

## **Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**

### **ITALY**

*(Information as of 17 November 2008)*

#### ***Date of deposit of instrument of ratification/acceptance or date of accession***

- a) The Convention was signed by Italy on 21 November 1997.
- b) The instrument of ratification was deposited on 15 December 2000.

#### ***Implementing legislation***

a) The Convention was ratified and implemented in Italy through Act No. 300 of 29.9.2000, "Ratification and enforcement of the following international instruments drawn up on the basis of Article K 3 of the Treaty on the European Union: the Convention on the Protection of the European Communities' Financial Interests, done in Brussels on 26 August 1995; its First Protocol, done in Dublin on 27 September 1996; the Protocol concerning the Preliminary Interpretation, by the Court of Justice of the European Communities, of said Convention, with attached declaration, done in Brussels on 29 November 1996; the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, done in Brussels on 26 May 1997, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, done in Paris on 17 December 1997. Delegation to the government to regulate the administrative responsibility of legal persons and of bodies without legal personality." The Act introduced Article 322-bis into the Criminal Code, which in subsection 2 provides for the criminal responsibility of anyone who bribes or attempts to bribe a foreign public official when the offence is committed in order to procure an undue benefit for himself or others in international business transactions. In addition, Act 300/2000 empowered the government to introduce the criminal responsibility of legal persons; Legislative Decree 231/01 then defined this responsibility and extended it so as to include the bribery of foreign public officials.

b) Act No. 300 of 29 September 2000 was published in the Official Journal No. 250 of 25 October 2000; the Act entered into force on 26 October 2000.

#### ***Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or Recommendations***

- a) Legislative Decree No. 231 of 8 June 2001 on the Criminal Responsibility of Legal Persons;
- b) Criminal Code;
- c) Code of Criminal Procedure;
- d) Civil Code (Article 2621 et seq. on corporate crimes).
- e) Legislative Decree No. 231 of 21 November 2007 (implementation of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and 2006/70/EC

of 1 August 2006 laying down implementing measures for Directive 2005/60/EC), that introduced also the Criminal Responsibility of Legal Persons for money laundering (new art. 25-octies, Leg. Decree No. 231/2001);

### ***Other information***

#### *Relevant authorities*

- (i) The Public Prosecutor's offices, which are organised on a territorial basis, to which information and complaints on bribery are referred and which conduct investigations in this field and prosecute cases in the courts;
- (ii) The Judicial Police, which receives information and complaints on bribery and conduct the relevant investigations under the supervision of the Public Prosecutor's office;
- (iii) The High Commissioner for preventing and combating corruption and other unlawful practices within the public administration, established by Act No. 3 of 16 January 2003; the High Commission, although it does not have investigative powers comparable to those of the Judicial Police and the courts, is a body that is responsible for the internal supervision and monitoring of the activities of the public administration, with a special focus on practices of corruption; in this capacity, the High Commissioner has free access to administrative records and databases of the public administration and it can exercise its powers of its own initiative or at the request of administrations; it is required to report to the Prime Minister every six months and to the judicial authorities and Audit Office in the cases specified by law. Decree law 112/2008 and the subsequent Prime Minister Decree of 2 October 2008 provide that the High Commissioner's tasks and functions are transferred to the Ministry for Public Administration and Innovation – Department for Public Administration. The Decree, in its article 3, grants the said department the same degree of autonomy and independence which was granted to the High Commissioner. This specifically technical and operational structure will act as a hub, supporting, supervising and coordinating the works carried out by other public authorities and agencies, such as the Court of accounts; the Italian FIU (Bank of Italy); law enforcement agencies (Carabinieri, Guardia di Finanza, State Police); agency for revenues; universities; relevant ministries. (See: [www.innovazionepa.gov.it/ministro/pdf\\_home/saet\\_ing.pdf](http://www.innovazionepa.gov.it/ministro/pdf_home/saet_ing.pdf))

#### *Relevant Internet links to national implementing legislation*

[www.giustizia.it/normeinrete](http://www.giustizia.it/normeinrete);  
[www.gazzettaufficiale.it](http://www.gazzettaufficiale.it);  
[www.parlamento.it](http://www.parlamento.it)  
[www.innovazionepa.gov.it/ministro/pdf\\_home/saet\\_ing.pdf](http://www.innovazionepa.gov.it/ministro/pdf_home/saet_ing.pdf)

#### *Signature/Ratification of other relevant international instruments*

- Convention on the Protection of the European Communities' Financial Interests (signed on 26 July 1995, ratified by Act 300/2000)
- First Protocol on the Convention on the Protection of the European Communities' Financial Interests (signed in Dublin on 27 September 1996, ratified by Act 300/2000)

- Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union (signed on 26 May 1997, ratified by Act 300/2000)
- Second Protocol on the Convention on the protection of the European Communities' financial interests (signed on 19 June 1997, ratified by Act No. 135/2008);
- Convention of the Council of Europe on Corruption (signed on 27 January 1999)
- UN Convention on Transnational Organized Crime (signed on 14 December 2000) ratified by Act No. 146/2006);
- UN Convention on Corruption (signed in December 2000)

### ***Working Group on Bribery Monitoring Reports***

Phase 1: Review of implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/39/61/2019055.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/0/50/33995536.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/30/36/38313133.pdf>