The system of prevention of corruption in public procurement in Italy: the symptomatic indices of the corruption phenomena

Benedetta Ciferni[a*]
[a] *University of Teramo, Teramo, Italy*

Abstract
1.Public corruption: the seriousness and relevance of the phenomenon in Italy; 2. The reference regulatory framework: from the law n. 190 of 2012 to the new Code of public contracts; 3. A possible method to unmask corruption in public procurement: symptomatic indices of corruptive phenomena and pertinent questions; 4. Application of the method in the phases most exposed to risk.

Keywords*: Public corruption; Code of public contracts; public procurement; Italy; corruptive phenomena; Transparency International.*

1. Public corruption: the seriousness and relevance of the phenomenon in Italy

Although the corruption of the public apparatus is not a recent phenomenon (Della Porta, Vannucci, 1994; Della Porta, Vannucci, 1997; Vivarelli, 2008; Merloni, Vandelli, 2010; Manganaro, 2014), in the recent years it seems to have gained a very significant dimension, both in Italy (Cantone, Caringella, 2017; Corradino, 2016) and in the rest of the world, arousing ever greater concern on the ethical, social, and in terms of impact on the economic system and public finance.

It is therefore obvious that the prospect of investigation of the phenomenon of corruption is manifold.

First of all, from an ethical point of view, corruption is an expression of conduct contrary to honesty, realizing the denial of moral action, even before acting in accordance with the rule of law (Rigotti, 2014; Mattarella, 2007; Bicchieri, 2006).

When such a negation affects the public sphere, the consequences that follow are particularly dramatic. In this perspective, indeed, the corruption phenomena undermine the image and credibility of the administration, undermining the trust of citizens in institutions and, at the same time, impacting the democratic system (Eleni, Arone, 2005).

If we want to confirm the reflections of the phenomenon in Italy, however, it is sufficient to recall the world ranking of perceived public corruption drafted annually by Trasparency International -an international non-governmental organization engaged in the fight against this phenomenon, in which Italy places in a very unflattering position compared to that of other European countries.

On the social level, moreover, one cannot fail to realize how corruption negatively affects the fundamental rights of people and, in particular, those rights of the community whose satisfaction is achieved through the use of public services, increasingly

[*]Benedetta Ciferni. Tel.:004-0721-480-200, *E-mail address:* benedetta1005@hotmail.it.

characterized by shortcomings and inefficiencies frequently caused by corruptive phenomena.

In this regard, suffice it to say that there are hundreds of unfinished public works, if not yet not even begun. Corruption is certainly not the only cause of this distressing situation, even the superficiality of the executing companies, the economic crisis, and the heavy Italian bureaucracy assuming a decisive role. And yet, more and more often, the presence of corrupting phenomena occurring in the construction of public works emerges, which thus end up becoming a source of improvement in the life of citizens as tools for the proliferation of malfeasance.

In a different light, which investigates the phenomenon of corruption in purely economic terms, what is called "the cost of a tangent" is immediately highlighted, on which an intense debate has developed.

In this regard, it is worth highlighting how, although it is difficult to identify a parameter capable of accurately measuring the extent of the cost of corruption, it undoubtedly exists and manifests itself in multiple directions. In this sense, just to give some examples: (i) the penalization of investments towards our country by foreign companies; (ii) the increase in the costs of executing the contracts, often a direct and unavoidable consequence of the incorrect choice of the contractor; (iii) the poor quality of services provided by dealers of goods and services; (iv) use of public money for private purposes.

Well, it is evident how these events generate distortions on the functioning of the market, on the efficient use of public resources, but above all how they ultimately weigh on the personal finances of citizens, since public affairs represent a common wealth.

One of the sectors most affected by the phenomenon in question is certainly that of public tenders and concessions also because, through it, huge amounts of money are being transferred. More and more often, the corrupting phenomena settle in the relationship established between the public subjects and the economic operators who are called to guarantee to the former the procurement of goods and services or the realization of public works.

The relevance that the problem assumes in this sector, however, is evident when one considers how corruption is able to undermine the whole body of principles that support the procedure of public evidence.

In fact, it frustrates the public interest pursued by the administration through the tender procedure for the selection of the best contractor for the purpose of the execution of the contract; harms competition and equal treatment between companies, as it is capable of producing the undue exclusion of contract proposals in reality more serious and convenient for the contracting authority; it compromises the transparency of the procedure, insinuating itself within the latter through hidden passages of money, immaterial promises of advantages and favors and other heterogeneous and difficult to identify channels.

