

# GLOBAL INTEGRITY

*AN INVESTIGATIVE REPORT TRACKING CORRUPTION, OPENNESS AND  
ACCOUNTABILITY IN 25 COUNTRIES*

## I T A L Y

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# INTEGRITY SCORECARD

Overall, Italy ranks 4th out of 25 countries on the Public Integrity Index, falling into the strong tier. Italy scores in the very strong tier (90-100) for Categories 1, 5 and 6, in the strong tier (80-90) for Category 2, in the moderate tier (70-80) for Category 3, and in the weak tier (60-70) for Category 4.

1. **Civil Society, Public Information and Media**, Very strong, ranking 2nd
2. **Electoral and Political Processes**, Strong, ranking 6th
3. **Branches of Government**, Moderate, ranking 11th
4. **Administration and Civil Service**, Weak, ranking 11th
5. **Oversight and Regulatory Mechanisms**, Very strong, ranking 1st
6. **Anti-Corruption Mechanisms and Rule of Law**, Very strong, ranking 2nd

Category - 1:	Civil Society, Public Information and Media	93	Very Strong
I-1	<u>Civil Society Organizations</u>	95	Very Strong
I-2	<u>Access to Information Law</u>	90	Very Strong
I-3	<u>Freedom of the Media</u>	95	Very Strong
Category - 2:	Electoral and Political Processes	82	Strong
II-1	<u>National Elections</u>	90	Very Strong
II-2	<u>Election Monitoring Agency</u>	73	Moderate
II-3	<u>Political Party Finances</u>	83	Strong
Category - 3:	Branches of Government	73	Moderate
III-1	<u>Executive</u>	64	Weak
III-2	<u>Legislature</u>	86	Strong
III-3	<u>Judiciary</u>	69	Weak
Category - 4:	Administration and Civil Service	65	Weak
IV-1	<u>Civil Service Regulations</u>	41	Very Weak
IV-2	<u>Whistle-blowing Measures</u>	25	Very Weak
IV-3	<u>Procurement</u>	92	Very Strong
IV-4	<u>Privatization</u>	100	Very Strong
Category - 5:	Oversight and Regulatory Mechanisms	97	Very Strong
V-1	<u>National Ombudsman</u>	88	Strong
V-2	<u>Supreme Audit Institution</u>	100	Very Strong
V-3	<u>Taxes and Customs</u>	100	Very Strong
V-4	<u>Financial Sector Regulation</u>	99	Very Strong
Category - 6:	Anti-Corruption Mechanisms and Rule of Law	92	Very Strong
VI-1	<u>Anti-Corruption Law</u>	75	Moderate
VI-2	<u>Anti-Corruption Agency</u>	95	Very Strong
VI-3	<u>Rule of Law and Access to Justice</u>	100	Very Strong
VI-4	<u>Law Enforcement</u>	96	Very Strong

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# INTEGRITY ASSESSMENT

By Lorenzo Segato

## Civil Society, Public Information and Media

The Italian Constitution guarantees the right of free meeting, without previous authorization, for any purpose not forbidden by criminal law. This right is fully enforced, as there are no barriers for the creation of new CSOs, there is no need for licenses and there are no costs for creating a CSO. Over the past year, the government has not banned a CSO for nonviolent advocacy.

The Constitution also guarantees the right to form and participate in trade unions. In Italy there are three major—and many minor—trade unions actively engaged in social and political activity.

Many Italian CSOs are often active in public advocacy campaigns. With regards to CSOs dedicated to anti-corruption activities, nothing has happened to those who have dealt with this topic. Citizens have the right of access to any relevant information and basic government records and have the guaranteed right to appeal if access is denied. Many government documents related to the status of a person may be immediately obtained for free from public offices; in addition, self-declarations, which have the same validity as governmental documents, may be substituted in their place.

Freedom of the media is guaranteed, as is freedom of speech. Corruption-related stories receive great attention from the media, in particular when large scandals involve top-level public officials (the prime minister included) or particular sectors of the public administration (e.g., the health system). Journalists can deal with these stories at no risk to their person or families. There is no censorship on the media, and when truthfully reporting stories no sanctions may be imposed, as Italy has no insult law or libel law. Over the past year, no laws have been invoked against any media entity for truthfully reporting corruption, or used to close a media entity, or to seize its assets or imprison its staff.

Regulating the media sector, especially television broadcasting, is problematic; the whole discipline is under reform at this time. But the regulating agency is effective, in part because its members are selected on criteria of professionalism and reputation. The law guarantees the right to start media entities with no problems of authorization.

## Electoral and Political Processes

Universal suffrage has been in force since 1945, and is guaranteed in Article 48 of the Constitution, which guarantees that the vote is personal, equal, free and secret, while Article 60 provides for regular elections; these rules have always been observed in practice.

Citizens may participate without restrictions in the political process, both at local and national levels, and can form political parties or run for a public office.

The current ruling political coalition, composed of right-wing parties Forza Italia, National Alliance (*Alleanza Nazionale*), Northern League (*Lega Nord*), Christian Democratic Party (*Unione Cristiano Democratica*), controls less than two-thirds of the seats in the legislature (56 percent at last elections). For the Chamber of Deputies, Forza Italia obtained a plurality of votes (29.43 percent), while the Democrats of the Left (*Democratici di Sinistra*), obtained second place (16.57 percent). The law (Law 22/02/2000 n. 28) decrees that political parties receive media coverage in proportion to their popular support.

There is no independent election-monitoring agency. The only office that monitors elections is part of the Department for Local Affairs of the Ministry of Interiors. This office appears to be effective. It cannot impose penalties and its reports are accessible to citizens with legitimate interests.

Due to the scandals that came to light during “Operation Clean Hands,” which revealed that Italian political parties were being illegally funded by industry, in 1997 a new set of rules was implemented to regulate the funding system for political parties, including how they maintain their

accounts and requiring annual disclosure of financial records (Law 02/01/1997 n. 2).

The Audit Court (*Corte dei Conti*) oversees the financial records of political parties and public financing. This court has strong guarantees of independence and can initiate investigations and impose penalties.

## Branches of Government

The Constitution protects the civil rights of citizens. Members of the executive must give reasons for their decisions, and any decision is subject to the review of the judiciary if it violates the law or the fundamental principles of the state.

Only the head of the state has absolute immunity; almost all other subjects of the executive are responsible for the crimes committed before and during their mandate. The immunity does not apply to ministerial-level officials. A law passed in June 2003 states that judicial actions in relation to these crimes must be suspended, until the end of the mandate, if the president, the prime minister, the heads of the two Chambers or the head of the Supreme Court are accused. The heads of state of Italy have never been investigated for corruption, while the current prime minister has been condemned and tried on charges of corruption before the aforementioned law was approved.

There is no rule governing conflicts of interest. The law only requires that members of Parliament disclose their assets and make the information available to the public. No rules are set regarding gifts and hospitality for the executive. As a consequence, there is no specific agency that monitors this specific issue.

The Legislature

Members of Parliament are accountable for any crimes they commit and for actions not strictly related to their public function. They can be investigated (upon authorization) and prosecuted for breach of laws (Article 68 of the Constitution). In the last year, some members of the Parliament have been prosecuted for corruption.

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There are no regulations governing conflict of interest. For this reason, no agency has the specific duty of monitoring and investigating conflicts of interest concerning members of the legislative or executive bodies. As members of Parliament have a duty to disclose their assets, citizens may access their declarations, when the heads of the chambers make them public, at no cost.

The legislature controls the budget, which it must approve every year. The drafting of the budget is public and transparent. There is a legislative commission that monitors the public budget. It can call upon officials to report on budget questions, and its president can be a member of the opposite party, which guarantees political “independence.” This permanent commission has no powers to investigate.

The legislative process is completely transparent, from the first drafting of a law to its approval, accessible via the Internet in “real time” and at no cost.

The Constitution protects the independence of the judiciary. Judges are selected by a rather selective competitive examination. There is no confirmation process for judges, and they cannot be removed without justification. To balance this power, all acts of the judiciary are null if not motivated by actual cases, and this rule is fully respected.

Because the judicial system is structured with three levels of petition, there is no ombudsman for the system. There is, however, a network of ombudsmen for the Public Administration.

Citizens and small retail businesses can usually access the judicial system. No witness protection programs are set up for cases of corruption.

No judges have ever been killed or harmed for ruling on corruption cases. The same, unfortunately, cannot be said of those fighting the Mafia.

### Administration and Civil Service

The rules of employment for the civil service are fixed in law. Although the civil service must be fair and independent, there are no express rules to prevent nepotism, cronyism or patronage. A person convicted of corruption can be permanently or temporarily barred from public

employment. There are no regulations concerning gifts and hospitality, conflicts of interest and movement from the public to private sector [53e].

In general, civil servants seem to be employed on merit, based on professional criteria, and have a clear job description. Civil servants are paid on time.

One major gap in national legislation and practice in the fight against corruption is the lack of whistle-blowing laws. In fact, Italy has no law to protect whistle blowers of corruption, both for public or private employees, and no specific internal mechanism exists for reporting corruption.

There is a detailed set of laws that controls the processes of public procurement and tendering in Italy. Ordinary administrative justice departments (Tribunali Amministrativi Regionali and Consiglio di Stato) can review all acts related to procurements. Article 8 of Law 11/02/1994 n. 109 excludes from procurement contracts companies with “moral, financial or professional unreliability.” Citizens may access the regulations via the Internet at no cost.

All businesses in Italy are eligible to compete for state assets, and the conflict of interest for government officials involved in privatization is disciplined [64b] and monitored by the National Commission for Companies and the Stock Exchange (CONSOB—*Commissione Nazionale per le Società e la Borsa*), the public authority that regulates the securities market.

Private citizens may freely access the terms and conditions of privatization bids.

### Oversight and Regulatory Mechanisms

Italy does not have a national ombudsman. Regional statutes set the rules for ombudsmen. In general, regional councils nominate ombudsmen, so there are no formal guarantees of independence, removal, or term of office of the nominee, but there have been no complaints on these issues, and ombudsmen play their role helping citizens in their relations with the public administration. Ombudsmen put out regular reports, and many of these reports are accessible via the Internet.

In law, the *Corte dei Conti* is the Supreme Audit Court. The court can review the legitimacy of the acts of the executive, and has the ex post review of the management of the budget of the state. The court participates, when provided by law, in the control of the financial management of publicly funded bodies, and reports the results to both chambers. The court is protected from political influence; its judges stay in office until they are 70 years of age and cannot be removed without justification. Judges are nominated by public competitive exams, members of the court nominate its president, and the court has a professional full-time staff. Its decisions have the same effect as law, so the government must act upon them. Citizens may access the decisions of the court via the Internet, at no cost, shortly after those decisions are rendered.

In 1999 the Ministry of Finance created the *Agenzia delle Entrate*, an independent public agency for tax collection. Its acts can be brought before the ordinary administrative courts. The agency has a full-time staff, receives regular funding and delivers annual reports that are also available via the Internet. Tax regulations, as well as many other instruments for citizens, are available for free on the agency’s Web site.

