

**LAW No. 190, November 6 2012**

**Rules for the prevention and repression of corruption and unlawfulness in public administration.**

(12G0213)

In force on: 29-8-2017

The Chamber of Deputies and the Senate of the Republic of the Italian Parliament have approved;

THE PRESIDENT OF THE ITALIAN REPUBLIC

promulgates

the following law:

Article 1

Rules for the prevention and repression of corruption and unlawfulness in public administration

1. In the implementation of Article 6 of the United Nations Convention against corruption adopted by the UN General Assembly on October 31 2003 and ratified pursuant to Law No. 116 of August 3 2009 and Articles 20 and 21 of the Criminal Law Convention on Corruption, made in Strasbourg on January 27 1999 and ratified pursuant to Law n. 110 of June 28 2012, this Law identifies, within the national territory, the National Anti-corruption Authority and other bodies responsible for carrying out – in a manner which ensures coordinated action – corruption and unlawfulness control, prevention and combating activities within public administration.

2. The Commission for the Evaluation, Transparency and Integrity of Public Administration, as referred to in Article 13 of Italian Legislative Decree No. 150 of October 27 2009, and subsequent amendments, hereinafter referred to as ‘the Commission’, acts as the National Anti-corruption Authority, pursuant to paragraph 1 of this Article. In particular, the Commission:

a) Cooperates with joint foreign bodies and relevant regional and international organizations

b) Adopts the National Anti-corruption Plan pursuant to paragraph 2, subsection 2

c) Analyzes the causes and factors of corruption and identifies interventions that can help prevent and combat it

d) Expresses mandatory opinions on directive acts and guidelines, as well as on the circulars of the Ministry for Public Administration and Simplification concerning the conformity of acts and the conduct of public officials in compliance with the law, codes of conduct and contracts, both collective and individual, governing the public employment relationship

e) Expresses optional opinions on authorizations referred to in Article 53 of Italian Legislative Decree No. 165 of March 30 2001, and subsequent amendments, for the carrying out of external assignments by the administrative managers of the state and national public bodies, with particular reference to the application of paragraph 16b, subsection 3, introduced by paragraph 42, letter (l)), of this Article

f) Exercises the supervision and control of the effective application and efficiency of measures adopted by the public administrations pursuant to paragraphs 4 and 5 of this Article and compliance with the rules on the transparency of administrative activities provided for in paragraphs 15 to 36 of this Article and other existing provisions

f, subsection 2) ((LETTER REPEALED BY ITALIAN LEGISLATIVE DECREE NO. 50 OF APRIL 18 2016, AS MODIFIED BY LEGISLATIVE DECREE NO. 56 APRIL 19 2017))

g) Reports to the Parliament by submitting a report by December 31 of each year on the activity of combating corruption and unlawfulness in public administration and the effectiveness of the relevant existing provisions.

2, subsection 2. The National Anti-corruption Plan has been adopted having consulted the Interministerial Committee referred to in paragraph 4 and the Unified Conference referred to in Article 8, paragraph 1, of Legislative Decree No. 281 of August 28 1997. The Plan is for three years and is updated annually. It constitutes guidelines for the public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, for the adoption of its three-year corruption prevention plans, and for the other parties referred to in Article 2, subsection 2, paragraph 2, of Legislative Decree No. 33 of March 14 2013, for the purpose of adopting corruption prevention measures supplementary to those adopted pursuant to Legislative Decree No. 231 of June 8 2001, also to ensure the implementation of the tasks referred to in paragraph 4, letter (a). Furthermore, this identifies the main risks of corruption and remedies also in relation to the size and various sectors of activity of the bodies, and contains an indication of the objectives, timing and procedures for the adoption and implementation of the anti-corruption measures.

3. To exercise the functions referred to in paragraph 2, letter (f), the National Anti-corruption Authority exercises inspection powers by requesting news, information, acts and documents from the public administrations, and orders the adoption of acts or measures required by the plans referred to in paragraphs 4 and 5 and the rules on the transparency of administrative activities provided for in the current provisions, namely the removal of conduct or acts conflicting with the cited plans and rules on transparency.