2. The regulatory framework of reference: from the law n. 190 of 2012 to the new Code of public contracts

Faced with this worrying situation, the Italian legislator intervened with the law of 6 November 2012, n. 190 (Casartelli, Papi, 2012; Spadaro, Pastore, 2012; Mattarella, Pelissero, 2013; Pittaro, 2012; Dolcini, 2013), which is the first organic regulation aimed at preventing and suppressing corruption in public administrations.

The choice of introducing the aforementioned regulations was, however, now obligatory, directly deriving from the obligations assumed by Italy with the signed

international Conventions (De Amicis, 2007) (in particular, the Convention of the United Nations against Corruption, the so-called Merida Convention, of 31 October 2003, ratified by Italy with Law n.116 / 2009 and the Criminal Convention on Corruption of Strasbourg dated 17 January 1999, ratified with Law No. 110/2012), and by requests from international organizations such as GRECO (Groupe d'Etats contre la Corrupion) of the Council of Europe, the WGB (Working Group on Bribery) of the OSCE and the IRG (Implementation Review Group) for the implementation of the United Nations Convention against Corruption.

With the law n. 190/2012 the legislator has proposed to fight corruption not only at the penal level, modifying the pre-existing legislation, but trying above all to prevent it at the administrative level.

In order to achieve its objective, the aforementioned law has therefore prepared a series of measures, the concrete application of which is directly entrusted to public administrations.

The system introduced provides for different levels of planning of instruments aimed at preventing and suppressing corruption.

At the center of the system is the National Anti-Corruption Authority (ANAC), which exercises a multiplicity of functions, as defined by law (Article 1, paragraph 2): a) collaborates with the joint foreign bodies, with regional organizations and competent internationals; b) adopts the national anti-corruption plan; c) analyzes the causes and factors of corruption and identifies the interventions that can favor prevention and contrast; d) expresses an obligatory opinion on the directives and directives and on the circulars of the Minister for Public Administration and the simplification regarding the conformity of acts and behaviors of public officials to the law, codes of conduct and collective and individual contracts, regulating the public employment relationship; e) expresses optional opinions regarding authorizations to perform external tasks by the administrative managers of the State and national public bodies; f) exercises supervision and control over the effective application and effectiveness of the measures adopted by the public administrations pursuant to art. 1, paragraphs 4 and 5 of the law and compliance with the rules on the transparency of administrative activities; g) report to the Parliament by presenting each year by December 31 a report on the activity of combating corruption and illegality in the public administration.

The system outlined by the law n. 190/2012 also provides that the ANAC is assigned the task of (Article 1, paragraph 4): a) coordinating the implementation of strategies to prevent and combat corruption and illegality in public administration developed at national and international level ; b) promote and define common standards and methodologies for the prevention of corruption consistent with international guidelines, programs and projects; c) define standard models of the information and data needed to achieve the objectives set by law, according to methods that allow their management and computerized analysis; d) define criteria to ensure the rotation of managers in sectors particularly exposed to corruption and measures to avoid overlapping of functions and heaps of nominative appointments for public managers, including external ones.

Among the preventive measures, the National Anti-Corruption Plan, adopted by the ANAC (Cantone, Merloni, 2015; Racca, 2015; Nicotra, 2016), is centrally located. It consists of a programmatic document that identifies the objectives and strategies of action to be pursued at national level, the directives addressed to the public administrations and the subjects assigned to them for this purpose, as well as the indications regarding the

communication and analysis of the data regarding the corruption prevention activity carried out by the individual administrations.

On a decentralized level, on the other hand, the Triennial Corruption Prevention Plan is envisaged (article 1, paragraphs 5, 8 and 9), which must be adopted by the political authority of the public administrations and other subjects required to perform such compliance, on the proposal of the prevention officer (this is actually a three-year annual update plan).

This Plan meets the following requirements (Article 1, paragraph 9): a) identify the activities in which the risk of corruption is higher; b) provide for the aforementioned activities mechanisms for training, implementation and control of decisions suitable to prevent the risk of corruption; c) provide, with particular regard to the activities in question, information obligations towards the person in charge of prevention, called to examine the functioning and observance of the Plan; d) define the methods for monitoring compliance with the deadlines for the conclusion of proceedings; e) define the methods for monitoring the relationships between the administration and the subjects that stipulate contracts with it or who are interested in procedures for the authorization, granting or disbursement of economic advantages of any kind, also verifying any relations of kinship or affinity between the owners, directors, members and employees of the same subjects and the managers and employees of the administration; f) identify the specific transparency obligations that are further than those required by law.

