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National Integrity System Assessment in Italy

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*Atlantic
Ocean*

NATIONAL INTEGRITY SYSTEM ASSESSMENT ITALY

*Bay
of
Biscay*

Black Sea

Mediterranean Sea

Project of Transparency International Italia



TRANSPARENCY INTERNATIONAL ITALIA (TI-IT)
ASSOCIAZIONE CONTRO LA CORRUZIONE

In collaboration with RiSSC – Centro Ricerche e Studi su Sicurezza e Criminalità



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Transparency International (TI) is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, TI raises awareness of the damaging effects of corruption and works with partners in government, business and civil society to develop and implement effective measures to tackle it.

Transparency International Italy, founded in 1996, is the national chapter for Italy, based in Milan.
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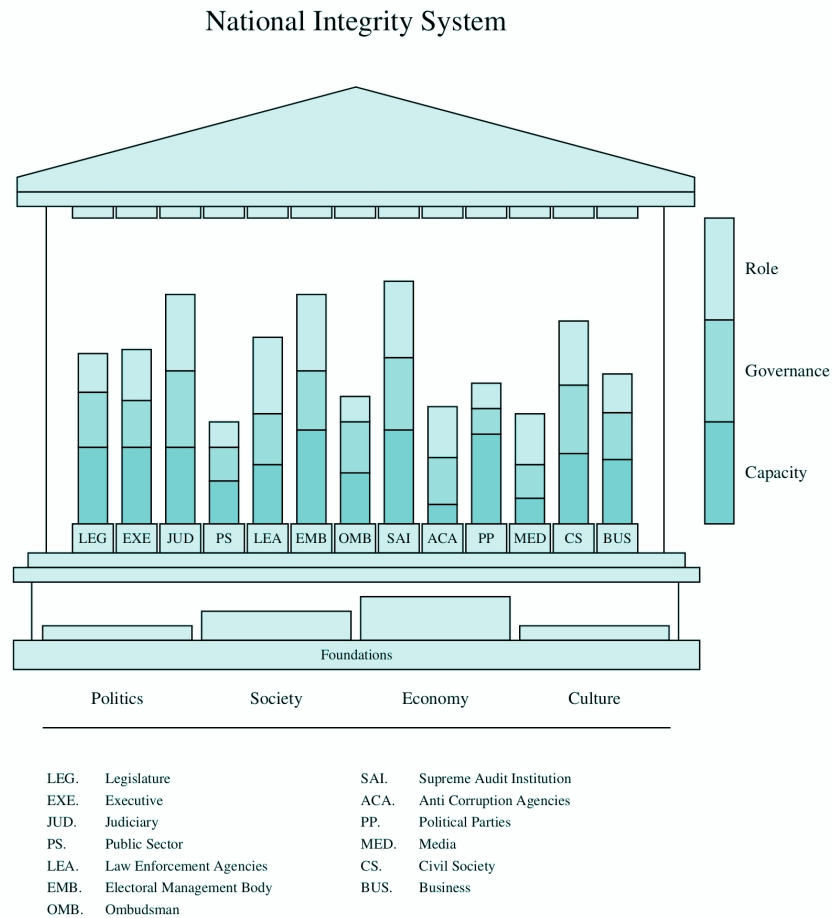
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Transparency International Italy

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Executive Summary¹



Italy's National Integrity System is far from robust, with an average NIS score of 55.04%.² Corruption is able to flourish almost everywhere, as state institutions enjoy considerable autonomy, which does not correspond to standards of accountability and integrity.

Political Parties (46) have the best score with regards to resources, but in contrast have weak mechanisms to ensure integrity. The Public Sector (33), the Media (38), and the Anti-corruption Agency (38) are the worst performing institutions. The

¹ The Report on Italian National Integrity System (I-NIS) offers an evaluation of the legal basis and actual performance of 13 national governance institutions (pillars) which play a role in counteracting corruption. The report describes the pillars' performance separately, putting an emphasis on their inter-linkages. The study is based on Transparency International's global NIS methodology, and reviews the period from 2010 to 2011. The analysis relies on desk-based research, key informant interviews, verification of the assessment findings by the TI Secretariat, an in-country advisory group and an external reviewer. Per se, the scores of the pillars do not detect the level of corruption in Italy, as the presence – or absence – of a certain instrument or law cannot be taken as a measure of corruption. Data and figures must be handled with care, in particular in EU-wide studies. The research has been carried out by Lorenzo Segato, with the support of Davide Del Monte, Matteo Ceron and Giulio Nessi. Lorenzo Segato is author of the report, with the exception of the pillars Public Sector (Matteo Ceron), and the Foundations, the Corruption Profile, and the Anti Corruption Activities (Davide del Monte and Giulio Nessi). The preliminary findings and recommendations were presented at the National Integrity Workshops which took place on December 2011 at the House of Deputies in Rome.

² The scores range from 0 (lowest or worst) to 100 (highest or best).