4. The Department of Public Service, also according to guidelines adopted by the Interministerial Committee set up and governed by the decree of the Prime Minister of Italy:

a) Coordinates the implementation of strategies to prevent and combat corruption and unlawfulness in public administration developed at national and international level

b) Promotes and defines common standards and approaches for preventing corruption, consistent with international guidelines, programmes and projects

c) LETTER DELETED BY LEGISLATIVE DECREE NO. 97 OF 25 MAY 2016

d) Defines standard models of information and data required for the achievement of the objectives set forth in this Law, in a manner that enables computerized management and analysis

e) Establishes criteria to ensure the rotation of managers in sectors particularly exposed to corruption, and measures to avoid the duplication of functions and the accumulation of appointments for public sector managers, including external appointments

(4)

5. Central public administrations shall define and transmit to the Department of Public Service:

a) A corruption prevention plan that provides an assessment of the different levels of exposure of offices to the risk of corruption and specifies the organizational operations aimed at preventing the risk

b) Appropriate procedures – in collaboration with the Public Administration Secondary School – for selecting and training employees assigned to work in sectors particularly exposed to corruption, providing for the rotation of managers and officials in the same sectors (4)

6. Municipalities with a population of less than 15,000 inhabitants may join together to draw up jointly, by means of agreements pursuant to Article 15 of Law No. 241 of August 7 1990, a three-year plan for corruption prevention, based on the information contained in the National Anti-corruption Plan referred to in paragraph 2, subsection 2.

In order to prepare the three-year plan for corruption prevention, the prefect, upon request, provides the necessary technical and information support to the local authorities, also in order to ensure that the plans are formulated and adopted in accordance with the guidelines contained in the National Plan approved by the Commission.

7. The governing body shall, as a general rule, identify from among the service managers, a Manager for corruption prevention and transparency, providing for any organizational changes necessary to ensure functions and powers suitable for carrying out the task with full autonomy and effectiveness. In the local authorities, the Manager for corruption prevention and transparency is usually identified as the director or senior manager, unless a different, reasoned determination is made. For unions of municipalities, only one manager may be nominated as the person in charge of corruption prevention and transparency. The Manager for corruption prevention and transparency reports to the governing body and the independent evaluation body the breakdowns arising from the implementation of the measures involving corruption prevention and transparency and indicates the names of the employees who have not correctly carried out the measures for corruption prevention and transparency to the competent offices responsible for exercising disciplinary action.

Any direct or indirect discriminatory measures against the Manager for corruption prevention and transparency for related reasons, directly or indirectly, in the performance of his functions must be reported to the National Anti-corruption Authority, which may request information from the governing body and intervene in the ways referred to in paragraph 3, Article 15, of Legislative Decree No. 39 of April 8 2013.

8. The governing body defines the strategic objectives for corruption prevention and transparency, which constitute the necessary content of the strategic and management planning documents and the three-year corruption prevention plan. The governing body adopts the three-year corruption prevention plan acting on a proposal by the Manager for corruption prevention and transparency by January 31 of each year and it is transmitted to the National Anti-corruption Authority. In the local authorities the plan is approved by the Executive Committee.

The development work on the plan cannot be entrusted to parties outside the administration. The Manager for corruption prevention and transparency, within the same deadline, defines appropriate procedures for selecting and training employees, pursuant to paragraph 10, to work in sectors particularly exposed to corruption. The activities at risk of corruption must be carried out, where possible, by the staff referred to in paragraph 11.

8, subsection 2. The independent evaluation body also verifies that the three-year corruption prevention plans are consistent with the objectives set out in the strategic and management planning documents for the purposes of validating the Performance Report,

and that in measuring and evaluating performances the objectives connected with anti-corruption and transparency shall be taken into account. The body shall verify the content of the Report referred to in paragraph 14 in relation to the objectives involving corruption prevention and transparency. For this purpose, the evaluation body may ask the Manager for corruption prevention and transparency to provide the information and documents necessary for carrying out the audit and may hold employee interviews. The body reports to the National Anti-corruption Authority on the state of implementation of the corruption prevention and transparency measures.

9. The plan referred to in paragraph 5 responds to the following needs, to:

- a) Identify the activities – including those referred to in paragraph 16, going beyond those set out in the National Anti-corruption Plan, in which the risk of corruption is higher – and the related countermeasures, also by gathering the proposals of the managers, developed in exercising the powers under Article 16, paragraph 1, letter (a) - subsection 2, of Legislative Decree No. 165 of March 30 2001
- b) Provide, for the activities identified under letter (a), mechanisms for the training, implementation and control of appropriate decisions to prevent the risk of corruption
- c) Provide, with particular regard to the activities identified under letter (a), obligations of information to inform the manager, identified under paragraph 7, called upon to monitor the operation of and compliance with the plan
- d) Define the monitoring arrangements subject to the terms and conditions laid down in the Law or regulations, for the conclusion of the proceedings
- e) Define the monitoring arrangements for relations between the administration and the entities who draw up contacts with them, or who are concerned with procedures for the authorization, granting or release of economic benefits of any kind, including verifying any family relationships or ties between the owners, directors, members and employees of the same entities and the managers and employees of the administration
- f) Identify further specific transparency requirements than those provided for by law

10. The manager identified under paragraph 7 also provides for:

- a) The verification of the effective implementation of the plan and its suitability, as well as proposing the amendment of the plan when significant violations of the provisions are found or when there are intervening changes in the organization or activities of the administration
- b) The verification, in agreement with the senior manager, of the effective rotation of officials in offices responsible for carrying out activities in fields in which the risk of committing corruption offences is higher
- c) The identification of the staff to be included in the training programmes referred to in paragraph 11.