That same year, the Ministry of Finance also created the Italian Customs Agency (*Agenzia delle Dogane*), the country’s customs and excise agency. It has a full-time staff (it has a central office in Rome and offices at ports, harbors, airports, borders), and receives regular funding. It does not report to the legislature, but to the Ministry of Finance. Parliament may ask for reports from the directors of the agency when considered necessary. As is the case of other public agencies, regulations and many other instruments are available to citizens for free on the agency’s Web site.

Italy’s Central Bank is protected from executive and legislative influence, both by law and in practice. Historically, the governor of the Bank of Italy is selected from among individuals working in the economic sector who have the highest moral standards and

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independence. On many occasions, the views of the governor have been different from the strategic economic choices made by the executive, and this has been openly declared. Most of the Central Bank's acts are available for free on the Internet.

The country also has a public authority responsible for regulating the Italian securities market. Its aim is to protect the investing public. The agency is protected from political interference, has a full-time professional staff and receives regular funding. CONSOB prepares its own budget, so there is no risk of cuts. When necessary, CONSOB conducts investigations into suspected insider dealing and market manipulation and can impose penalties on offenders. Records of publicly listed companies are regularly updated, in accordance with GAAP practices.

Citizens may search and download information on publicly listed enterprises from the CONSOB Web site. This search is fast and free of charge. All CONSOB decisions are accessible via the Internet and are delivered in its annual report.

It is quite easy to get a business license in Italy. In general, for small activities only a self-declaration is required. Rules for obtaining licenses are clear, and a refusal to grant a license by a public administration can be appealed before an ordinary administrative judge or before the ombudsman. Licenses for small businesses can be obtained within a maximum of three months with a cost lower than US\$3,000. From January 2003 to March 2003, small and medium enterprises received 5.251 million euros in credit from banks, while commercial activities received 1.972 million euros.

### **Anti-Corruption Mechanisms and Rule of Law**

The Italian law criminalizes corruption. Using public resources for private gain, as well as using confidential state information for private gain, money laundering, and organized crime are also considered crimes under the Criminal Code. Anti-corruption laws are enforced. Although there are no agencies with a specific legal mandate on corruption, the "prevention, search and denunciation" of economic criminality (in gen-

eral) is one of the main tasks of the tax police (Guardia di Finanza). This agency is effective and employs more than 60,000 full-time officials. It is protected from political influence. Appointments are based on professional and physical criteria, and the head of the police cannot be removed without cause. The Guardia di Finanza receives regular funding and reports the results of its activity annually. Tax policemen are public officials, with sufficient powers to carry out their mandate, in particular investigating economic and tax frauds. Citizens approach the tax police without fear, and if their complaints are verified investigations can be started.

The criminal justice process is regulated by the Constitution in its main principles and is regulated with extremely detailed rules (a Proceedings Code). The Italian system of justice always provides for the right of appeal (there are three levels of jurisdiction). The Constitution states that no one may be detained for more than 48 hours without a decision from the judicial authority. It protects individual property and provides that adequate compensation is necessary in case of expropriation.

Law enforcement agencies are considered effective. Although there is no express rule protecting law enforcement officers from political interference, this does not seem to occur. Citizens may appeal if their rights are violated by the actions of law enforcement officials, who are subject to investigation and prosecution for corruption and get no protection from their agencies. As a general rule, citizens may access records regarding arrests made by law enforcement officials if there is a relationship or if there is a legitimate interest in accessing such documents.

# CORRUPTION NOTBOOK

By Leo Sisti

On April 29, 2003, a judge in a packed Milan court read a late-night statement reporting a verdict convicting Cesare Previti, former defense minister and a close aide of Prime Minister Silvio Berlusconi, to 11 years in jail after a three-year trial. Previti, a lawyer and a member of the Chamber of Deputies, was found guilty—along with other lawyers—of bribing Rome judges in two corporate takeovers during the 1990s, one of which involved Berlusconi's Fininvest holding company. The Milan court ruled Fininvest provided Previti with money from Swiss bank accounts which was used to obtain a favorable verdict from Roman magistrates in a civil case that gave Mondadori, the first Italian publishing company, to Berlusconi, thereby ending a financial fight with entrepreneur Carlo De Benedetti. The three-judge panel depicted the affair as “the most devastating and the biggest corruption case in the history of Italy, and perhaps of the world.”

Berlusconi was previously a defendant in the same trial, code-named “Imi-Sir/Lodo Mondadori,” but he was spared conviction because the statute of limitations had run out. Nevertheless, Berlusconi was still a co-defendant with Previti in another trial which began in 2000. In the newer trial, he was accused of bribing judges in the mid-1980s to steer in his favor a ruling on the takeover of Sme, a state-owned food company that was going to be sold to competitors. Less than two months after the April hearing, Berlusconi showed up in a rare court appearance to testify at his own trial. He denied all wrongdoing and described himself as a victim: due to the bribery trial, the Associated Press reported him saying, “tons of mud have been thrown at me for seven years by newspapers, television, in Italy and abroad...By throwing mud and [casting] shadows on the prime minister, one does so on the entire nation, damaging the national pride and prestige.” For more than an hour, the prime minister spoke without being cross-examined. He never addressed the many allegations against him, but lashed out at his

“enemies”: prosecutors, witnesses, and Romano Prodi, the president of the European Commission, who at the time of the Sme case was chairman of the state-owned IRI, the conglomerate which owned Sme. In his speech, Berlusconi rhetorically questioned the audience, who in turn couldn't answer: “Where is the evidence [against me]? Where are the clues? Where are the allegations?”

A few minutes after his show, Berlusconi left the courtroom followed by his two attorneys, members of Parliament who delivered a statement for prosecutors and judges: “We're heading for Rome, where we will be busy voting in the Chamber of Deputies.” What Berlusconi's attorneys omitted to say in the Milan court, but everybody knew, is that the Upper House was approving a new law that would grant the prime minister and four other institutional figures immunity from criminal prosecution. Because of the vast majority of the center-right coalition run by Berlusconi in the Italian Parliament, the bill was easily approved the following day. It was immediately enacted after being signed into law by President Carlo Azeglio Ciampi on June 20. As a result, the Sme trial was frozen and, under the law's provisions, would be suspended until Berlusconi leaves office. The only danger for Berlusconi in this case came from the Constitutional Court. On December 9, 2003 it began a hearing after a Milan court upheld an appeal that raised doubts about the constitutionality of the immunity law. In January 2004, the court ruled the law violates the Constitution, meaning the Sme trial will resume with Berlusconi on the dock. For the record: immunity was revoked in 1993, when a constitutional reform did not protect any more MPs from prosecution after the famous “Clean Hands” (*Mani Pulite*) investigation, run by Milan prosecutors, unearthed widespread corruption in business and politics (the old political class was ousted from power). By pure coincidence, one of Berlusconi's two attorneys, Gaetano Pecorella, epitomizes conflict of interests: in the Upper House he chairs the Justice Committee—in other words, the political body entitled to study and promote laws.

Berlusconi's attorneys, who are also MPs, previously rebuffed critics by claiming that laws apply to everybody, not just Berlusconi. But the new laws helped “citizen” Berlusconi, who successfully defended himself not at trial, but by avoiding a trial. He often said: “I'm a victim of politicized magistrates who are conditioning our political life and are persecuting me and my associates.” And he reacted in a very tough way. Since he took office in the spring of 2001, after winning the election by a large majority, the prime minister managed to help enact laws tailor-made to help him. In just two years, the Parliament, where Berlusconi's Forza Italia Party is the “majority shareholder” of the Freedom House (*Casa delle Libertà*) coalition, has passed four bills that could resolve his judicial problems, including the law on immunity.

The first bill was approved only three months after Berlusconi was sworn in as prime minister. It addresses false accounting, and it substantially decriminalizes most offenses when they are committed by directors of companies not listed on the stock exchange (Berlusconi's Fininvest, owned by his family, is a private company). In such cases, prosecutors are prevented from indicting people without a complaint from a stockholder or a creditor. The law also lowers the statute of limitations from 15 years to four and a half years, which saved Berlusconi in three cases.

There are more egregious examples. When a company is listed on the stock exchange, there are no penalties for directors and board members who prepare or disseminate false balance statements involving an amount that's below 5 percent of the pre-tax profits. They are not forced to give stockholders an explanation, and prosecutors will not start an investigation for alleged fraud under that threshold. Indeed, this could be “black money” that may be used to pay bribes or used for personal enrichment. According to Guido Rossi, a prominent lawyer and a former chairman of the National Commission for Companies and the Stock Exchange

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(CONSOB—*Commissione Nazionale per le Società e la Borsa*), which regulates the Italian stock market, “The new law on false accounting encourages unlawfulness.” And he blamed Berlusconi’s government: “According to a government report, the 5 percent threshold was based on the provisions by the U.S. Securities and Exchange Commission (SEC). It’s false. SEC always declined to fix a hedge.” Furthermore, many Italian analysts said that while President George W. Bush promoted a bill setting penalties of up to 25 years for false accounting, Italy downgraded this serious crime to a sort of misdemeanor in some cases. A vitriolic comment came from *The Economist*, which featured many stories on Berlusconi (“Why Berlusconi is unfit to lead Italy,” was a famous cover of 2001): “Even the citizens of a Banana republic would be ashamed of this law.”

The second new law designed to help Berlusconi attacks the mechanism of cross-border cooperation, which is the tool used by magistrates to ask for legal assistance in foreign countries, especially fiscal havens like Switzerland. The new law, being incorporated in the procedure penal code, is fundamental in the fight against corruption because, as Italy’s “Clean Hands” proved, hundreds of businessmen opened Swiss bank accounts to hide money that was later used to bribe politicians.

According to the new rules, rigid bureaucratic criteria have been established (stamps in every page of documents coming from abroad; original documents instead of photocopied documents; no use of electronic mail; no more direct contacts between Italian and foreign judges as in the past, but only cooperation through diplomatic channels, or Ministries of Justice and Foreign Affairs). As a result of this new law, which stiffens rules to obtain evidence from abroad, time is lost in court trials, a strategy designed to exploit the statute of limitations and cancel trials.

The third law was approved in November 2002. The so-called “Cirami law,” named for its chief proponent, Melchiorre Cirami, allows defendants to seek transfer of their trial to another court if there is a “legitimate suspicion” that judges are biased. Two months before being approved, it sparked a huge reaction when

a grassroots, anti-government rally gathered 1 million people in Rome to protest the government’s judicial reform plans. As it turned out, the “Cirami law” didn’t work, because in January 2003 the Court of Cassation, the nation’s highest appeals court, rejected Berlusconi’s and Previti’s claims for trial transfers. The fourth law, already mentioned above, granted Berlusconi immunity from prosecution until it was overturned by the court. While it was still on the books, there were hints that members of the center-right coalition would argue for extending the immunity provision, with its retroactive effects, to all members of the Parliament. One could only assume that the motivation for extending immunity was to save Cesare Previti, Berlusconi’s longtime associate, and protect every MP from investigations, mainly on corruption cases.

