inter alia, to collect good practices (both national and international) in the sector of the prevention of corruption.

2. The "Network of European Authorities for Integrity and Whistleblowing" (NEIWA).

It 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.

Thanks for your kind attention
Prof. Nicoletta Parisi
ANAC



Anticorruption strategies and anticorruption bodies in the OSCE area: best practices and lessons learned

Prof. Nicoletta Parisi
Member of the Board
ANAC



The Italian National Anti-Corruption Authority (ANAC)

Implementation of Article 6 of UNCAC

Ratified in 2009 and implemented in 2012. In 2014, ANAC has been accredited in the Directory of UNODC as an independent national authorities for the prevention of corruption

**Political independence
Financial independence**



ANAC's Role

Regulatory power through guidelines

Supervisory power over public procurement and the correct functioning of the public administration

Monitoring power on the anti-corruption system, including through inspections that can be delegated to the financial police

Sanctioning power for failure to comply with obligations by public administrations

Advocacy power towards Parliament and Government



Five Best Practices

- 1) the collaborative supervision**
- 2) the pre-litigation mechanism**
- 3) the power to appeal procurement irregularities directly to the Administrative Judge**
- 4) the reference price tool**
- 5) the extraordinary and temporary management of contractors under investigation**



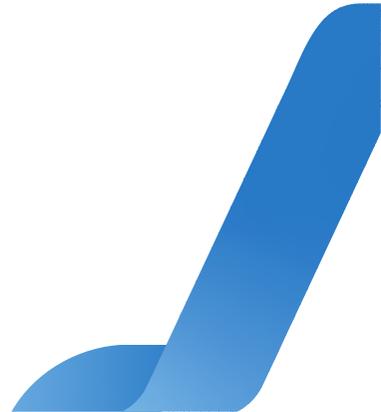
The Collaborative Supervision

A mechanism of preventive verification of the tendering processes in collaboration with the contracting authorities.

In 2019 ANAC checked almost 1.000 tenders and issued 2.500 timely non-binding recommendations. Only 7% of the 239 tenders supervised by ANAC was disputed in front of the Administrative Tribunal.

Almost all the judicial decisions in such cases have been favorable to the administration that had entered collaboration with ANAC.

Recently, the Authority has agreed to extend the collaborative supervision to the contracting stations in critical situations, such as the Department of Civil Liberties and Immigration of the Ministry of the Interior, implementing emergency activities relating to the rescue of migrants.





The Pre-litigation Mechanism

In 2019 ANAC provided approximately 2,500 opinions to support administrations and economic operators on issues arising during the tenders, with huge deflationary effects on the judicial disputes.

The Authority has progressively reduced the processing times of the opinions, which in recent months have fallen to an average of 59.5 days, which further decrease to 36.5 for binding opinions.

ANAC provided over 1,000 opinions on issues of interpretation of the law.



The Power to Appeal Procurement Irregularities to the Administrative Judge

ANAC exercised this power in 11 cases, for contracts of particular importance for the amount or severity of violations found.

Of the total, there are 8 cases of adherence to ANAC's recommendation to modify the tender notice and 3 cases of non-compliance with ANAC's opinion.

In one of these cases the Administrative Judge fully accepted ANAC's opinion, canceling a tender of over 830 million euros carried out by a consortium which was deemed not entitled to operate as a central economic operator.



The Reference Price Tool

Calculated by the Authority in relation to the types of goods and services (ie, medical devices, laundry services, active ingredients, paper in reams).

Function introduced several years ago by the legislator with spending review objectives

**Exercised by ANAC by indicating to the contracting station the price limit according to the quantity and quality of the services, and by identifying the potential corruption or distortion risks of the purchase choices.
In some cases there have also been significant differences in the prices of the same product at the regional level.**



The Extraordinary and Temporary Management of Contractors under Investigation

Since its entry into force (2014), 84 proposals have been made to the local government authority, including 45 for the actual commissioning and 39 for supporting and monitoring the company.

To avoid prosecutions of crimes committed by the winning companies to block the execution of the contract and the forfeiting of profits resulting from the corrupt conduct.

Case about corruptive exchange between the supplier of oncological drugs and the organizer of scientific conferences: just the start of the procedure induced the companies to adopt remedial organizational measures.



ANAC's International Relations

ANAC engages in bilateral and multilateral relations (UN, OECD, OSCE, G20, UE, CdE, UNODC, etc.)

The importance of 2 networks that ANAC contributed to establish:

**NCPA (Network of Anticorruption Authorities)
NEIWA (European Network of Whistleblowing
Authorities)**