11. The Public Administration Secondary School, without new or increased public finances but using the human, practical and financial resources available under existing legislation, prepares specific, sectoral pathways for the training of state public administration employees on the topics of ethics and lawfulness. Periodically and in agreement with the administrations, it provides for the training of civil servants called upon to operate in the sectors in which the risk of corruption offences being committed is higher, on the basis of plans adopted by the individual administrations.

12. In the case of the committing, within the administration, of a corruption offence ascertained by a final court decision, the manager identified pursuant to paragraph 7 of this Article shall be liable pursuant to Article 21 of Legislative Decree No. 165 of March 30 2001, and subsequent amendments, as well as on the disciplinary level, and also for the loss

of revenue and damage to the image of the public administration, unless all of the following circumstances can be established:

- a) To have prepared, before the matter having been committed, the Plan referred to in paragraph 5 and have observed the provisions set out in paragraphs 9 and 10 of this article
- b) To have supervised the operation and observance of the plan

13. The disciplinary sanction imposed on the manager identified under paragraph 7 cannot be less than the suspension from the service with deprivation of wages for a minimum of one month to a maximum of six months.

14. In the event of repeated violations of the preventative measures provided for in the Plan the manager identified pursuant to paragraph 7 of this Article shall comply with Article 21 of Legislative Decree No. 165 of March 30 2001, and subsequent amendments, as well as for lack of control at disciplinary level, unless he proves to have informed the offices of the measures to adopt and related methods, and monitored compliance with the Plan. The violation by the administration employees of the preventative measures provided for in the Plan is a disciplinary offence. By December 15 each year, the manager identified pursuant to paragraph 7 of this Article shall send a report on to the administration's independent evaluation body and governing body a report on the results of the activity carried out and publish it on the administration's website. In cases in which the governing body requests it, or if the manager in charge deems it appropriate, the latter shall report on the activity.

15. For the purposes of this Law, the transparency of the administrative activity, which constitutes an essential level of social and civil rights benefits pursuant to Article 117 second paragraph, letter (m) of the Constitution, as provided for in Article 11 of Legislative Decree No. 150 of October 27 2009, is provided through the publication, on institutional public administration websites, of information relating to administrative proceedings, in accordance with the criteria of easy accessibility, thoroughness and simplicity of consultation, in compliance with the provisions on state secrecy, professional secrecy and the protection of personal data. The relevant budgets and final accounts are published on the institutional public administration websites, as well as the unitary costs for the execution of public works and the production of services distributed to citizens. Information on cost is published based on a type diagram drawn up by the Public Works, Services and Supplies Supervision Authority, which also carries out collection and publication on its own institutional website in order to enable easy comparison.

16. Without prejudice to the provisions of Article 53 of Legislative Decree No. 165 of March 30 2001, as last amended by paragraph 42 of this Article, in article 54 of the Code of the Digital Administration, as per Legislative Decree No. 82 of March 7 2005 and subsequent amendments, in Article 21 of law No. 69 of June 18 2009 and subsequent amendments, and Article 11 of Legislative Decree No. 150 of October 27 2009, public administrations shall ensure essential levels as referred to in paragraph 15 of this article with particular reference to the proceedings of:

- a) Authorization or concession
- b) Choice of contractor for the assignment of works, supplies and services, also with reference to the selection procedure chosen in accordance with the Code of public

contracts relating to works, services and supplies referred to in Legislative Decree No. 163 of April 12 2006

c) Granting and awarding of grants, contributions, subsidies and financial aid, as well as the attribution of economic benefits of any kind to people and public and private bodies

d) Selective competitions and tests for recruiting staff and career advancement as per Article 24 of the aforementioned Legislative Decree No. 150 of 2009

17. The contracting authorities may include in notices, calls for tender or invitation letters that failure to comply with the clauses contained in the Lawfulness Protocols or Integrity Pacts constitutes grounds for exclusion from the competition

18. Ordinary, administrative, accountancy and military magistrates, solicitors and barristers of the State and tax commission members shall be prohibited, under penalty of the disqualification from duties and the nullity of the acts performed, participation in arbitration panels or recruitment to the position of sole arbitrator