During the 12 months beginning in June 2002, new cases of corruption generally fell into one of two categories: kickbacks in takeover bids involving state-owned companies, as well as procurement contracts in the public sector, and kickbacks involving pharmaceutical giants working with the national public health service.

In 2002, Berlusconi’s coalition set up a parliamentary commission to investigate Telecom Italia’s 1997 purchase of a 29 percent stake in Telekom Serbia for 893 million deutsche mark (US\$450 million). Were bribes paid out? The scandal broke in 2001 when the daily newspaper *La Repubblica* raised questions on the deal, which was clinched at a time when Telecom Italia was still state-owned (a few months later it was privatized). Allegations also surfaced because Yugoslav President Slobodan Milosevic used the Italian money to keep his grip on power and to inject fresh money into the Yugoslav Left Party, led by his wife, just two years before the Kosovo war. The situation worsened when Igor Marini, an unknown Italian financial consultant, emerged as a key witness to the deal. He claimed that kickbacks were paid out to reputable Italian politicians, all linked to the former center-left government, including Romano Prodi, current president of the European Commission and former prime minister of Italy, and Rome mayor Walter Veltroni.

Turin prosecutors investigating the Telekom Serbia deal arrested Marini in May 2003 on fraud and money-laundering charges. Marini never brought evidence of his allegations, telling investigators that evidence of his claims was in the Lugano office of a Swiss lawyer, who died last year. Marini’s accusations shortly began to unravel, however. On October 2, *L’Espresso* published an investigation which revealed the bank account Marini said he used to pay out the bribes—through his Virgin Island company Jundor Trading—did not exist, and all evidence found in the Lugano office was faked. Prosecutors issued an arrest warrant for Marini on charges of slander on December 16, 2003. All politicians, including Prodi, accused of the kickbacks said they were the victims of a smear campaign orchestrated for political reasons by an unknown mastermind. Prodi is favored to be the frontrunner against Berlusconi in Italy’s 2006 election.

As for the future of corruption-related investigations in Italy, the focus must be on the national health system, which is financed by taxpayers and provides all EU citizens with low-cost health care and medical assistance, including hospitalization and surgery. The national health system pays part of—or sometimes all of—the cost of drugs through prescriptions issued by family doctors. That’s why pharmaceutical companies are so eager to have their products included on a special list (for example, the “A category” is reserved for “essential” drugs, totally free of charge except for a fixed amount—the so-called “ticket”). The more that family doctors prescribe drugs to their patients, the more pharmaceutical companies make in profit. This is why pharmaceutical company sales representatives encourage doctors to select their products through every form of bribe: cash, gifts, and fully paid holidays in exotic places, disguised as invitations to symposia. It is all aimed at convincing family and hospital doctors to prescribe their medicines.

An investigation in 2003 accused the pharmaceutical giant GlaxoSmithKline, from

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its regional offices in Verona, in northern Italy, of allocating 100 million euros (US\$93 million) in 2000 and 2001 for payments to 3,000 doctors. Famous surgeons were investigated, along with nearly 40 Glaxo managers, and 72 people were charged. Thousands of hours of taped telephone conversations revealed the “behind-the-scenes” mechanism used by managers of the company to sell drugs. For example, in one telephone call a Glaxo manager urged a pharmaceutical salesman to supply huge amounts of Topotecan, an expensive chemotherapy drug, to a hospital where a surgeon had close contacts with Glaxo. The company maintained that its promotional campaigns were both legal and proper.

In July 2003, 22 people in Bari were arrested and another 150 placed under investigation in connection with a scam involving prescriptions. The national health system claimed damages of 5 million euros (US\$4.5 million) as a consequence of a fraud committed by family doctors who issued false prescriptions bearing the names of patients, some living and others dead. In one case, a patient’s name was used 76 times to buy different drugs in a single day. Doctors could choose the form of bribe: 10 percent to 12 percent of the value of every prescription, or a monthly “wage” of 5,000 euros (US\$4,500).

In another case, the national health system was involved as an injured party due to greedy surgeons and businessmen. It happened in the spring of 2003 in two prestigious hospitals, Turin’s Molinette and Padua’s Gallucci, in northern Italy, where 19 people died after undergoing heart operations. Autopsies proved that defective Brazilian-made valves caused the deaths. Three famous cardiologists were arrested on corruption charges. Two Turin professors took 380,000 euros (US\$343,000) to arrange for the Molinette hospital to contract with an Italian company importing the flawed valves from Brazil. In Padua, another professor received a percentage in exchange for every valve implanted in patients.

The conclusion is disappointing. The current government has done nothing to fight corruption. Instead, as already reported, Prime Minister Berlusconi worked to stop his trials connected to kickbacks.

In 1997 the former center-left government tried to set up a special anti-corruption commission, an enforcement agency empowered to investigate MP’s assets, as well as the assets of major city mayors, state managers, and directors of local bodies (regions, provinces and town councils). Rules for lobbyists and a national register of government-funded contracts were also planned. But in 2001 the Parliament was dissolved and the anti-corruption commission died with it, destroying every chance to open a door towards accountability and openness in the Italian government.

The attitude of the Berlusconi government is obvious. Far from rooting out corruption, the center-right coalition instead decided to set up a parliamentary commission to investigate the magistrates who carried out the “Clean Hands” investigations. Officially, the commission wants to scrutinize facts around “Bribesville” (*Tangentopoli*, as this operation was dubbed by the media), looking into the “Clean Hands” operation dating back to the early 1990s. But the Milan prosecutors are the real target, even if their investigations were later confirmed in courts through thousands of convictions for corruption. It’s a vendetta by Berlusconi, who is trying to get rid of the part of the judiciary that he says used its power against him.

The final question surrounding Italian corruption is: After “Clean Hands,” is the situation improving or worsening? The answer is clear: It is worsening. According to a recent survey of businesspeople and industrialists, bribery is common. The only difference is that now, after the revolution of “Clean Hands,” bribes are more expensive. Corruption is a risky business.

# CORRUPTION TIMELINE

**February 1992** – A judge arrests Socialist Mario Chiesa, president of the Pio Trivulzio Old Age Home, for taking a kickback of 7 million lire (US\$3,000). In November, Chiesa is sentenced to six years in prison and fined 6 billion lire (his sentence is later reduced slightly). The arrest sets off “Operation Clean Hands” (*Mani Pulite*), led by anti-corruption crusader Antonio Di Pietro, which eventually uncovers widespread corruption representing trillions of lire in kickbacks. During the course of the inquiry five former prime ministers are indicted (three are convicted), more than 12,000 people are investigated, and about 5,000 businesspersons and politicians are arrested. The investigation earns both Milan and the scandal itself the nickname “Bribesville” (*Tangentopoli*).

**April 1992** – The Christian Democratic Party (DC—*Partito Democratico Cristiano*) falls below the required 30 percent threshold in the general elections, and the governing four-party coalition only retains the slimmest of majorities. Nineteen days later, President of the Republic Francesco Cossiga announces his resignation, and Speaker of the Senate Giovanni Spadolini temporarily assumes the presidency.

**May 1992** – Oscar Luigi Scalfaro, a 73-year-old Christian Democrat, becomes president of the republic.

**July 1992** – A top executive of Fiat is arrested for paying illegal kickbacks to obtain contracts for work on Milan’s subway system. In February 1993, two more executives are arrested in connection with the scandal. Eventually, in 1997, one of them is convicted on corruption charges.

**December 1992** – Bettino Craxi, secretary of the Socialist Party (PSI—*Partito Socialista*) and former prime minister from 1983 to 1987, is advised that he is under investigation for corruption, possession of stolen goods, and violation of political party finance laws. In January 1993, prosecutors present 41 charges and ask to proceed with a full investigation of Craxi, who

eventually resigns in February. In April, the Chamber of Deputies denies four requests for authorization to proceed against Craxi. Nationwide protests ensue.

**March 1993** – Gabriele Cagliari, chairman of energy conglomerate ENI, is arrested in connection with kickbacks to ENEL, the public electrical company. In July, Cagliari commits suicide in prison.

**April 1993** – Prime Minister Giuliano Amato resigns. Carlo Azeglio Ciampi, governor of the Bank of Italy, is appointed by President Scalfaro to lead the transition. Ciampi resigns in January 1994, prompting Scalfaro to dissolve the government and schedule new elections for the following March.

**July 1993** – Raul Gardini, former head of Ferruzzi-Montedison agro-chemical company, kills himself following allegations that he had established a slush fund to pay off politicians. Gardini was due to be arrested later in the day along with three associates from Montedison. Prosecutors had been investigating a 1989 joint venture between Gardini and Cagliari’s ENI called Enimont, which was bought out by ENI in 1990 for US\$2.5 billion, a price that politicians allegedly helped inflate. Prosecutors further charged that US\$82 million in bribes had been paid by Enimont to leading politicians, including former prime ministers Craxi and Arnaldo Forlani.

**October 1993** – The Parliament votes to eliminate parliamentary immunity, allowing judges to investigate members of Parliament without permission, but not arrest them.

**January 1994** – Political parties crack and shift. Billionaire Silvio Berlusconi resigns as president of Fininvest and enters politics, founding the right-wing Forza Italia Party (loosely translated as “Come on Italy”). Berlusconi, whose companies control 90 percent of private Italian television and many other media organizations, is supported by his friend, Craxi. The

DC is dissolved and two new parties emerge: the leftist Italian Popular Party (PPI—*Partito Popolare Italiano*) and the conservative Christian Democratic Center (CCD—*Centro Cristiano Democratico*).

**March 1994** – The Milan prosecutor investigates Fininvest to determine whether a slush fund was used to acquire a soccer player for Milan’s team, owned by Fininvest. Berlusconi accuses the investigators of maneuvering against his Forza Italia Party.

**March 1994** – Berlusconi’s Forza Italia wins the most seats, and his four-party Freedom Alliance (*Polo della Libertà*) wins an absolute majority in the Chamber and a relative majority in the Senate, giving Berlusconi a precarious balance of power in the government. Berlusconi forms his government in May.

**May 1994** – Seeking to avoid trial, Craxi flees Italy for Tunisia. He is later tried and convicted in absentia and sentenced to more than 26 years in prison for bribery and corruption.

**July 1994** – The Council of Ministers approves a decree restricting judges’ arrest powers. When judges in the “Clean Hands” team threaten to resign in protest, the government abandons the restriction plans and the Chamber officially rejects it.

**November 1994** – As he chairs a United Nations conference in Naples concerning organized crime, Berlusconi is indicted for corruption. On December 13, Berlusconi is interrogated for more than seven hours by the Milanese investigators regarding accusations that he bribed tax inspectors 330 million lire (US\$175,000) for friendly audits of three companies controlled by Fininvest.

**December 1994** – Berlusconi’s Freedom Alliance crumbles and Berlusconi resigns. In January, President Scalfaro charges Lamberto Dini with forming a new government.