Supreme Audit Institution (79), the Judiciary (75), and the Electoral Management Body (75) are the best performers in Italy's integrity system. Civil Society, the Supreme Audit Institution and the Judiciary play a major role in the fight against corruption.

The report shows that it is easy to circumvent mechanisms put in place to protect integrity by taking advantage of complex regulation, difficult access to information, and poor evaluation systems. Many governance institutions – in particular the Executive, Legislative and Judicial powers, as well as the Media – have been affected by conflicts of interest.

Complex Regulation

Several pillars of the integrity system are overregulated, and the legal framework is fragmented, contradictory, and questionable. Laws contain margins of uncertainty and imprecise wording, leaving dangerous normative gaps which endanger supposedly protected rights (for example, the rules on the statute of limitations in the case of appeal). Sometimes the uncertainty derives from the absence of primary legislation or implementation. In some pillars, important laws (e.g. criminal laws) have been controversially implemented, affecting cases which were the subject of conflict and political tension. Complaints on laws "*ad personam*" have often been raised by politicians and magistrates. The technical quality of regulation, or its compliance with constitutional principles, has been debated frequently, often before the Constitutional Court. In general, the current set of norms seems to open the door to multiple interpretations and the violation of rights which leads to an excessive recourse to justice. The simplification and rationalization of the *corpus juris* (the body of laws) is continually promised but never materialised. The average score regarding the law of the pillars, which prescribes an ideal integrity system, is only 57,60%.

Difficult Access to Information

There is a lot of information available to the public, but the quality of this information is often very low. Data is frequently obsolete, imprecise, partial, and missing in the case of certain pillars. For instance, relevant data for the law enforcement sector (national and local police authorities and public prosecutor offices) is not available.³ NGOs and the media often fail to collect, discover and disseminate key information about the country's integrity system to the public. Internet is an important instrument used to fill this gap (although not the only means); however the role that the internet can play is limited by the 'digital divide' of Italy. The information published greatly reflects the political importance that it holds, and the media almost always provides an interpretation, rather than the impartial facts. In this way, the National Broadcast System RAI fails in its role as a public service. The financial control of the media – even if ownership is declared – is a threat to impartial information. Only rare examples of investigative journalism still exist and integrity mechanisms in the media pillar are very poor (25).

³ With the exception of the data provided by agencies in their official reports, which are not useful to evaluate transparency, integrity, and effectiveness.

Inadequate Evaluation Systems

In several international analyses,⁴ Italy often performs badly with regard to evaluation systems. At the national level, the quality of governance is rarely measured, and none of the pillars have an effective and independent evaluation system. Not only is the performance evaluation (effectiveness and efficiency) poor, but systems assessing the activity of actors from a qualitative point of view are missing too. When relevant information does exist, it is not available to the public. Evaluation and control systems are rarely carried out by external bodies, and even then the investigating capacity and the power to impose sanctions of monitoring bodies are often low, meaning that the evaluations suffer. This is especially true also for national agencies and authorities, which are sometimes linked to political power. An analysis of the evaluation systems indicates that the phenomena of corporatism and self-protection exist, reducing the capacity of control. Despite the existence of codes of conducts, they rarely contain effective measures in terms of whistle-blowing, the power of investigation and sanctions. The performance (in practice) of the accountability system scores only 42,31%, and integrity systems only 43,18%.

Conflict of Interests

The peculiar political situation of Italy of the last two years - when the tension and the conflict between (and among) state powers and parts of civil society has reached remarkable levels - should not be underestimated to explain this poor national performance. The President of the Republic, as guardian of the Constitution and its values, has openly and frequently manifested his worries about Italy's future, calling for a higher level of social and political cohesion. Despite the technical or political debate surrounding the reasons for this situation, the increase of conflict among powers of the state has been objective, progressive and radical, and linked to the figure of Silvio Berlusconi, tycoon and Prime Minister of Italy for many years. The verbal violence, the removal of legitimacy and the attempts to avoid evaluations and assessment affect both the "law" and "practice" of the pillars. A state of conflict seems to prevail over the rule of law, threatening the respect of rules, weakening the capacity to impose sanctions and damaging the image – and thus the authority – of civil servants. The high score of the oversight of the Judiciary on the Executive (75), the scarce independence (50) of the Legislative from the Executive, the poor control (25) of the former on the latter, and the very low integrity mechanisms of both, demonstrates that interests have often crossed the boundaries between pillars.

Key Strengths and Weaknesses of the National Integrity System

A hypothetical 'integrity award' would reveal the following (research scores in brackets):

Wooden Spoon

- Political Parties achieve the worst results of the whole system. They benefit from the highest resources than any other pillar (100), which is combined

⁴ For instance, the Transparency International CPI, Global Corruption Barometer, or the Global Integrity Report, and the GRECO evaluation reports.

with high independence (75), but the lowest transparency (25), accountability (25) and integrity mechanisms (25). Their anti-corruption commitment scores 0. It is interesting to note that for Political Parties, law and practice are identical in performance; poor practice is a direct consequence of a weak legal framework, which must be addressed.