19. PARAGRAPH REPEALED BY LEGISLATIVE DECREE NO. 50 OF APRIL 18 2016

20. PARAGRAPH REPEALED BY LEGISLATIVE DECREE NO. 50 OF APRIL 18 2016

21. PARAGRAPH REPEALED BY LEGISLATIVE DECREE NO. 50 OF APRIL 18 2016

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26. The provisions of paragraphs 15 and 16 shall also apply to proceedings brought by way of derogation from ordinary proceedings. Subjects who operate in derogation and do not have their own institutional websites publish the information referred to in the cited paragraphs 15 and 16 on the institutional websites of the administrations from which they are nominated

27. The information published pursuant to paragraphs 15 and 16 shall be sent electronically to the Commission

28. The administrations also provide for periodic monitoring of compliance with procedural time by the timely elimination of the anomalies. The monitoring results can be consulted on the institutional website of each administration

29. Each public administration shall, through its own institutional website, notify of at least one certified email address which citizens may use in order to send requests pursuant to Article 38 of the Unique Legislative and Administrative Provisions on Administration Documentation, as provided for in Decree No. 445 of the President of the Italian Republic of December 28 2000, and subsequent amendments, and receive information on the measures and administrative proceedings concerning them

30. The administrations, while respecting the rules on the right of access to administrative documents referred to in Chapter V of Law No. 241 of August 7 1990, and subsequent amendments, regarding administrative procedure, are obliged to make accessible at all times to interested parties – through electronic identification tools as per Article 65, paragraph 1, of the code referred to in Legislative Decree No. 82 of March 7

2005, and subsequent amendments – information relating to the administrative measures and procedures that apply to them, including those relating to the status of the procedure, the timing and the specific office responsible at each and every stage

31. PARAGRAPH REPEALED BY LEGISLATIVE DECREE NO. 10 OF JANUARY 22 2016

32. With regard to the proceedings referred to in paragraph 16, letter (b) of this Article, the contracting authorities are in any event obliged to publish on their institutional websites: the proposed structure; the subject of the invitation to tender; the list of operators invited to submit tenders; the tenderer; the amount of the award; the time needed to complete the work, service or supply; the amount of the sums paid. The contracting authorities are also required to send the above information every six months to the commission referred to in paragraph 2. By January 31 each year, this information, relating to the year before, shall be published in summary tables that can be freely downloaded in an open standard digital format that allows the computer data to be analyzed and reworked, also for statistical purposes. The administrations send this information in digital format to the Public Works, Services and Supplies Supervision Authority, which publishes it on its website in a section freely accessible for all citizens, catalogued according to the type of contracting authorities and by region. The Authority identifies by its own resolution the relevant information and the ways it is to be forwarded. By April 30 of each year, the Public Works, Services and Supplies Supervision Authority transmits to the Court of Audit the list of the administrations which have failed to transmit and publish, in whole or in part, the information referred to in this paragraph in open standard digital format. In which case Article 6, paragraph 11, of the code referred to in Legislative Decree No. 163 of April 12 2006, (2) 32, subsection 2, shall apply. In disputes concerning the matters referred to in paragraph 1, letter (e), of Article 133 of the Code referred to in Annex 1 of Legislative Decree No. 104 of July 2 2010, the Administrative Judge transmits to the Commission any relevant information or news which emerges during the course of proceedings that, even after a summary assessment, puts in evidence conduct or acts contradictory to the rules of transparency.

33. Failure or incomplete publication by the public administrations of the information referred to in paragraph 31 constitutes a breach of the qualitative and economic standards pursuant to Article 1, paragraph 1, of Legislative Decree No. 198 of December 20 2009, and is however evaluated in accordance with Article 21 of Legislative Decree No. 165 of March 30 2001, and subsequent amendments.

Any delays in updating content on computer tools are sanctioned by service managers.

34. The provisions of paragraphs 15 to 33 apply to the public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, and subsequent amendments, to the national public bodies, as well as companies incorporated by public administrations and their subsidiaries, pursuant to Article 2359 of the Italian Civil Code, limited to their public interest activities governed by national or European Union law.

35. The government is authorized to adopt, without any new or increased public sector charges, within six months of the date of entry into force of this law, a legislative decree on the reorganization of the rules regarding the obligations of advertising, transparency and dissemination of information by the public administrations, by modifying or supplementing existing provisions, or by anticipating new forms of advertising, in compliance with the following principles and guiding criteria:

- a) Recognition and coordination of the provisions that provide for disclosure obligations for public administrations
- b) Anticipation of advertising forms both in relation to the use of public resources and the performance and results of the administrative functions
- c) Clarification of the disclosure obligations for data relating to holders of positions that are political, of an electoral nature or in any case relate to the exercise of powers concerning politics at state, regional and local levels. Mandatory disclosure statements referred to in letter (a) must relate at least to the overall financial position of the holder at the time of the assumption of office, business ownership, personal, spousal and familial shareholder equity, to the second degree of kinship, as well as any remuneration that the assumption of office entitles the holder to
- d) Extension of publicity hypotheses, through publication on institutional websites, of information relating to the holders of managerial posts in the public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001 and subsequent amendments, both with reference to those involving administration and management functions, and with reference to positions of responsibility of the offices of direct collaboration
- e) Definition of information categories that the administrations must publish and the ways to prepare their relative formats
- f) Obligation to publish all the acts, documents and information referred to in this paragraph also in electronic form that can be further processed and in open data formats. Open data formats must be taken to mean at least the data made available and useable online in non-proprietary formats, on such terms or conditions as to allow the widest reuse also for statistical purposes and redistribution without further restrictions on use, reuse or diffusion other than the obligation to cite the source and respect its integrity
- g) Identification, including through the integration and coordination of the current rules, of the duration and the terms of updating for each mandatory publication
- h) Identification, including through the review and integration of the current rules, of the liabilities and penalties for the non-compliance or delayed or incorrect fulfilment of the publication obligations

36. The provisions of the legislative decree adopted pursuant to paragraph 35 supplement the identification of the essential level of benefits provided by public administrations for the purpose of transparency, prevention, and the combating of corruption and maladministration, in accordance with Article 117, second paragraph, letter (m) of the Constitution, and also constitute the exercise of the function of the statistical and computerized coordination of information of the data of the state, region and local area administration, referred to in Article 117, second paragraph, letter (r), of the Constitution.

37. In Article 1 of Law No. 241 of August 7 1990, to paragraph 1, subsection 3, at the end, are added the following words, “with a level of guarantee not less than that to which public administrations are held under the provisions of this Law”.

38. In Article 2 of Law No. 241 of August 7 1990, to paragraph 1, at the end, is added the following sentence, “If they perceive the manifest inadmissibility, procedural immunity or judge the claim to be unfounded, the public administrations shall conclude the proceedings by means of an express provision prepared in simplified form, the reasoning of which may consist of a concise reference to the point of fact or law considered to be decisive”.



39. In order to ensure the impartial exercise of the administrative functions and to strengthen the separation and reciprocal autonomy between political and administrative bodies, the public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, as well as corporations and companies owned by the State and other public bodies, during the monitoring put in place for the purposes of Article 36, paragraph 3, of the same Legislative Decree No. 165 of 2001, and subsequent amendments, shall communicate to the Department of Public Service, through independent evaluation bodies, all the data useful for detecting managerial positions assigned to people, also external to the public administrations, identified in a discretionary manner by the political body without public selection procedures. The data provided comes from the annual report to Parliament referred to in Article 36, paragraph 3, of Legislative Decree No. 165 of 2001, and shall be transmitted to the Commission for the purposes referred to in paragraphs 1 to 14 of this Article.

40. The titles and curricula relating to the subjects referred to in paragraph 39 are an integral part of the data communicated to the Department of Public Service.

41. The following is added in Chapter II of Law No. 241 of August 7 1990, after Article 6:

“Article 6, subsection 2, (Conflict of interest). - 1. The person responsible for the procedure and the holders of the competent offices to adopt opinions, technical evaluations, end-of-procedure acts and final decision must abstain in the event of conflict of interest, indicating any situation of conflict, including potential”.

42. The following changes have been made to Article 53 of Legislative Decree No. 165 of March 30 2001, and subsequent amendments:

a) The following is inserted after paragraph 3:

“3, subsection 3. For the purposes provided for in paragraph 2, with specific regulations issued on the proposal of the Minister for Public Administration and Simplification, in agreement with the ministers concerned, pursuant to Article 17, paragraph 2, of Law No. 400 of August 23 1988, and subsequent amendments, posts prohibited for public administration employees as referred to in Article 1, paragraph 2 are identified according to differing criteria in relation to the different qualifications and professional roles”.

b) To the end of paragraph 5 are added the following words: “or situations, or potential situations, of conflicts of interest that undermine the impartial exercise of the functions assigned to the employee”.

c) To paragraph 7 and paragraph 9, after the first sentence, is inserted the following: “For the purposes of authorization, the administration verifies the groundlessness of situations, or potential situations, of conflicts of interest”.

d) After paragraph 7 is inserted the following:

“7, subsection 2. Failure to pay the remuneration by the civil servant who received the overpayment constitutes a presumption of revenue liability under the jurisdiction of the Court of Auditors”

e) Paragraph 11 is replaced by the following:

“11. Within fifteen days from the payment of the remuneration for the tasks referred to in paragraph 6, the public or private entities shall inform the relevant administration of the amount of the remuneration paid to the civil servants”

f) In paragraph 12, the first sentence is replaced by the following: “Public administrations that confer or authorize assignments, free of charge, to their employees shall communicate electronically, within a period of fifteen days, to the Department of