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**February 1995** – The cabinet approves a bill mandating equity in the distribution of media time for party propaganda. The ombudsman for the media will be able to require replies and corrections, negative advertisements will be prohibited, and opinion polls will be limited.

**April 1995** – The center-left wins administrative elections, with the Democratic Party of the Left (PDS—*Partito Democratici di Sinistra*) overtaking Forza Italia as the most popular party.

**May 1995** – The Milan Prosecutor's Office charges Berlusconi with corruption and fraud related to a property deal, as well as abetting the suspected payment of bribes to the tax collector.

**July 1995** – An international arrest warrant is issued for Craxi, who is charged with bribery connected to contracts for the Milan subway system. Due to his close connections with President Ben Ali of Tunisia, Craxi remains undisturbed at his seaside resort, protected by heavily armed guards.

**November 1995** – The Milan prosecutor files charges against Berlusconi for false accounting and fiscal improprieties during the acquisition of the Medusa film company. Berlusconi's Fininvest holding company allegedly wired 15 billion lire to Craxi's Swiss bank account.

**January 1996** – The trial begins concerning alleged bribes Berlusconi paid to tax inspectors in return for lenient audits that would enable him to buy a private TV station, Telepiù.

**February 1996** – Prime Minister Dini resigns and President Scalfaro appoints Antonio Maccanico to form a government, which immediately fails. Scalfaro dissolves Parliament and schedules April elections.

**May 1996** – After elections yield no clear winner, President Scalfaro asks Romano Prodi to form a new government. The center-left Olive Tree (*Ulivo*) alliance is born, and Prodi becomes prime minister.

**September 1996** – The "Clean Hands" scandal erupts again after the arrest of the managing director of state railways on charges of corruption, embezzlement, and fraud.

**December 1997** – The Milan tribunal finds Berlusconi guilty of false accounting in the Medusa case, sentencing him to 16 months in prison. As is the case with most sentences of less than three years, Berlusconi's sentence is suspended, and in fact he is later pardoned.

**July 1998** – At the beginning of the month, Berlusconi is sentenced to 33 months in prison for bribes paid by Fininvest to tax inspectors. The following week, Berlusconi is hit with an additional 28-month sentence and a US\$5.6 million fine for channeling US\$12 million through an offshore account to the exiled Craxi, who himself is given a sentence of four years and a US\$11.2 million fine.

**October 1998** – The Prodi government loses a confidence vote and resigns. The Olive Tree coalition arranges for Massimo D'Alema, a former member of the Communist Party (CPI—*Partito Comunista Italiana*) and now chief of the DS (formerly the PDS), to accede to the position of prime minister.

**November 1998** – The lower house of Parliament rejects the establishment of a commission of inquiry into "Clean Hands." The move essentially ends further investigation by Parliament into Italy's systematic political corruption.

**May 1999** – Treasury Minister Carlo Azeglio Ciampi is elected president of the republic.

**August 1999** – Milan investigators announce that the "Clean Hands" investigations have officially ended.

**December 1999** – Prime Minister D'Alema is reappointed to his position and forms a seven-party coalition to maintain control of the government.

**January 2000** – Craxi dies in Tunisia.

**January 2000** – Parliament opens a commission to review the "Clean Hands" investigations and look at party financing reform since 1974. By the end of the year, the anti-corruption movement begun in 1993 generally comes to be regarded as a failure; due to legal maneuvering and a slow judicial system, of 582 people to earn convictions, fewer than 10 serve prison sentences.

**February 2000** – Four members of Italy's aid mission to Kosovo, including the head, are arrested for colluding with the Albanian mafia to allegedly siphon off funds meant for Kosovar refugees.

**April 2000** – D'Alema resigns after poor regional election results and is replaced as prime minister by Giuliano Amato.

**February 2001** – The Organization of Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Officials in International Business Transactions enters into force in Italy, having been implemented and ratified in late 2000.

**May 2001** – The center-right, five-party Freedom House (*Casa delle Libertà*) coalition led by Silvio Berlusconi of Forza Italia wins the general elections.

**June 2001** – A 1991 corruption case against Berlusconi, in which he allegedly spent 400 million lire (US\$170,000) to bribe a judge in exchange for a favorable ruling in a case about acquiring Mondadori publishing house, is thrown out by an Italian tribunal when the statute of limitations expires.

**July 2001** – The lower house of Parliament passes a bill decriminalizing false accounting, a charge which Berlusconi himself faced in the Medusa case. In October, Berlusconi is acquitted by Italy's highest court.

**September 2001** – Berlusconi's government pre-

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sents a bill to the Senate that substantially decriminalizes false accounting, reducing the maximum prison sentence for false accounting from five years to 18 months, reduces the statute of limitations from 15 years to half that, and only allows shareholders and creditors to press charges if a company is private. As written, the bill would greatly benefit Berlusconi, who faces such charges. The bill is passed into law in February 2002.

**October 2001** – Following a bitter debate, the Senate passes a bill that ratifies a 1998 accord between Italy and Switzerland aimed at enhancing judicial cooperation. Ironically, due to added amendments, the bill actually makes it more difficult to get evidence from abroad. The retroactive law would facilitate Berlusconi's acquittal in the Fininvest bribery and Sme cases, as some of the central evidence against him are bank transfers in Switzerland that would no longer be admissible evidence in court. In February, the Swiss government delays the ratification of the treaty because the Italian legislature passed an amended version that circumvented the original intent of the pact.

**October 2001** – Citing the expiration of the statute of limitations and a general lack of evidence, Italy's top appellate court clears Berlusconi of corruption charges that he had bribed tax inspectors US\$175,000 in exchange for friendly audits of some companies within Fininvest.

**January 2002** – The United Nations Human Rights Commission announces plans to investigate the independence of the Italian judiciary. The U.N. asserts that dangerous reforms are being introduced, such as the removal of escorts from prosecutors and judges.

**February/March 2002** – Parliament approves a bill enabling Berlusconi to keep control of his multi-billion-dollar business empire while prime minister.

**January 2003** – Berlusconi announces that he will discipline judges he deems too involved in politics. Late in the month, Berlusconi introduces a measure that would grant him and other members of

Parliament criminal immunity for the first time since the post-"Clean Hands" reforms in 1993. The initiatives dovetail with his own escalating legal troubles and earn him intense criticism from the public and judiciary.

**February 2003** – Police arrest 72 doctors and workers at GlaxoSmithKline, the second-largest pharmaceutical company in the world, accusing the employees of bribing Italian doctors to prescribe their company's products. According to police, another 2,902 doctors are under investigation for the scandal, which arose as a result of a random audit in July 2002. That inquiry turned up about US\$100 million in "other promotions" which were attributed to allegedly illegal gifts including stereo systems, wine, and trips to the Caribbean. The company maintained that its promotional campaigns were both legal and proper. The case is ongoing.

**May/June 2003** – Berlusconi appears at his own trial in a Milan court on corruption charges related to his 1980s business dealings—whether Fininvest bribed a magistrate US\$434,000 in 1986 to block a rival bid for Sme, a state-owned food company which he subsequently took over.

**June 2003** – Citing a need to spare Italy embarrassment as it prepares to assume leadership of the European Union's rotating presidency, Parliament quickly passes a law giving criminal immunity to the prime minister, the head of state, the presidents of both chambers of Parliament, and the head of the Constitutional Court—a move that ends the Sme trial against Berlusconi. According to the new law, dubbed "*Lodo Schifani*," all outstanding cases against Berlusconi are frozen as long as he remains prime minister. Opponents of the new law gather support to force a referendum.

**September 2003** – Seeking to challenge Berlusconi's immunity, former "Clean Hands" prosecutor and now legislator di Pietro deposits 130 boxes of petitions accounting for nearly a million signatures at a court in Rome. Italian law requires

500,000 signatures to prompt a national referendum.

**November 2003** – Parmalat defaults on a 150 million (US\$185 million) bond. The surprising move by the global food and dairy conglomerate prompts auditors and bankers to scrutinize its accounts closely.

**December 2003** – The Bank of America declares that a 3.95 billion (US\$4.9 billion) Parmalat account purported to hold 38 percent of the company's assets simply does not exist. In the ensuing inquiry, Italian investigators claim that the corporation simply fabricated assets to offset over US\$16 billion in debt and liabilities over a 15-year span. Soon afterward, Parmalat declares bankruptcy while company founder and Chief Executive Calisto Tanzi is arrested on charges of fraud, embezzlement, false accounting, and misleading investors. Tanzi soon confesses to most of the charges, including falsifying financial statements and stealing over US\$620 million to cover losses in family-owned companies. At year's end, seven other individuals are arrested, including two former Parmalat finance officers and two partners at Grant Thornton accounting firm.

**January 2004** – The Constitutional Court rules that the "*Lodo Schifani*" law giving immunity to Berlusconi and other high-level officials was unconstitutional. The ruling means that Berlusconi's Sme corruption trial, suspended in June, must now begin anew. The court's action also negates the need for the national referendum that di Pietro had promoted.

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# Italy: Civil Society, Public Information and Media

## Sub-Category: I-1/Civil Society Organizations

	Indicators	Scores
1	<a href="#">In law, do citizens have a right to form civil society organizations (CSOs)?</a>	1.00
2	<a href="#">Can citizens organize into trade unions?</a>	1.00
3	<a href="#">In practice, do CSOs actively engage in public advocacy campaigns?</a>	0.75
4	<a href="#">Are citizens able to form CSOs?</a>	1.00
5	<a href="#">Are civil society activists safe when working on corruption issues?</a>	1.00

### Indicator and sub-Indicator Details

#### 1 In law, do citizens have a right to form civil society organizations (CSOs)?

Score: yes/1.00



**Comments:** CSOs are intended as demonstrated in Articles 12 and 36 of the Civil Code.  
**References:** Art. 18 of the Fundamental Chart

#### 2 Can citizens organize into trade unions?

- 2a: *In law, citizens have a right to organize into trade unions.*

Score: yes/1.00



**Comments:** Trade unions only have to register, upon condition of a statute on democratic base. Trade unions are legal persons. However, in practice, registration has never been applied.  
**References:** Art. 39 of the Fundamental Chart

- 2b: *In practice, citizens are able to organize into trade unions.*

Score: almost always/1.00



**Comments:** Italy has three main trade unions: CGLI, CISL and UIL. In 2002 they had 11,379,311 union members. There are many minor trade unions.  
**References:** www.cisl.it; www.uil.it; www.cgil.it

#### 3 In practice, do CSOs actively engage in public advocacy campaigns?

Score: often/0.75



**Comments:** CSOs often actively engage in public advocacy campaigns. For example, there have been campaigns against the participation of Italy in the Iraq war, as well as for employment, education, and the abolition of death penalty.  
**References:** www.cisl.it; www.uil.it; www.cgil.it

#### 4 Are citizens able to form CSOs?

- 4a: *In practice, the government does not create barriers to the organization of new CSOs.*

Score: almost always/1.00



**Comments:** Forming a CSO is free and can be done with a public act by a notary or by a private act under the seal of a public officer (authentication).  
**References:** Art. 18 of the Fundamental Chart

- 4b: *In practice, citizens can obtain any necessary license to form a CSO within a reasonable time period.*

Score: < 1 month/1.00



**Comments:** Forming a CSO is free and a license is not required. Registration is necessary only to get legal personality, with an act under the seal of a public officer. In this case, less than a month.  
**References:** Art. 14 and 36 of civil code and Art. 18 of the Fundamental Chart

- 4c: *In practice, citizens can obtain any necessary license to form a CSO at a reasonable cost.*

Score: almost always/1.00



**Comments:** A license is not required. Costs for registration can vary depending on whether the request is made in front of a public officer or in front to a notary.

