

G7 Workshop on Corruption measurement

Rome, 27 October 2017

di Armando D'Alterio – 1.11.2017

Corruption, a national and global issue.

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As a prosecutor, investigating on *corruption* and organized crime and involved in various national actions aiming at strengthening Eastern Europe Countries' judicial institutions in charge of same investigations and trials, I wish, first of all, reassure Professor Alina Mungiu- Pippidi with reference to her concern about the independence of the Italian Judiciary, and about its fall-out on the contrast of corruption, giving testimony about the fact that, while standing in n. 60 position in Transparency international corruption perception index, Italy would, on the contrary, gain n. 1 position in a possible "Objective independence index of the Judiciary", as I have experienced in almost 40 years of investigations, part of which leading prosecution offices and national and international institutions strictly linked to judicial activities.

After this due preamble, we must not fail to affirm the importance of the intervention of Professor Mungiu-Pippidi, when stressing the importance of the independence of the Judiciary for an effective contrast of corruption, especially when most serious offences, involving high level administrators or politicians, are considered; for this reason she deserves the grateful thanks of Italian prosecutors and judges who, on this constitutional milestone of our legal system, build their day- by- day activities.

But why to this high level of independence of the judiciary does not correspond a better position of Italy in corruption index?

As Director of Transparency international Robin Hoddes said, their index cannot reflect the full spectrum of corruption, nor measure the efforts to contrast the phenomenon.

I am in line with this conclusion, being absolutely sure that our position reflects more the perception of (ancient) weaknesses in the contrast, than the real entity of the criminal phenomenon, also in comparison with its diffusion in those countries that are rewarded by a best rank in Transparency International classification.

In my full report in Italian, of which this is an abstract, I make the example of investigations in countries covering respectively n. 19 e n. 41 positions in Transparency index, concerning cases of huge and serious corruption, which are rarely found in our national experience.

In nation awarded with n. 19 position, for instance, official records report about 49 counsels for the defense and 15 judges arrested after a single investigation discovered cases of bribes paid in a local court.

Anyway, even though statistics are important for pointing out problems (as well as their precision and reliability) our goal, the goal of practitioners and jurists involved in a such serious issue, cannot be limited to compare national situations, in a sort of competition rewarding law most abiding countries, but extended to give support to point out gaps in law enforcement frameworks, not before having, of course, recognized the progress already made by Italy, through already set up reforms.

To this regard, we can quote, as most remarkable in the last years:

- The reform of statutory limitations for investigations, putting remedies to the frequency of acquittals due to lengthy procedures (statute n. 107, June 23, 2017, in force from July, 4th, 2017);
 - The setting up of Anac (the national anti-corruption agency, finally structured in 2014).
 - the implementation of U.E. Directives on seizure and confiscation of proceeds of crime (legislative decrees n. 35/2016 and n. 137/2015); the implementation of U.E. directives concerning investigating joint teams (legislative decree n. 34/2016).
 - The application, in criminal proceedings concerning corruption and similar offences, of the mitigating circumstance pertaining to collaboration by the defendant (art. 323 bis co. 2 c.p., introduced by art. 1 of statute n. 69/2015) diminishing the penalty from one third to two thirds for whoever gives evidence to avoid further consequences of crime, helps to point out responsibilities and to seize money or other assets related to the offence.
 - Finally, the provision, approved on September 27th, 2017, concerning the application of preventative measures, based on grounded suspicions, concerning persons accused of corruption and related criminal association.
- Further, final step, should be made by allowing under-cover activities of police officers, for such crimes, already allowed by art. 9 of n. 146/2006 statute also for offences punished by custodial sentences less serious than those provided for corruption offences.

We also need an equilibrate approach to the issue, from the side of prosecutors and judges.

Of this need are well aware Italian legislators, who decided to accompany the recent introduction of criminal preventative measures, based on suspicion of corruption related to criminal association, with a continuous monitoring of the right and fair application of this serious and delicate tool of contrast.

On the other, often opposite side, politics must furthermore respect and protect the independence of prosecutors and judges, and strengthen the efficiency of their actions, also and mainly when corruption matters are on the stake.

On this issue, I call to the witness stand Transparency international, which claims (see its website introductory statements):

““This year’s results highlight the connection between corruption and inequality, which feed off each other to create a vicious circle between corruption, unequal distribution of power in society, and unequal distribution of wealth.

In too many countries, people are deprived of their most basic needs and go to bed hungry every night because of corruption, while the powerful and corrupt enjoy lavish lifestyles with impunity.”
– José Ugaz, Chair of Transparency International

The interplay of corruption and inequality also feeds populism. When traditional politicians fail to tackle corruption, people grow cynical. Increasingly, people are turning to populist leaders who promise to break the cycle of corruption and privilege. Yet this is likely to exacerbate – rather than resolve – the tensions that fed the populist surge in the first place.”

Any further comment is superfluous. Weak contrast of corruption weakens politics, because with corruption dies not only the economy of a country, but also the confidence of citizens in their politicians and, in the end, in the democratic representation system.

Rome, October 27th, 2017