Public Service the assignments conferred or authorized to the employees, notifying of the subject of the assignment and the gross remuneration, where provided”; in the same paragraph 12, in the second sentence, the words: “The list is accompanied” shall be replaced by the following:

“The communication is accompanied” and, in the third sentence, the words:

“During the same period” shall be replaced by the following: “By June 30 of each year”

g) In paragraph 13, the words: “Within the same period as per paragraph 12” shall be replaced by the following: “By June 30 of each year “

h) In paragraph 14, the second sentence, after the words: “the object, duration and remuneration of the assignment” is added the following:

“as well as evidence that the groundlessness of situations, or potential situations, of conflicts of interest has been verified”

i) In paragraph 14, after the second sentence the following shall be inserted:

“The information concerning consulting and assignments communicated by the administrations to the Department of Public Service, as well as the information published by them in their databases accessible to the public by electronic means in accordance with this Article, shall be transmitted and published in summary tables made freely available for download in an open standard digital format that allows the computer data to be analyzed and reworked, also for statistical purposes. By December 31 of each year the Department of Public Service shall transmit to the Court of Auditors the list of the administrations which have failed to transmit and publish, in whole or in part, the information referred to in the third sentence of this paragraph in open standard digital format”

l) The following is added after paragraph 16, subsection 2:

“16, subsection 3. Employees who have exercised authoritative or negotiating powers over the last three years of service on behalf of the public administrations referred to in Article 1, paragraph 2, may not, in the three years following termination of the public sector employment relationship, perform working or professional activities for private entities receiving public administration activities carried out through the same powers. Contracts concluded and assignments conferred in violation of the provisions of this paragraph shall be null and void and the private entities that concluded or conferred them are forbidden to conclude contracts with the public administrations for the next three years subject to the restitution of any remuneration received and accrued to them”.

43. The provisions of Article 53, paragraph 16, subsection 3, second sentence, of Legislative Decree No. 165 of March 30 2001, introduced by paragraph 42, letter (l), shall not apply to contracts already signed at the date of entry into force of this Law.

44. Article 54 of Legislative Decree No. 165 of March 30 2001, is replaced by the following:

“Article 54, (Code of Conduct) - 1. The Government defines a Code of Conduct for public administration employees in order to ensure the quality of the services, the prevention of corruption phenomena, and compliance with the constitutional duties of diligence, loyalty, impartiality and exclusive service in the care of the public interest. The Code contains a specific section dedicated to the duties of managers, organized in relation to the functions assigned, and in any case provides for a ban on all civil servants to seek or accept, in any capacity, remuneration, gifts or other utilities, in connection with the performance of the functions or tasks entrusted to them, without prejudice to customary gifts, as long as they are of modest value and within the limits of normal courteous relations.

2. The Code, approved by Decree of the President of the Italian Republic, after consideration by the Council of Ministers, upon a proposal by the Minister for Public

Administration and Simplification, by agreement at the Unified Conference, is published in the Official Journal and delivered to employees, who sign it at the time of recruitment.

3. Violation of the duties contained in the Code of Conduct, including those relating to the implementation of the corruption prevention plan, is a source of disciplinary liability. The violation of duties is also relevant for civil, administrative and accounting liability whenever these are linked to the violation of duties, obligations, laws or regulations. Serious or repeated violations of the Code of Conduct lead to the application of the penalty pursuant to Article 55, subsection 4, paragraph 1.

4. For each judiciary and the Legal Council of State, the governing bodies of the trade associations adopt an ethical code to which the members of the judiciary concerned must adhere. In the event of inaction, the code is adopted by the self-governing body.

5. Each public administration shall establish its own Code of Conduct which supplements and sets out in more detail the Code of Conduct referred to in paragraph 1, with an open procedure for participation after obtaining the mandatory opinion of its own independent evaluation body. The Code of Conduct referred to in this paragraph shall be subject to the provisions of paragraph 3. For this purpose, the Commission for the Evaluation, Transparency and Integrity of Public Administration (CIVIT) defines standard criteria, guidelines and standard forms for individual sectors or types of administration.

6. The managers responsible for each structure, the internal control structures and the disciplinary offices oversee the application of the codes referred to in this Article.

7. The public administrations shall verify the state of implementation of the codes each year and organize staff training activities for knowledge and the correct application of such codes”.

45. The codes referred to in Article 54, paragraphs 1 and 4, of Legislative Decree No. 165 of March 30 2001, as replaced by paragraph 44, shall be approved within six months of the date of entry into force of this Law.