The system outlined by the law n. 190/2012, finally, finds its own element of closure in the figure of the person responsible for the prevention of corruption (Bolognino, 2013; Russo, 2014), appointed by the governing body of the Board, usually among the permanent managers in service. As well as proposing the three-year plan, the latter shall also check the effective implementation and suitability of the Plan, control over the effective rotation of offices in offices exposed to corruption risk, the identification of personnel to be included in the training programs entrusted to the National Administration School.

The framework that has been synthetically outlined is sufficient to highlight the essential elements of the system, as well as the type of measures that must first be put in place.

The strategy for preventing and combating corruption in public administrations is based on two key steps, which can be easily isolated from all the provisions contained in the law: a) definition of common standards and methodologies for the prevention of corruption; b) definition of standard models of information and data needed to achieve the objective.

Regarding the first point (sub a), it involves the introduction of rules of conduct, in the form of prohibitions and obligations, deemed appropriate to prevent the implementation of corruptive behavior.

The second point (sub b), on the other hand, necessarily presupposes the identification of methodologies and techniques for analyzing information and data, so as to make them know about possible corrupting behaviors, on which to intervene. Ultimately, with the definition of the common rules we try to prevent the phenomenon of corruption ex ante (some of these rules are already laid by the extended law, for example the one that foresees the principle of rotation of managers); with the definition of information standards, we try to identify the concrete cases, which are suspect of being the result of corruptive behavior, on which to carry out analyzes and specific assessments ex post.

In order to combat corruption in public administrations the law n.190 / 2012 therefore puts in place a virtuous mix based on: i) preventive requirements based on rules of conduct that must be respected by managers and public officials; ii) requirements that require the acquisition and processing of information, in order to carry out subsequent controls on the administrative activity.

It is therefore necessary to highlight how the logic of the subsequent control to be implemented is not that of a check based on the traditional binary legitimacy / illegitimacy, but rests on the technique of isolating first - and then analyzing - the doubtful cases, in which there may have been a corrupting phenomenon.

The closing element of the system, on which the latter restores its effectiveness and its ability to achieve the purposes indicated by the law, is given by the control entrusted to the person in charge of prevention: this control will concern, in the first case, the verification of the compliance with the provisions containing prohibitions and obligations; in the second case, directly the administrative activity concretely carried out by the competent offices in the areas at risk of corruption.

Moreover, the control activity is central to the installation of the Anti-Corruption Law, as it results from the content of the art. 1, which reads: "the present law ... identifies, at national level, the National Anti-Corruption Authority and the other bodies responsible for carrying out in such a way as to ensure coordinated action, control activities, prevention and the fight against corruption and illegality in the public administration ".

As appears from the wording of the aforementioned provision, the incipit of the Law puts the accent on the activities that public institutions are required to carry out, clearly indicating two purposes (prevention and contrast of corruption) and a way to implement them (control), linking both aspects (purposes and methods) to the activity of public entities, confirming the unequivocal view of how control is placed in a central position in the regulatory system.

It is also necessary to highlight how the Italian legislator, after the Law n. 190/2012, intervened with further regulatory provisions destined to have a profound effect on the system already outlined by the Anti-Corruption Law.

Among these, in particular, they deserve to be reported: i) Legislative Decree no. 33/2013 on the transparency of public administrations; ii) Legislative Decree no. 97/2016, on «Revision and simplification of the provisions on the prevention of corruption, publicity and transparency, corrective of the law 6 November 2012, n. 190 and of the legislative decree 14 March 2013 n. 33, pursuant to Article 7 of the Law of 7 August 2015, n. 124 on the reorganization of public administrations "; iii) Legislative Decree 50/2016, which introduced the new Code of public contracts.

As for the decree n. 33/2013 (Sanna, Pani, Braglia, 2014; Foa, 2017; Cavallaro, 2015; Simonati, 2018), it intends to strengthen administrative transparency in order to favor widespread forms of control and a more effective action to combat illegal conduct in the aforementioned. The relevance of the provisions contained therein is also evident as measures aimed at preventing and combating corruptive dynamics, by their nature characterized by obscure and difficult to identify conduct.

Subsequently, with the legislative decree n. 97/2016 the legislator, on the one hand, has adjusted Italian legislation on transparency to the FOIA (Freedom of Information Act) model, which has been adopted both internationally and on a European level, introducing new rules aimed at implementing the transparency of public information assets; on the other hand, it has coordinated the provisions on transparency with those concerning the prevention of corruption.