**References:**

**- 4d: In practice, in the past year, no existing CSO has been banned by the government for non-violent advocacy.**

Score: yes/1.00



**Comments:** Yes, in the past year, no existing CSO has been banned by the government for non-violent advocacy.

**References:**

## 5 Are civil society activists safe when working on corruption issues?

**- 5a: In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.**

Score: yes/1.00



**Comments:** Yes, in the past year, no civil society activists working on corruption issues have been imprisoned.

**References:**

**- 5b: In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.**

Score: yes/1.00



**Comments:** Yes, in the past year, no civil society activists working on corruption issues have been physically harmed.

**References:**

**- 5c: In practice, in the past year, no civil society activists working on corruption issues have been killed.**

Score: yes/1.00



**Comments:** Yes, in the past year, no civil society activists working on corruption issues have been killed.

**References:**

**Peer Review Comments:** However, activists working on corruption issues may have been killed in areas dominated by organized crime and their deaths can be attributed to other causes than corruption issues.

# Italy: Civil Society, Public Information and Media

## Sub-Category: I-2/Access to Information Law

	Indicators	Scores
6	<a href="#">In law do citizens have a right of access to information?</a>	1.00
7	<a href="#">In practice, is the right of access to information effective?</a>	

### Indicator and sub-Indicator Details

#### 6 In law do citizens have a right of access to information?

**- 6a: In law, do citizens have a right of access information and basic government records?**

Score: yes/1.00



**Comments:** Article 22 says: "In order to ensure the transparency of administrative activity and to foster the fair activity, the access to (any) administrative documents is guaranteed to anyone who has legitimate interest to protect his right." This right is protected by public administrations and providers of public services.

**References:** Art. 22-28 of Law 07-08-1990 n°241

**Peer Review Comments:** I am not completely sure that a citizen would really be able to know what the police has in its records about him. My impression is that there is still a tradition of secrecy by some administrations, regardless of what the law declares. [Comment 2]: Efficiency in obtaining public records

varies. In general terms, administrations (both central and local) in northern and in central Italy are more efficient than in the Mezzogiorno (as a reference, see Putnam). [Comment 3]: The right of access is quite limited and includes only those with an interest.

**- 6b: In law, do citizens have a right of appeal if access to a basic government record is denied?**

Score: yes/1.00



**Comments:** Yes, citizens have a right of appeal if access to a basic government record is denied.

**References:**

## 7 In practice, is the right of access to information effective?

**Score:** Composite value, See commentary

**Comments:** This indicator is a composite of access to information scores in all sectors of government. Based on those measures, this country scored a 80 out of a best possible score of 100.

**References:**

# Italy: Civil Society, Public Information and Media

## Sub-Category: I-3/Freedom of the Media

	Indicators	Scores
8	<a href="#">In law, is freedom of the media guaranteed?</a>	1.00
9	<a href="#">In law, is freedom of speech guaranteed?</a>	1.00
10	<a href="#">Are citizens able to form media entities?</a>	0.75
11	<a href="#">Is the media able to report on corruption?</a>	1.00
12	<a href="#">Are journalists safe when investigating corruption?</a>	1.00

### Indicator and sub-Indicator Details

#### 8 In law, is freedom of the media guaranteed?

Score: yes/1.00



**Comments:** Yes, freedom of the media is guaranteed in law.

**References:** Art. 21 of the Fundamental Chart

#### 9 In law, is freedom of speech guaranteed?

Score: yes/1.00



**Comments:** Yes, freedom of speech is guaranteed in law.

**References:** Art. 21 of the Fundamental Chart

#### 10 Are citizens able to form media entities?

**- 10a: In practice, the government does not create barriers to forming a media entity.**

Score: sometimes/0.50



**Comments:** There is a current problem of conflict of interests in Italy because the head of the government owns the major private media entity. Although no barriers are created to form media entities, the Agency for Communication controls the media market in order to avoid monopolies and concentrations.

**References:** [www.urpcomunicazioni.it](http://www.urpcomunicazioni.it), [www.comunicazioni.it](http://www.comunicazioni.it)

**Peer Review Comments:** There is pluralism in newspapers that range between Berlusconi-owned and self-proclaimed "communist." Television is a very different story. [Comment 2]: The television market is an impregnable duopoly, FININVEST-RAI. The right of access is simply not there. Even a major economic group such as Telecom was convinced that it was not a good idea to step on to other peoples' turf.

**- 10b: In law, where a license is necessary, there is an appeal mechanism if a license is denied or revoked.**

Score: yes/1.00



**Comments:** However, there is no specific appeal mechanism within the Federal Law of Radio and

Television.

**References:** Law 07-08-1990 n°241

**- 10c: In practice, where necessary, citizens can obtain a media license within a reasonable time period.**

**Score:** < 6 months/0.50



**Comments:** There are very detailed and recent laws on media, covering television, radio, Internet, phone and communications in general. These laws also prescribe the requirements for accessing the media. According to the type of media, licenses can be obtained on demand or after public tendering procurement. In the first case, the waiting time is relatively short (less than one month), while in the second case, it can take up to one year from the tender notice to the assignation of the licenses.

**References:** www.urpcomunicazioni.it, www.comunicazioni.it

**- 10d: In practice, where necessary, citizens can obtain a media license at a reasonable cost.**

**Score:** almost always/1.00



**Comments:** Depending on the type of media, licenses can be obtained on demand or after public tendering procurement. In the first case, price is relatively low. In the second case, the price is set by the participant at the tender (auction).

**References:** www.urpcomunicazioni.it, www.comunicazioni.it

## 11 Is the media able to report on corruption?

**- 11a: In law, it is legal to report accurate news even if it damages the reputation of a public figure?**

**Score:** yes/1.00



**Comments:** When reporting the truth, it is not illegal. (There are no insult laws in Italy.) If the report is not the truth, Article 24 of the Fundamental Chart guarantees the protection of law if someone's reputation has been damaged, but there is no preventive censorship that can stop media from reporting.

**References:** Art. 21 of the Fundamental Chart

**Peer Review Comments:** There is no libel law in Italy. Article 24 of the Fundamental Chart guarantees the protection of law if someone's reputation has been damaged, but there is no preventive censorship that can stop media from reporting. Art 594 of criminal code sanctions the "Ingiuria" (insult), while Art 595 sanctions the "diffamazione" (libel). Art 596-bis states, as aggravating circumstance, the "diffamazione" made by media, sanctioned with conviction up to three years. While there has been some cases in which these articles have been invoked by some member of the Parliament, it has not happened that it has been used against media entities for truthfully reporting on corruption. (See: Art 24 of Fundamental Chart; Arts 594-599 of Criminal Code.) [Comment 2]: When journalists report on corruption they are often taken to courts for libel, but this is only intimidation.

**- 11b: In practice, the government does not encourage self-censorship of corruption-related stories.**

**Score:** almost always/1.00



**Comments:** Revealed corruption events always receive extensive media coverage.

**References:**

**- 11c: In practice, there is no prior restraint on publishing corruption-related stories.**

**Score:** almost always/1.00



**Comments:** Some books on major corruption scandals in Italy have been published (see, for example G. Barbacettom, P. Gomez, and M. Travaglio, (2002), "Mani Pulite - La Vera Storia, Editori Riuniti").

**References:** www.editoririuniti.it

## 12 Are journalists safe when investigating corruption?

**- 12a: In practice, in the past year, no journalists investigating corruption have been imprisoned.**

**Score:** yes/1.00



**Comments:** Yes, in the past year, no journalists investigating corruption have been imprisoned.

**References:**

**Peer Review Comments:** It is important to understand that even if no journalist has been killed or imprisoned, journalists have been threatened when reporting on corruption. Another method to intimidate them is the flux of libel suits filed by prominent politicians.

**- 12b: In practice, in the past year, no journalists investigating corruption have been physically harmed.**

Score: yes/1.00



**Comments:** Yes, in the past year, no journalists investigating corruption have been physically harmed.

**References:**

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- 12c: *In practice, in the past year, no journalists investigating corruption have been killed.*

Score: yes/1.00



**Comments:** Yes, in the past year, no journalists investigating corruption have been killed.

**References:**

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# Italy: Electoral and Political Processes

## Sub-Category: II-1/National Elections

	Indicators	Scores
13	<a href="#">In law, is universal and equal adult suffrage guaranteed to all citizens?</a>	1.00
14	<a href="#">Can all citizens exercise their right to vote freely and fairly?</a>	1.00
15	<a href="#">Do citizens participate in the political process?</a>	0.70

### Indicator and sub-Indicator Details

#### 13 In law, is universal and equal adult suffrage guaranteed to all citizens?

Score: yes/1.00



**Comments:** Yes, universal and equal adult suffrage is guaranteed to all citizens.  
**References:** Art. 48 of the Fundamental Chart

#### 14 Can all citizens exercise their right to vote freely and fairly?

- 14a: *In practice, all adult citizens can vote.*

Score: almost always/1.00



**Comments:** In practice, all adult citizens can almost always vote.  
**References:** Art. 48 of the Fundamental Chart

**Peer Review Comments:** There are limited cases when it would be impossible for people to exercise their voting rights because they have been convicted to a certain number of years in jail, and have thus lost their civil rights.

- 14b: *In practice, ballots are secret or equivalently protected.*

Score: almost always/1.00



**Comments:** In practice, ballots are almost always secret or equivalently protected.  
**References:** Art. 48 of the Fundamental Chart

- 14c: *In practice, elections are held according to a regular schedule.*

Score: almost always/1.00



**Comments:** In practice, elections are almost always held according to a regular schedule.  
**References:** Art. 60 of the Fundamental Chart

**Peer Review Comments:** Elections are held regularly as prescribed by the Constitution. They can be held earlier than expected in the case that the government faces a no confidence vote by the Parliament, but such an event is disciplined by the Constitution itself.

#### 15 Do citizens participate in the political process?

- 15a: *In practice, all citizens have a right to form political parties.*

Score: almost always/1.00



**Comments:** In practice, all citizens almost always have a right to form political parties.  
**References:** Art. 49 of the Fundamental Chart

- 15b: *In practice, all citizens have a right to run for public office.*

Score: almost always/1.00



**Comments:** Art. 51 has been modified by the constitutional law of May 30, 2003 to sustain access of women to public offices. "Italian Republic sustains with ad-hoc actions equal opportunities for men and women."  
**References:** Art. 51 of the Fundamental Chart

- 15c: *In practice, at least 30 percent of national legislators are women.*

Score: no/0.00



**Comments:** Camera dei Deputati: 11.5 percent (71 women of 616 seats). Senato della Repubblica 6.47 percent (27 women on 330 seats).