Weaknesses

The three weakest pillars in terms of integrity are the Public Sector (33), the Media (38), and the Anti-corruption Agency (38).

- In the Public Sector, the performance in practice is always lower than the scores for law, which are already quite weak in terms of independence, transparency and integrity mechanisms. A very weak accountability system, in theory and in practice (25), worsens the situation.
- The “super-concentration” of the control of broadcasting power in the hands of the former Prime Minister leaves the Media sector vulnerable to external pressures. In general, independence and integrity mechanisms are very low (25), while transparency and accountability are weak in practice (50 and 25) and in law (50). The internet and radio – considered as ‘press’ only in part – save the media sector from the worst result in the assessment.
- Italy still does not have a dedicated Anti-corruption Agency, as required by the UN Convention against Corruption (UNCAC). The structures created insofar have had little re-sources (25), no independence (25 in law and 0 in practice), and very little transparency and accountability (25). Their commitment against corruption does not surpass a mid-range score (50).

Strengths

- The Supreme Audit Institution (79), the Judiciary (75), and the Electoral Management Body (75) have the strongest pillars in the integrity system. The Supreme Audit Institution has good resources (75), is independent in law and in practice (100), with a good level of transparency, accountability and integrity mechanisms (75). It has the best performance in the fight against corruption, through effective financial audits (75), detecting and sanctioning misconduct (75), and improving financial management (75).
- The Judiciary has been under discussion by part of the political sector⁵ over the past two years. The research reveals that the Judiciary has strong integrity, despite the limited resources (50). However, the sector confirms a gap between law and practice in independence (100 and 75 respectively), transparency (100 and 75), and accountability (75 and 50). Integrity mechanisms score 75, and the Judiciary has been particularly good in the Executive oversight (75), and the prosecution of corruption (75).
- The Electoral Management Body in Italy has never raised particular concerns of in-tegrity (50), transparency (75 in practice), and it is well structured to ensure the fundamen-tal right of vote (resources and independence score

⁵ The Executive, part of the Parliament, and some Political Parties.

100). The high scores describe a good electoral system whose integrity does not necessarily need to be further protected.

Recommendations

The assessment of the Italian NIS reveals several cross-cutting issues, which are not always limited to single institutions but sometimes represent problems spanning the whole system.

Fighting corruption should be a commitment made by society as a whole; however the Italian NIS report shows that there are several actions that should be taken by institutions and political bodies.

A lack of transparency, accountability and integrity is widespread, especially in Political Parties, the Public Sector, government institutions and, albeit to a lesser extent, in the Private Sector and Civil Society. However, these sectors are still not completely immune from corruption. In general, there is a 'moral question' which should be seriously assessed at all levels.

Following the results of the NIS, TI Italy puts forward several recommendations that aim to strengthen the fight against corruption in line with the international best practice:

- Italy should establish an independent Anti-corruption Agency that is stable and effective, as demanded by international conventions.
- Although a new anti-corruption law is under discussion in parliament, the international agreements signed by Italy are not implemented fully. OCSE and GRECO recommendations should be recognized and implemented fully by using adequate resources and mechanisms.
- The integrity of government actors – in particular from the Executive, the Legislative, and the Public Sector – should be assessed regularly with appropriate instruments. Proportional sanctions should be put in place in the case of misconduct.
- As pointed out by GRECO, there is a lack of effective codes of conduct for both the members of Parliament and Government, and the existing ones have no adequate mechanism for control and sanctioning. The adoption of new codes of conduct should be drafted with stricter rules for the governance and the audit of the two institutions.
- The inadequacy of the Public Sector with regards to its independence, transparency, accountability and integrity, coupled with the fact that it manages resources equal to approximately 55% of the GNP (800 billion Euro in 2009) is a crucial issue. In particular, merit-based appointment mechanisms and whistleblower protection laws must be established. The adoption of Transparency International's Integrity Pacts and open data systems are recommended to help the Public Sector improve its performance.

- The judicial system should be made more effective in its work to combat corruption through the revision of statutes of limitation for corruption-related crimes, the modernisation and better use of resources and information technologies, and the use of effective tools for investigation.
- The police and other public authorities should ensure a higher level of transparency, integrity and reporting.
- Transparency and accountability of political party financing must be ensured by adopting effective audit systems. Politicians must prevent any possible conflict of interest. As in the 1990s, politicians and political parties today are at the centre of the biggest corruption scandals. Funding, accountability, transparency and independence from lobbying are all issues that need to be discussed and reviewed in order to create a truly transparent and open political arena and in order to enforce the democratic system.
- The Media should be more independent from political and economic influence. This can be ensured by protecting and promoting investigative journalism, increasing transparency of the resources that flow into the sector, and by the proper enforcement of codes of conduct.
- Italian citizens, especially young people and companies, need to be better informed and educated in order to be able to reject corruption. Aside from any instrument available, promoting a culture of integrity remains the best strategy to prevent corruption.