In this last aspect, it is especially important to remember that the decree quoted lastly intervened expanding the subjective scope of application of the provisions on transparency and the guidelines on corruption prevention dictated by the National Anti-Corruption Plan, specifying that the PNA "Constitutes an address document for the public administrations referred to in Article 1, paragraph 2, of Legislative Decree 30 March 2001, n. 165, for the purpose of adopting its three-year plans to prevent corruption, and for the other subjects referred to in art. 2-bis, co. 2 of the legislative decree 14 March 2013, n. 33, for the purpose of adopting measures to prevent corruption in addition to those adopted pursuant to Legislative Decree 8 June 2001, n. 231 "(Article 1, paragraph 2-bis, Law 190/2012, paragraph introduced by Legislative Decree 97/2016).

Article. 2-bis of Legislative Decree No. 33/2013, introduced by Legislative Decree 97/2016, therefore redesigns the subjective scope of application of the regulation on transparency and prevention of corruption, with the consequence that, to date, the recipients of the obligations contained therein are attributable to three categories of subjects: i) public administrations as per art. 1, co. 2 of Legislative Decree 165/2000, including port authorities as well as the independent administrative authorities of guarantee, supervision and regulation, direct beneficiaries of the provisions contained in the decree; ii) public economic bodies, professional associations, companies in public control, associations, foundations and private law entities, subject to the same regulations as for p.a. «As compatible»; iii) companies with public shareholding, associations, foundations and private law entities subject to the same regulation on transparency foreseen for p.a. "As compatible" and "limited to data and documents relating to the activity of public interest governed by national law or the European Union". Finally, the most noteworthy regulatory novelty among those mentioned above is the new Code of Public Contracts, through which the legislator has attempted an ambitious reform of the matter.

In this regard, it is first of all necessary to highlight how the Legislative Decree no. 50/2016 has increased the powers of the National Anti-corruption Authority, assigning it a central role in this sector. In fact, the Authority has assigned the Authority the task of issuing the implementation guidelines of the Code, intended to replace the previous regulation implementing the code. A new source of legislation has thus been introduced in this matter, referable to the so-called soft law, which is placed on an intermediate level between the regulations and the general administrative acts.
The new regulation on public contracts also sets out provisions that directly intercept the issue of preventing corruption, through the introduction of new elements having the specific objective of avoiding distortions of competition, guaranteeing equal treatment and preventing possible infiltrations of the corruptive phenomena. Just think, just to give an example, to the institution of the Register (Perfetti, 2017) from which the contracting authorities must draw the names of the members of the selection boards: intervention aimed, with all evidence, to achieve a separation between the subjects who defined the rules of the tender procedure (that is, the managers of the contracting authority) and those applying to it during the examination phase of the tenders.

3. A possible method to unmask corruption in public procurement: symptomatic indices of corruption and relevant questions

In order for the corruption prevention measures prepared by the legislator in Italy not to remain a dead letter, but rather prove to be really effective tools for preventing corruption (Iasi, 2014; Costantino, 2016) in the public contracts sector (Leggio, 2015; Di

Cristina, 2012; Comporti, 2011; Racca, Yukins, 2014; Mangani), a combined analysis of the provisions mentioned above is therefore necessary in order to to achieve a twofold purpose: a) to define measures concerning the acquisition by the person responsible for the prevention of relevant information; b) identify the methodologies through which this information can be transformed into useful knowledge to ignite an alarm on the presence of a corrupting phenomenon, which must necessarily follow the deepening of the work of the office and the executive through the control over proceedings and acts adopted.

A possible way to achieve this objective could therefore be to identify, with respect to the areas at risk in the procurement sector and public contracts, a list of questions relevant to each of which corresponds to a symptomatic index of a possible corruptive phenomenon, index that reacts in a positive or negative sense with respect to the pertinent information received from the person in charge of prevention, with the consequence that, in the first case, more in-depth checks must be carried out on the procedures and acts adopted.