**References:** [http://www.camera.it/\\_dati/leg14/lavori/datistatistici/attivatalegislativa/stadep9.2.asp?Nas=1](http://www.camera.it/_dati/leg14/lavori/datistatistici/attivatalegislativa/stadep9.2.asp?Nas=1); [http://www.senato.it/bd/menubanchedati\\_pubbliche.htm](http://www.senato.it/bd/menubanchedati_pubbliche.htm)

- 15d: *In practice, the ruling political party controls less than 2/3 of seats in the legislature.*

**Score:** yes/1.00



**Comments:** In the last national political elections on May 13, 2001, the major coalition "Casa delle libertà" obtained 56 percent of the seats (177 seats of 315).

**References:** [http://www.senato.it/leg/14/elezioni/ef\\_naz.htm](http://www.senato.it/leg/14/elezioni/ef_naz.htm)

**Peer Review Comments:** Italy has a symmetric bicameral system. There is also a Chamber of Deputies with 630 representatives. In any case, the ruling coalition does not have more than 66 percent of the seats.

- 15e: *In practice, during the most recent election, political parties received media coverage roughly proportional to their popular support.*

**Score:** sometimes/0.50



**Comments:** The law gives authority for the communications (autorità per le garanzie nelle comunicazioni) to verify breaches of rules and to force media channels to give coverage to damaged parties.

**References:** Law 22/02/2000 n° 28 for the fair access to media during electoral campaign (Disposizioni per la parità di accesso ai mezzi di informazione durante le campagne elettorali e referendarie e per la comunicazione politica).

**Peer Review Comments:** Much more or less hidden electoral propaganda was carried out in favor of Berlusconi by three networks.

## Italy: Electoral and Political Processes

### Sub-Category: II-2/Election Monitoring Agency

	Indicators	Scores
16	<a href="#">In law, is there an election monitoring agency?</a>	1.00
17	<a href="#">Is the election monitoring agency effective?</a>	0.45

#### Indicator and sub-Indicator Details

##### 16 In law, is there an election monitoring agency?

**Score:** yes/1.00



**Comments:** Yes, there is the "Direzione Centrale dei Servizi Elettorali" (Central Directorate of Electoral Services) of the Department of Local Affairs of the Ministry of Interiors.

**References:**

##### 17 Is the election monitoring agency effective?

- 17a: *In law, the agency is protected from political interference.*

**Score:** no/0.00



**Comments:** The agency is a branch of the Ministry of Interiors.

**References:**

**Peer Review Comments:** The Direzione Centrale does a good job, largely avoiding political interferences. [Comment 2]: While the Monitoring Agency is not nominally independent, as a citizen I do not feel that it would or could "rig" the elections. I think that almost everybody in Italy would share this opinion.

- 17b: *In practice, agency appointments are made that support the independence of the agency.*

**Score:** rarely/0.25



**Comments:** There are no data available, although the appointments are made by internal organization of the Ministry of Interiors.

**References:**

- 17c: *In practice, the agency has a professional, full-time staff.*

Score: almost always/1.00



Comments: The agency almost always has a professional, full-time staff.

References:

- 17d: *In practice, the agency makes reports to the legislature following an election cycle.*

Score: almost always/1.00



Comments: The agency almost always makes reports to the legislature following an election cycle.

References:

- 17e: *In practice, when necessary, the agency imposes penalties on offenders.*

Score: almost never/0.00



Comments: None of the agencies that monitor elections and verify the results have the power to impose sanctions or penalties. If there is some breach of law during elections, it is under the jurisdiction of ordinary justice.

References:

## Italy: Electoral and Political Processes

### Sub-Category: II-3/Political Party Finances

	Indicators	Scores
18	<a href="#">Are there regulations governing political party finances?</a>	0.50
19	<a href="#">Are the regulations governing political party finances effective?</a>	1.00
20	<a href="#">Can citizens access the financial records of political parties?</a>	1.00

#### Indicator and sub-Indicator Details

##### 18 Are there regulations governing political party finances?

- 18a: *In law, there are regulations governing private contributions to political parties.*

Score: yes/1.00



Comments: Regulations deal with the duty to declare private contributions by the donor and the beneficiary, as well as declaring the fiscal regime of such donations.

References: Law 02/01/1997 n°2

Peer Review Comments: There are frequent deplorable changes in the system of party financing. It is very difficult to keep up with them all. [Comment 2]: In addition, Law 26/07/2002 n.156 sets the amount of public contributions. In 2002, the amount was 125,328,611.95 euros per year. In 2003, the amount was 125,089,621.44 euros and 153,089,621.44 euros per year from 2004 onward.

- 18b: *In law, there are limits on individual donations to candidates and political parties.*

Score: no/0.00



Comments: The law only states the duty to declare donations.

References: Law 02/01/1997 n°2

- 18c: *In law, there are limits on corporate donations to candidates and political parties.*

Score: no/0.00



Comments: Corporations are free to give money to candidates and political parties, upon the condition that such donations are approved by the assembly and reported in the budget. Though, public corporations, or those participated in by public bodies (not completely private corporations) are not allowed to make donations.

References: Law 02/01/1997 n°2

- 18d: *In law, there are limits on total party expenditure.*

Score: yes/1.00



**Comments:** The maximum expenditure is fixed at the sum resulting from the multiplication of one euro by the number of voters in the area in which the party is running.

**References:** L. 10-12-1993 n. 515

**19 Are the regulations governing political party finances effective?**

**- 19a: In practice, when necessary, an agency monitoring political party finances independently initiates investigations.**

**Score:** almost always/1.00



**Comments:** The Corte dei Conti has the duty to analyze the final accounts of parties' expenses for elections.

**References:** L. 10-12-1993 n. 515

**- 19b: In practice, when necessary, an agency monitoring political party finances imposes penalties on offenders.**

**Score:** almost always/1.00



**Comments:** Sanctions can equal up to 100,000 euro and declare the ineligibility of a candidate.

**References:** Art. 15 of L. 10-12-1993 n. 515

**- 19c: In practice, contributions to political parties are audited.**

**Score:** almost always/1.00



**Comments:** Contributions are audited at every election.

**References:** Art. 12 of L. 10-12-1993 n. 515

**20 Can citizens access the financial records of political parties?**

**- 20a: In law, citizens can access the financial records of political parties.**

**Score:** yes/1.00



**Comments:** The law requires a copy of the budget be deposited in a local office for electoral guarantees.

**References:** Art. 12-14 of L. 10-12-1993 n. 515

**- 20b: In practice, citizens can access the financial records of political parties within a reasonable time period.**

**Score:** < 1 month/1.00



**Comments:** Records are accessible for free in the local office for electoral guarantees.

**References:** Art. 12-14 of L. 10-12-1993 n. 515

**- 20c: In practice, citizens can access the financial records of political parties at a reasonable cost.**

**Score:** almost always/1.00



**Comments:** Records are accessible for free in the local office for electoral guarantees.







**References:** Art. 12-14 of L. 10-12-1993 n. 515

# Italy: Branches of Government

## Sub-Category: III-1/Executive

	Indicators	Scores
21	<a href="#">In law, can citizens sue the government for infringement of their civil rights?</a>	1.00
22	<a href="#">Can members of the executive be held accountable for their actions?</a>	1.00
23	<a href="#">Is the executive leadership subject to prosecution?</a>	0.50
24	<a href="#">Are there regulations governing conflicts of interest by the executive branch?</a>	0.33
25	<a href="#">Can citizens access the asset disclosure records of the head of state?</a>	0.00
26	<a href="#">In practice, is the ruling party distinct from the state?</a>	1.00

### Indicator and sub-Indicator Details

<b>21</b>	<b>In law, can citizens sue the government for infringement of their civil rights?</b>
	<p>Score: yes/1.00 </p> <p>Comments: Yes, citizens can sue the government for infringement of their civil rights References: Art. 24 and Art. 113 of the Fundamental Chart</p>
<b>22</b>	<b>Can members of the executive be held accountable for their actions?</b>
	<p>- 22a: <i>In practice, members of the executive give reasons for their policy decisions.</i></p> <p>Score: almost always/1.00 </p> <p>Comments: Members of the executive, as heads of the public administration, are obliged to give the motivation for their administrative acts. Political acts are excluded, but the media are always interested in policy decision of members of the executive, so members of the executive are usually asked to explain the reasons for their decisions. References: Art. 3 of Law 07/08/1990 n° 241, Art. 113 of the Fundamental Chart</p> <p>- 22b: <i>In law, the judiciary can review the actions of the executive.</i></p> <p>Score: yes/1.00 </p> <p>Comments: The judiciary cannot review policy decisions. It can, however, review any act of the executive that is under control of the legitimacy of the High Court (Corte Costituzionale). References: Art. 134 of the Fundamental Chart</p> <p>- 22c: <i>In practice, when necessary, the judiciary reviews the actions of the executive.</i></p> <p>Score: almost always/1.00 </p> <p>Comments: Actions of the executive can be brought before administrative judges. In relation to criminal law, with the clean hands scandal, the judiciary intensely reviewed the actions of the executive between 1993 and 2001. After that period, other members of the executive (mostly at the local level) have been investigated for corruption. References:</p>
<b>23</b>	<b>Is the executive leadership subject to prosecution?</b>
	<p>- 23a: <i>In law, the head of state is not immune from prosecution.</i></p> <p>Score: no/0.00 </p> <p>Comments: With the exception of the charge of treason or attack against the Fundamental Chart (Article 90), law 140/2003 protects the head of state from prosecution while he is in power. References: Law 20 June 2003 n. 140</p> <p>- 23b: <i>In law, ministerial-level officials are not immune from prosecution.</i></p> <p>Score: yes/1.00 </p> <p>Comments: The law protects the head of the state, the prime minister, the presidents of the two Chambers</p>

of the Parliament and the president of the Constitutional Court (Supreme Court) while they are in power. Ministerial-level officers are not protected by this law. They are responsible for their actions for breaches of civil, penal and administrative laws.

**References:** Law 20 June 2003 n. 140

**Peer Review Comments:** Before Law 20 June 2003 n. 140 was passed, the prime minister was being prosecuted.

## 24 Are there regulations governing conflicts of interest by the executive branch?

- 24a: *In law, the head of state is required to file an asset disclosure form.*

Score: no/0.00



**Comments:** There is no such law.

**References:**

- 24b: *In law, ministerial-level officials are required to file an asset disclosure form.*

Score: yes/1.00



**Comments:** According to Law 441/92, the following officials are obliged to disclose their assets: members of the Parliament; the head of the government, ministers and under secretaries; regional councilors, provincial councilors, town councilors (with more than 100,000 inhabitants).