46. The following is inserted after Article 35 of Legislative Decree No. 165 of March 30 2001:

“Article 35, subsection 2, (Prevention of the phenomenon of corruption in the formation of commissions and assignments to offices) - 1. Those who have been convicted – even without judgement ascertained by a final court decision – of the offences provided for in Chapter I of Title II of book two of the Penal Code:

a) May not be part, even with secretarial duties, of commissions for access or selection to public sector employment

b) May not be assigned, even with managerial duties, to the offices responsible for the management of financial resources, the acquisition of goods, services and supplies, or the granting or release of grants, contributions, subsidies, financial aid or awarding of economic benefits to public and private entities

c) May not be part of commissions for the selection of contractors for the assignment of works, supplies and services, for the granting or release of grants, contributions, subsidies, financial aid, or awarding of economic benefits of any kind

2. The provisions referred to in paragraph 1 supplement the laws and regulations that govern the formation of commissions and the appointment of its secretaries”

47. In Article 11 of Law No. 241 of August 7 1990, to paragraph 2, at the end, is added the following sentence: “The agreements referred to in this Article shall be reasoned pursuant to Article 3”.

48. The Government is authorized to adopt, within six months of the date of entry into force of this Law, a legislative decree for the cohesive discipline of offences and related disciplinary penalties, linked to the non-compliance of the terms of definition of the administrative procedures, according to the following principles and guiding criteria:

- a) Homogeneity of the offences connected to delay, exceeding the specific frameworks of the various public administration sectors
- b) Homogeneity of the checks by management, aimed at avoiding delays
- c) Homogeneity, certainty and compulsoriness in the system of penalties, always in relation to the failure to respect the terms.

49. For the purposes of preventing and combating corruption, as well as preventing conflicts of interest, the Government is authorized to adopt, without any new or increased public sector charges, within six months of the date of entry into force of this Law, one or more legislative decrees intended to amend the current regulations on the assignment of managerial appointments and top administration posts in the public administrations as referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, and subsequent amendments, and entities governed by private law subject to public control exercising administrative functions, activities in the production of goods and services for the benefit of the public administrations, or public service management, to be conferred to parties internal or external to the public administrations, which entail administrative and management functions, as well as to modify the current regulation on the incompatibility between such appointments and the carrying out of elected public appointments or the ownership of private interests that may conflict with the impartial exercise of the entrusted public functions.

50. The legislative decrees referred to in paragraph 49 are issued in compliance with the following principles and guiding criteria:

- a) To explicitly provide for cases of non-conferment of managerial posts, for the purposes of preventing and combating corruption, generally adopting the criterion of non-conferment for those who have been convicted – even without judgement ascertained by a final court decision – of the offences provided for in Chapter I of Title II of book two of the Penal Code
- b) To explicitly provide for cases of non-conferment of managerial posts, for the purposes of preventing and combating corruption, generally adopting the criterion of non-conferment for those who for a reasonable period of time of no less than one year, have, prior to the assignment, carried out tasks or held positions in entities governed by private law subject to control or funded by the administration that confers the assignment
- c) To lay down the criteria for conferment as well as cases of the non-conferment of managerial posts to subjects outside the administrations who, for a reasonable period of time of no less than one year, have, prior to the assignment, have been part of political bodies or held elected positions in public offices.

Cases of non-conferment must be graded and regulated in relation to the importance of the political positions held, the reference body, and the perhaps local liaison with the administration conferring the assignment. The conferment of managerial posts to those who have performed political tasks or held elected public positions in the same administrations during the period – of no less than one year, however – immediately preceding the conferment of the post, is excluded, in any event, except for office manager posts with direct collaboration with the political bodies

- d) To include among the positions encompassed by the rules:

- 1) Top administration posts as well as managerial posts, also conferred to subjects outside the public administrations, involving the exercise of administration and management duties, exclusively
- 2) General, medical and administrative manager posts of local health care units and hospitals
- 3) Director of public bodies and entities governed by private law subject to public control
- e) To regulate cases of incompatibility between the appointments referred to in letter (d) already conferred and the carrying out of activities, whether paid or not, at entities governed by private law subject to regulation, control or financing by the administration that conferred the position or the carrying out independently of professional activities, if the body or professional activity are subject to regulation or financing by the administration
- f) To regulate cases of incompatibility between the appointments referred to in letter (d) already conferred and the carrying out of duties in political bodies

51. The following is inserted after Article 54 of Legislative Decree No. 165 of March 30 2001:

“Article 54, subsection 2, (Protection of the civil servant who reports offences) - 1. Other than in cases of accountability for slander or defamation, or for the same title pursuant to Article 2043 of the Civil Code, a civil servant who submits a complaint to the judicial authority or the Court of Auditors, or reports to his immediate superior unlawful conduct of which he has become aware due to his employment relationship, cannot be penalized, dismissed or subjected to direct or indirect discriminatory measures, having an effect on working conditions for reasons directly or indirectly linked to the complaint.