The list of pertinent questions and the related symptomatic indices would therefore be the methodological tool to acquire the relevant information and to transform it into knowledge for the purpose of preventing and combating corruption. In order to apply the newly proposed methodology to the public procurement sector, it will therefore be necessary to proceed through these phases: a) identification, within the scope of the contractor selection procedure and the execution of the contract, of the segments most exposed to the risk of corruption phenomena ; b) examination of the concrete strategies that could be implemented by the companies, of the collusive agreements between the economic operators, as well as of the acts of the managers of the contracting stations suitable for the realization of corrective designs; c) elaboration, for each segment at risk, of application tools able to "unmask" the aforementioned behaviors, which, as previously mentioned, with regard to the methodological aspect, consist in the identification of pertinent information and corresponding symptomatic indices that react positively or negatively based on the data received.

From this point of view the state of the studies is not entirely satisfactory. The same three-year plans to date arranged by public administrations and other subjects required to such fulfillment are indeed somewhat lacking. If it is true that they contain a series of indications, also related to the information flow that must reach the person in charge of prevention, however it is not possible to find, if not sporadic, correct indications of the method on the processing of the information in order of obvious possible corruptive cases understood in the broad sense of corruption referred to above.

4. Application of the method in the phases most exposed to risk

A first phase that could already be considered at risk of corruption is that of identifying the needs located at the base of the choice, by the party, to proceed with the stipulation of a contract.

This choice, indeed, should be justified by purposes of public interest, as in responding to the satisfaction of needs that reside in the general interest of the community. However, if at first sight such a consideration might seem completely obvious, in practice it may well happen that distortion phenomena are insinuated from the origin of the relationship established between the public subjects and the economic operators who are called to guarantee the first l supply of goods and services or the construction of public works.

This effect can be achieved through the artificial definition of a requirement that, in reality, is revealed in whole or in part non-existent and that has been identified with the sole aim of favoring the interests of a particular economic operator, leading the p.a. to acquire usefulness that it does not need.

A check to this effect, on closer examination, concerns the correct exercise of administrative action as well as the optimal management of public resources, thus being able to reveal useful indices especially in terms of maladministration. It is not excluded, however, that these behaviors integrate true hypotheses of corruptive phenomena, albeit in the "broad" sense of corruption, however taken into consideration by the law n. 190/2012. In this first programming segment, therefore, questions could be asked by the person in charge of prevention, based on the information received, to verify that there are no anomalies.

The most profitable moment for the insinuation of corruptive phenomena, however, is certainly the preparation of the legal architecture of the tender because, through it, it is possible to create the conditions to favor one firm rather than another. The announcement and tender documentation can indeed be constructed "on purpose", on the basis of the characteristics of the economic operator to whom the contract is to be awarded, by means of choices that reveal under different points of view.

One of the checks that can be carried out by the person in charge of prevention concerns the percentage of tenders issued by the contracting authority, within a certain time span, below the threshold of Community relevance (and therefore without observing the procedures set out in the Code of Contracts), compared to the total of the available allocations.

Well, if the information received shows that a high percentage of credit lines (for example 80%) has a value that is slightly below the threshold, it is clear that there may be doubts that the modus operandi of the manager responsible for the office has been that of wanting to subtract the assignments to the most stringent tender procedures foreseen by the discipline dictated in the code of public contracts for the contracts above the community threshold.

The same argument is valid for the verification of the credit lines arranged through the competitive procedure with negotiation (Art. 62, d.lgs. n. 50/2016), which absorbs the previous negotiated procedure after publication of the call for tenders.

Administrations can use the new procedure if they are not able to define the tools or solutions that best meet their needs and evaluate the market offers, also due to the absence of technical, legal or financial standards and references. In such cases, they merely indicate these needs and determine the minimum requirements and the award criteria.

The information on the aforementioned needs therefore forms the basis for the submission of tenders as well as for the subsequent negotiation. The risk of infiltration of corrosive phenomena is therefore evident where the contracting stations, using this procedure, provide information that can benefit an economic operator rather than another.

A particularly in-depth investigation must then be conducted with regard to the negotiated procedures laid down without prior publication of a call for tenders, since the p.a. it can be used, with adequate motivation, only within the precise and stringent limits set by the Code of Contracts (Art. 63, d.lgs. n. 50/2016).

In particular, these last ones coincide with totally exceptional hypotheses, in which or not a real competitive situation is determined (for example in the case in which no offer or any appropriate question has been presented following the experiment of an open procedure or restricted or when the work, service or supply can only be provided by a

particular economic operator) or an urgent situation arises from unforeseeable events. It is therefore clear that, on the contrary, a distorted use of this procedure could result in indiscriminate injury to competition, non-discrimination and equal treatment of potential contractors.

Another phase of risk is represented by the cases in which the highest urgency occurs. It is an exceptional hypothesis in the form of which, by way of derogation from the provisions of the Code, contracting authorities may proceed directly.