**References:** Law 441/92 as modified by law 15 may 1997 no. 127 (Law "Bassanini")

- 24c: *In law, there are regulations concerning gifts and hospitality for the executive.*

Score: no/0.00



**Comments:** There are no such regulations.

**References:**

**Peer Review Comments:** My understanding is that most administrations have internal codes of behavior that determine what an acceptable gift is and what is not.

## 25 Can citizens access the asset disclosure records of the head of state?

- 25a: *In law, citizens can access the asset disclosure records of the head of state.*

Score: no/0.00



**Comments:** There is no such law.

**References:**

- 25b: *In practice, citizens can access the asset disclosure records of the head of state within a reasonable time period.*

Score: > 1 year/0.00



**Comments:** There is no such law.

**References:**

- 25c: *In practice, citizens can access the asset disclosure records of the head of state at a reasonable cost.*

Score: almost never/0.00



**Comments:** Not applicable.

**References:**

## 26 In practice, is the ruling party distinct from the state?

Score: almost always/1.00



**Comments:** The ruling party is distinct from the state; state funds are not used for political party purposes (other than public financing for elections).

**References:**

# Italy: Branches of Government

## Sub-Category: III-2/Legislature

27	<a href="#">Can members of the legislature be held accountable for their actions?</a>	1.00
28	<a href="#">In law, are members of the legislature subject to prosecution?</a>	1.00
29	<a href="#">Are there regulations governing conflict of interest by members of the legislature?</a>	0.50
30	<a href="#">Can citizens access the asset disclosure records of members of the legislature?</a>	1.00
31	<a href="#">Can citizens access legislative processes and documents?</a>	1.00
32	<a href="#">Does the legislature have control of the budget?</a>	1.00
33	<a href="#">Can citizens access the national budgetary process?</a>	0.83
34	<a href="#">In law, is there a separate legislative committee which provides oversight of public funds?</a>	1.00
35	<a href="#">Is the legislative committee overseeing the expenditure of public funds effective?</a>	0.38

## Indicator and sub-Indicator Details

### 27 Can members of the legislature be held accountable for their actions?

- 27a: *In law, the judiciary can review the actions of the legislature.*

Score: yes/1.00



**Comments:** The judiciary can only review the actions dealing with control of legitimacy, not those dealing with content of the legislature's actions.

**References:** Art. 134 of the Fundamental Chart

- 27b: *In practice, when necessary, the judiciary reviews the actions of the legislature.*

Score: almost always/1.00



**Comments:** When there is a claim of legitimacy, the judiciary has the duty to act.

**References:**

### 28 In law, are members of the legislature subject to prosecution?

Score: yes/1.00



**Comments:** Members of the legislature can be prosecuted under criminal law. They cannot be held responsible for the exercise of their functions. Investigations, searches and wiretapping require previous authorization of the Chamber.

**References:** Art. 68 of the Fundamental Chart

**Peer Review Comments:** It is not correct to say that an authorization is required to investigate a MP, because a regulation providing it has been abolished in 1993 due to the scandal aroused from the "Clean hands operation". It is true that an authorization from the Parliament is always required to judges for arrests and searches of MP. [Comment 2]: Members of the legislature are not responsible for the actions done under their mandate, but are responsible for any crime they commit during their mandate. [Comment 3]: During the Clean Hands Period, in 1993, three-quarters of the members of the two Chambers of the Parliament were under investigation. In the political elections of 1994, 70 percent of the Parliament was changed from the previous legislature.

### 29 Are there regulations governing conflict of interest by members of the legislature?

- 29a: *In law, members of the legislature are required to file an asset disclosure form.*

Score: yes/1.00



**Comments:** Members of the Parliament are required to make available to the public their annual incomes.

**References:** Law 411/82

- 29b: *In law, there are regulations concerning gifts and hospitality for members of the legislature.*

Score: no/0.00



**Comments:** There are no such laws.

**References:**

### 30 Can citizens access the asset disclosure records of members of the legislature?

- 30a: *In law, citizens can access the asset disclosure records of members of the legislature.*

Score: yes/1.00



**Comments:** Records are available and published on the bulletin.

**References:** Law 441/82

**- 30b: In practice, citizens can access these records within a reasonable time period.**

**Score:** < 1 month/1.00



**Comments:** Citizens can access declarations a few days after the expiration date for the presentation of the records.

**References:** <http://www.camera.it/index.asp?content=/primapagina/primapagina/08.comunicati.asp>

**- 30c: In practice, citizens can access these records at a reasonable cost.**

**Score:** almost always/1.00



**Comments:** Access to the documents is free of charge.

**References:** <http://www.camera.it/index.asp?content=/primapagina/primapagina/08.comunicati.asp>

### 31 Can citizens access legislative processes and documents?

**- 31a: In law, citizens can access records of legislative processes and documents.**

**Score:** yes/1.00



**Comments:** Parliamentary sessions are, by default, public.

**References:** [www.camera.it](http://www.camera.it); [www.senato.it](http://www.senato.it); Art. 64 of the Fundamental Chart

**- 31b: In practice, citizens can access these records within a reasonable time period.**

**Score:** < 1 month/1.00



**Comments:** Citizens can access records in few days or they can participate directly in the sessions.

**References:** [www.camera.it](http://www.camera.it); [www.senato.it](http://www.senato.it)

**- 31c: In practice, citizens can access these records at a reasonable cost.**

**Score:** almost always/1.00



**Comments:** Access to the documents is free.

**References:** [www.camera.it](http://www.camera.it); [www.senato.it](http://www.senato.it)

### 32 Does the legislature have control of the budget?

**- 32a: In law, the legislature can amend the budget.**

**Score:** yes/1.00



**Comments:** The political authority puts forward its proposals about annual resource allocation (i.e. its budget proposals) on the basis of costs borne, benefits obtained and results achieved for functions and institutional services performed. These costs, benefits and results are highlighted by economic and statistical information supporting internal management control. The Minister of the Economy and Finance, as coordinator of public finance and public accounts, receives the proposals, examines and evaluates them as a whole on the basis of functions and institutional service costs. Then, he proceeds to draw up the Budget Bill to be submitted first to the government and then to the Parliament (Article n. 17, Law n. 59/1997 and Legislative Decree n. 286/1999, and Article n. 4 bis, Law n. 468/1978).

**References:** Art. 81 of the Fundamental Chart. Legislative Decree n. 29/1993 (now Legislative Decree n. 165/2001), Law n. 94/1997 and Item III of Legislative Decree n. 279/1997. See [http://www.contabilitaeconomica.rgs.tesoro.it/presentazione\\_eng.htm](http://www.contabilitaeconomica.rgs.tesoro.it/presentazione_eng.htm)

**- 32b: In practice, significant public expenditures require legislative approval.**

**Score:** almost always/1.00



**Comments:** Public expenditures must be included in the annual budget that must be approved by the Parliament.

**References:** Art. 81 of the Fundamental Chart

### 33 Can citizens access the national budgetary process?

**- 33a: In practice, the national budgetary process is conducted in a transparent manner in the debating stage.**

**Score:** almost always/1.00



**Comments:** The drafting and approval of the budget, as well as the debate in the Parliament, are accessible to

the public.

**References:** [www.camera.it](http://www.camera.it); [www.senato.it](http://www.senato.it)

- 33b: *In practice, citizens provide input at budget hearings.*

**Score:** sometimes/0.50



**Comments:** Citizens can follow the debates on the budget in its drafting stage from the media and directly from the sources of information of the Parliament. In some cases, citizens have publicly expressed their agreement or disagreement on some crucial points. For example, actual debate has involved public critics to the possibility of conditional amnesty for evaders of building rules, since this pushes illegal building and reinforces a culture of illegality. Some citizens have demonstrated while some region presidents have declared they will not apply that law in their territory.

**References:**

- 33c: *In practice, citizens can access itemized budget allocations.*

**Score:** almost always/1.00



**Comments:** Budgets of the state are accessible via the Web.

**References:**

[http://www.tesoro.it/Documentazione/AreeDoc/Dipartimenti/rgs/documento\\_parlamento\\_2003\\_NUMERATO.pdf](http://www.tesoro.it/Documentazione/AreeDoc/Dipartimenti/rgs/documento_parlamento_2003_NUMERATO.pdf)

### 34 In law, is there a separate legislative committee which provides oversight of public funds?

**Score:** yes/1.00



**Comments:** "V Commissione Bilancio della Camera" is the fifth legislative Commission of the Parliament that monitors financial provisions for new laws and monitors public expenditures.

**References:** <http://www.camera.it/>

### 35 Is the legislative committee overseeing the expenditure of public funds effective?

- 35a: *In practice, department heads regularly submit reports to this committee.*

**Score:** almost never/0.00



**Comments:** For its activity, the commission has the power to call department heads, public officers and any person who can give information. Then, there is no rule for the submission of reports to the commission.

**References:** Rules for the Chamber of Deputies (February 18, 1971)

- 35b: *In practice, a member of an opposition party presides over this committee.*

**Score:** sometimes/0.50



**Comments:** The composition of the commission is proportional to that of the Parliament. The commission nominates its own president; he can be member of the ruling or of the opposition party.

**References:** [www.camera.it](http://www.camera.it)

- 35c: *In practice, this committee is protected from political interference.*

**Score:** almost always/1.00



**Comments:** The commissions are made by members of the Parliament, but their composition guarantees that the ruling party and opposition are equally represented to ensure fair political activity.

**References:** [www.camera.it](http://www.camera.it)

- 35d: *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

**Score:** almost never/0.00



**Comments:** The committee almost never initiates independent investigations.

**References:**

## Italy: Branches of Government

### Sub-Category: III-3/Judiciary

	Indicators	Scores
36	<a href="#">In law, is the independence of the judiciary guaranteed?</a>	1.00

37	<a href="#">Is the appointment process for high court judges effective?</a>	0.80
38	<a href="#">Can members of the judiciary be held accountable for their actions?</a>	0.33
39	<a href="#">Can citizens access the judicial system?</a>	1.00
40	<a href="#">In law, is there a program to protect witnesses in corruption cases?</a>	0.00
41	<a href="#">Are judges safe when adjudicating corruption cases?</a>	1.00

## Indicator and sub-Indicator Details

### 36 In law, is the independence of the judiciary guaranteed?

Score: yes/1.00



**Comments:** The independence of the judiciary is guaranteed by law.

**References:** Art. 101 and 108 of the Fundamental Chart

**Peer Review Comments:** The judiciary is now under attack as new rules are being approved by the Parliament, with the ultimate goal of keeping the prosecutor, who is the magistrate of investigations, under the justice minister's control.

### 37 Is the appointment process for high court judges effective?

- 37a: *In practice, there is a transparent procedure for selecting high court judges.*

Score: almost always/1.00



**Comments:** The examination involves a pre-selection, three written exams and an oral exam on 14 different disciplines.