2. Within the context of the disciplinary procedure, the whistleblower’s identity cannot be revealed without his consent, provided that the dispute of the disciplinary accusation is based on separate and further investigations with respect to his report. If the dispute is based, in whole or in part, on his report, his identity may be revealed if his knowledge is absolutely essential to the defence of the accused.

3. The adoption of discriminatory measures shall be reported to the Department of Public Service, for the provisions of competence, by the interested party or the most representative trade union organizations in the administration in which they were put in place.

4. The complaint is removed from access as provided for in Articles 22 et seq. of Law No. 241 of August 7 1990, and subsequent amendments”.

52. For the entrepreneurial activities referred to in paragraph 53, the anti-mafia waiver notification to be acquired regardless of the thresholds laid down by the code referred to in Legislative Decree No. 159 of September 6 2011, is compulsorily acquired by the subjects referred to in Article 83, paragraphs 1 and 2, of Legislative Decree No. 159 of September 6 2011, through consultation, also electronically, with a specific list of suppliers, service providers and executors of works not subject to mafia-based infiltration attempts operating in the same sectors. The aforementioned list is set up in each prefecture. Inclusion in the list is arranged by the Prefecture of the province in which the requesting subject has its seat. Article 92, paragraphs 2 and 3, of the aforementioned Legislative Decree No. 159 of 2011 is applied. The Prefecture conducts regular assessments of the persistent groundlessness of mafia attempts to infiltrate and, in the event of a negative outcome, prescribes the cancellation of the company from the list.

52, subsection 2. Inclusion in the list referred to in paragraph 52 takes the place of the anti-mafia waiver notification also for the purpose of the stipulation, approval or authorization of contracts or subcontracts relating to activities other than those for which it was provided.

53. The following activities are defined as having the most at risk of mafia infiltration:

- a) Transport of materials to landfill stations for third parties
- b) Transport, including cross-border, and disposal of waste for third parties
- c) Extraction, supply and transport of land and inert materials
- d) Packaging, supply and transport of concrete and bitumen
- e) Non-operated plant hire
- f) Supply of wrought iron
- g) Operated plant hire
- h) Road transport for third parties
- i) Guarding of shipyards

54. The specification of the activities referred to in paragraph 53 may be updated, by December 31 of each year, by means of a special decree of the Minister of the Interior adopted in consultation with the Ministers of Justice, Infrastructure and Transport and of the economy and finances, subject to the opinion of the relevant Parliamentary Commissions, to be made within thirty days of the date of transmission of the scheme to the houses of parliament. If the Commissions do not make their views known within the time limit, the decree may still be adopted.

55. The company entered in the list referred to in paragraph 52 shall notify the competent prefecture of any change in the ownership structure and its corporate bodies within thirty days of the date of the amendment. Listed companies in regulated markets shall announce the relevant changes as provided for in the Consolidating Act under Legislative Decree No. 58 of February 24 1998. Non-communication will result in the cancellation of the registration.

56. By decree of the Prime Minister of Italy, acting on a proposal by ministers for public administration and simplification, the interior, justice, infrastructure and transport and economic development, to be adopted within sixty days of the date of entry into force of this law, are laid down the arrangements for the establishment and updating, without new or increased public finances, of the list referred to in paragraph 52, as well as for the verification activities.

57. Until the sixtieth day following the date of entry into force of the decree referred to in paragraph 56 the regulation existing at the date of entry into force of this law continues to apply.

58. PARAGRAPH REPEALED BY LEGISLATIVE DECREE NO. 50 OF APRIL 18 2016

59. The provisions on the prevention of corruption referred to in paragraphs 1 to 57 of this Article, which directly implement the principle of impartiality referred to in Article 97 of the Constitution, shall apply to all public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, and subsequent amendments.

60. Within one hundred and twenty days from the date of entry into force of this Law, by means of agreements at the Unified Conference referred to in Article 8, paragraph 1, of Legislative Decree No. 281 of August 28 1997, the fulfilment of the terms and conditions of the autonomous regions and provinces of Trento and Bolzano and local authorities, as well as the public bodies and entities governed by private law subject to their control, are set

out in full with a view to the full and prompt implementation of the provisions of this Law, with particular regard to:

- a) The definition, by each administration, of the three-year corruption prevention plan, starting from the plan covering the years 2013-2015, and its transmission to the region concerned and the Department of Public Service
- b) The adoption, by each administration, of rules governing the identification of posts prohibited to civil servants as referred to in Article 53, paragraph 3, subsection 2, of Legislative Decree No. 165 of March 30 2001, introduced by paragraph 42, letter (a), of this Article, subject to the provision of paragraph 4 of the same Article 53
- c) The adoption, by each administration, of the Code of Conduct referred to in Article 54, paragraph 5, of Legislative Decree No. 165 of March 30 2001, as replaced by paragraph 44 of this Article.