The choice of this procedure must result from a report drawn up by the RUP or by the competent administration technician, indicating the reasons for the emergency situation, the causes that caused it and the work necessary to remove it (Art. 163, d.lgs. n. 50/2016).

However, it may happen that the contracting authorities have to take urgent action not as a result of an unpredictable event and which does not allow any waiting, as prescribed by the code, but to remove situations of danger or degradation dating back in time that the administration could well tackle using ordinary award procedures.

It is therefore evident that this institution lends itself to distorted applications, which require control so that the utmost urgency does not result in an expedient by which, by masking corrupting phenomena, public procedures are bypassed.

Another very delicate phase is that relating to the award criteria for the selection of the contractor.

In particular, the criteria to be followed by the contracting authorities for the award of the tender are the lowest price and the most economically advantageous tender (Art. 95, d.lgs. n. 50/2016). The latter, moreover, represents the criterion favored by the new Code of public contracts, in compliance with the provisions of Directive 24/2014 / EU in order to "further encourage the orientation towards quality".

While the criterion of the lower price has a substantially objective character, that of the economically most advantageous offer certainly implies a much wider margin of appreciation for the contracting authority, since the latter has full power to decide how to allocate the scores to be attributed, respectively, to the technical and economic offer. Naturally this allocation should be closely linked to the subject of the contract and therefore to the characteristics of the public demand. The contracting authority must therefore demonstrate an adequate ability to translate its needs into numerical elements.

It is, however, clear how it could happen that one criterion is favored artificially rather than another, on the basis of the element that a given economic operator is more able to guarantee.

It is therefore important to verify, in a specific time span, how the scores have been distributed and, above all, if this allocation is appropriate for the specific case. If, in hypothesis, in a tender the value of 10% has been attributed to the economic offer and that of 90% to the technical one and such a breakdown is repeated in a high number of award procedures, this certainly constitutes a symptomatic index the person in charge of prevention must pay attention and will have to ask questions to the manager accordingly. The latter can provide satisfactory answers, for example by demonstrating that for that particular asset to be acquired, quality is of fundamental importance. If this does not happen, however, this may mean that it was intended to benefit a very strong economic operator from the point of view of the qualitative and weaker offer with regard to the economic offer.

The contract execution phase represents the last segment of the procedure. At this point, therefore, the eventual corrupting event has already occurred and the contract has now been signed with the company placed in pre-ordained conditions to win the race.

Nevertheless, this segment can also reveal some symptomatic indices relating to possible infiltrated corrosive phenomena.

Here are some moments of the contractual execution phase that are particularly kept under control.

During the execution phase, the p.a. the contractor may, in the presence of an incorrect or delayed fulfillment by the contractor, impose a penalty, according to the amount and terms established in the contract.

In normal cases, it is very common that during the execution complaints are raised by the contracting authority and, consequently, the corresponding penalties are imposed.

However, if this does not occur - and perhaps this is found in a very large number of races - this can result from two causes: o the customer has always selected the best contractor, able to perform the performance in a workmanlike manner - and in this case the assessment on the office manager can only be positive-, or this data can reveal areas of shadow relating to the previous phase of the procedure.

Another institution capable of generating distortions is that of variants. The latter respond to the need, which may arise during the execution phase, to introduce changes to the work originally outlined in the project, in order to ensure its compliance with the same purpose to which it is predetermined. However, in practice, there has often been a degeneration in their use, which has resulted in an undue relapse on public spending as well as an increase in the time taken to implement public works.

To get an idea of the distorted use that can be made of this institute, please refer to the ANAC press release of November 24, 2014, issued following the check on the data relating to the variations in progress transmitted by the contracting authorities.

Among the findings of the activity carried out by the Authority there is a data that is of particular concern. In 90% of the cases examined, the amount of the variants granted is very close to the auction discount offered by the successful bidder.

Such a datum can therefore give rise to the well-founded suspicion that the economic operator, trusting in the concession of the variant, presented the relative discount in order to win the tender, certain that, subsequently, it would have recovered the same amount.

Naturally, those mentioned are just a few examples but serve to understand how, even in the formal respect of procedural rules, there can be substantial violations, able to conceal corruptive episodes.

In order to combat corruption it is therefore important to concentrate, in addition to the direct violation of the rules, on their circumvention by corrupt corrupters and managers, even if the latter, because it represents an indirect violation, is much more difficult to unmask.

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