**References:** Art. 106 of the Fundamental Chart, legislative decree 17/11/97 n. 398

- 37b: *In practice, there are certain professional criteria required for the selection of high court judges.*

Score: almost always/1.00



**Comments:** Judges must have a full degree in law, be younger than 40 years old, have a certificate of a school for legal professions.

**References:** Art. 106 of the Fundamental Chart, legislative decree 17/11/97 n. 398

- 37c: *In law, there is a confirmation process for high court judges (i.e. conducted by the legislature or an independent body).*

Score: no/0.00



**Comments:** There is no such law.

**References:**

- 37d: *In law, high court judges are protected from removal without relevant justification.*

Score: yes/1.00



**Comments:** In law, high court judges are protected from removal without relevant justification.

**References:** Art. 107 of the Fundamental Chart

- 37e: *In practice, high court judges are protected from political interference.*

Score: almost always/1.00



**Comments:** There is a current conflict between part of the judiciary and part of the executive and legislative powers, but this involves a small part of the judiciary system. This arises from the interferences between the powers of the branches.

**References:** Art. 101 and 108 of the Fundamental Chart

### 38 Can members of the judiciary be held accountable for their actions?

- 38a: *In law, members of the judiciary are obliged to give reasons for their decisions.*

Score: yes/1.00



**Comments:** All judiciary acts must be substantiated.

**References:** Art. 111 of the Fundamental Chart

- 38b: *In practice, members of the judiciary give reasons for their decisions.*

Score: almost always/1.00



**Comments:** In practice, members of the judiciary almost always give reasons for their decisions.

**References:** Art. 111 of the Fundamental Chart

**- 38c: In law, there is an ombudsman (or equivalent agency) for the judicial system.**

Score: no/0.00



**Comments:** Italy does not yet have either a national ombudsman or a national Committee on Petitions for the judicial system. It does have an extensive network of regional ombudsmen (Art 11 D.Lgs 18/08/2000 n°267) for the Public Administration.

**References:** <http://www.euro-ombudsman.eu.int/links/en/it.htm>; <http://www.difensorecivico.org/>

**- 38d: In law, the judicial ombudsman (or equivalent agency) is protected from political interference.**

Score: no/0.00



**Comments:** Not applicable.

**References:**

**- 38e: In practice, when necessary, the judicial ombudsman (or equivalent agency) initiates investigations.**

Score: almost never/0.00



**Comments:** Not applicable.

**References:**

**- 38f: In practice, when necessary, the judicial ombudsman (or equivalent agency) imposes penalties on offenders.**

Score: almost never/0.00



**Comments:** Not applicable.

**References:**

### 39 Can citizens access the judicial system?

**- 39a: In practice, citizens earning the median yearly income can afford to bring a legal suit.**

Score: almost always/1.00



**Comments:** Laws 374/91 and 468/99 set up the Justice of the Peace ("Giudice di Pace") with civil and penal competences for minor causes. This judge can be accessed at no cost and without a lawyer.

**References:** Law 21 November 1991, n. 374;; Law 24 November 1999, n. 468;  
<http://www.avvocati.it/servizi/tariffe/tariffe.htm>

**- 39b: In practice, a typical small retail business can afford to bring a legal suit.**

Score: almost always/1.00



**Comments:** Laws 374/91 and 468/99 set up the Justice of the Peace ("Giudice di Pace") with civil and penal competences for minor causes. This judge can be accessed at no cost and without a lawyer.

**References:** <http://www.avvocati.it/servizi/tariffe/tariffe.htm>; D.M. 05.10.1994

**- 39c: In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.**

Score: almost always/1.00



**Comments:** The state almost always does so.

**References:** Art. 24 of the Fundamental Chart

**- 39d: In practice, all citizens have access to a court of law, regardless of geographic location.**

Score: almost always/1.00



**Comments:** Courts are distributed on a geographic basis; almost every province has its own court and every region has a higher court. Law 133/98 determines "inconvenient" courts and sets up incentives for magistrates to go there.

**References:** [www.giustizia.it](http://www.giustizia.it); Law 4 May 1998 N. 133

### 40 In law, is there a program to protect witnesses in corruption cases?

Score: no/0.00



**Comments:** There is no such law.

**References:**

**Peer Review Comments:** There are programs to protect witnesses in cases of organized crime.

**41 Are judges safe when adjudicating corruption cases?**

**- 41a: *In practice, in the last year, no high court judges have been physically harmed because of adjudicating corruption cases.***

**Score:** yes/1.00



**Comments:** Yes, in the last year, no high court judges have been physically harmed because of adjudicating corruption cases.

**References:**

**- 41b: *In practice, in the last year, no high court judges have been killed because of adjudicating corruption cases.***

**Score:** yes/1.00



**Comments:** Yes, in the last year, no high court judges have been killed because of adjudicating corruption cases.







**References:**

# Italy: Administration and Civil Service

## Sub-Category: IV-1/Civil Service Regulations

	Indicators	Scores
42	<a href="#">Are there national regulations for the civil service?</a>	0.33
43	<a href="#">Is the law governing the administration and civil service effective?</a>	0.66
44	<a href="#">In law, are there conflict of interest regulations for senior civil servants?</a>	0.00
45	<a href="#">Can citizens access the asset disclosure records of senior civil servants?</a>	0.67

### Indicator and sub-Indicator Details

<b>42</b>	<b>Are there national regulations for the civil service?</b>
	<p><b>- 42a: In law, there are regulations requiring an impartial and independent civil service.</b></p> <p>Score: yes/1.00 </p> <p><b>Comments:</b> The Fundamental Chart states (Art. 97), as a general principle, fair and effective activity of the public administration. Article 98 states that civil servants are to be in exclusive service of the nation.  <b>References:</b> Art. 97 and 98 of the Fundamental Chart; D.Lgs. 03/02/1993 n° 29 and D.Lgs. 30/03/2001 n° 165</p> <hr/> <p><b>- 42b: In law, there are regulations to prevent nepotism within the civil service.</b></p> <p>Score: no/0.00 </p> <p><b>Comments:</b> There are no express laws to prevent nepotism.  <b>References:</b>  <b>Peer Review Comments:</b> Although it may not be in the law, typically if you sit in a committee that has to hire people for the public administration, you cannot be a relative, or related in other ways to one of the candidates.</p> <hr/> <p><b>- 42c: In law, there are regulations to prevent cronyism/patronage within the civil service.</b></p> <p>Score: no/0.00 </p> <p><b>Comments:</b> There are no express laws to prevent cronyism and patronage.  <b>References:</b></p> <hr/> <p><b>- 42d: In law, civil servants convicted of corruption are prohibited from future government employment.</b></p> <p>Score: yes/1.00 </p> <p><b>Comments:</b> Interdiction can be perpetual (for convictions of more than five years of imprisonment) or temporary (for convictions up to five years of imprisonment).  <b>References:</b> Art. 28, 29, 31 of Criminal Code</p> <hr/> <p><b>- 42e: In law, there are restrictions for senior public servants entering positions in the private sector.</b></p> <p>Score: no/0.00 </p> <p><b>Comments:</b> There are no such restrictions.  <b>References:</b></p> <hr/> <p><b>- 42f: In law, there are regulations and registers concerning gifts and hospitality for senior civil servants?</b></p> <p>Score: no/0.00 </p> <p><b>Comments:</b> There are no such laws.  <b>References:</b></p>
<b>43</b>	<b>Is the law governing the administration and civil service effective?</b>
	<p><b>- 43a: In practice, civil servants are protected from political interference.</b></p>

Score: almost always/1.00



**Comments:** Apart from some top-level public officials, nominated directly by the executive, other civil servants are not affected by outside political interference.

**References:**

- 43b: *In practice, civil servants are appointed according to professional criteria.*

Score: often/0.75



**Comments:** Appointments for public employment can be done with the public competitive examination, on the basis of education (titolo di studio), with a mixed procedure of examination and education, or on the basis of professional criteria. Notices of appointments must contain information on the requirements that cannot be changed.

**References:** Art. 28 and 35 of D. Lgs 30-03-2001 n° 165

**Peer Review Comments:** Besides these factors personal connections also matter in the appointment of civil servants. Very often, public competitions are not very competitive and their outcomes are arranged in advance so that "connected" candidates win.

- 43c: *In practice, civil servants are not employed based on nepotism.*

Score: often/0.75



**Comments:** Despite the impression that there is some form of nepotism, there are no data available to prove or disprove this hypothesis.

**References:**

**Peer Review Comments:** Nepotism is an issue. Possibly there are no data to substantiate it, but is a commonly held belief that "concorsi pubblici" can and are very often rigged. Remember that in southern Italy a public job commands a rent and getting it often led (and leads) to patronage and to corruption.

- 43d: *In practice, civil servants are not employed based on cronyism/patronage.*

Score: often/0.75



**Comments:** Despite the impression that there is some form of cronyism, there are no data available to prove or disprove this hypothesis.

**References:**

- 43e: *In practice, civil servants have clear job descriptions.*

Score: almost always/1.00



**Comments:** In practice, civil servants almost always have clear job descriptions.

**References:** Art. 3 of D. Lgs 30-03-2001 n° 165 and others

- 43f: *In practice, in the past year, the government has paid civil servants on time.*

Score: almost always/1.00



**Comments:** There have been no complaints on this issue.

**References:**

- 43g: *In practice, civil servants convicted of corruption are prohibited from future government employment.*

Score: almost never/0.00



**Comments:** For example, the current Prime Minister has been condemned for attempted corruption and was under investigation for corruption until May 13, 2003.

**References:**

**Peer Review Comments:** There are examples of civil servants (in the Army or in the Guardia di Finanza [Treasury Police]) who are still on duty after being convicted on corruption charges.

- 43h: *In practice, restrictions on private sector employment for senior public officials are enforced.*

Score: almost never/0.00



**Comments:** There are no restrictions on this issue.

**References:**

**Peer Review Comments:** Job shifts between the public and the private sector are rare.

44 In law, are there conflict of interest regulations for senior civil servants?

Score: no/0.00



**Comments:** There is no such law.  
**References:**

**45 Can citizens access the asset disclosure records of senior civil servants?**

- 45a: *In law, citizens can access the asset disclosure records of senior civil servants.*

**Score:** yes/1.00



**Comments:** According to Law 441/92, the following officials are obliged to disclose their assets: members of the Parliament; the head of the government, ministers and under secretaries; regional councilors, provincial councilors, town councilors (with more than 100,000 inhabitants).

**References:** Law 441/92 as modified by law 15 may 1997 no. 127 (Law "Bassanini")

- 45b: *In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.*

**Score:** > 1 year/0.00



**Comments:** Only data for 2001 are available

**References:** [http://www.palazzochigi.it/Presidenza/DICA/pubblicita\\_patrimoniale/index.html](http://www.palazzochigi.it/Presidenza/DICA/pubblicita_patrimoniale/index.html)

- 45c: *In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.*

**Score:** almost always/1.00



**Comments:** The records are available for free.

**References:** [http://www.palazzochigi.it/Presidenza/DICA/pubblicita\\_patrimoniale/index.html](http://www.palazzochigi.it/Presidenza/DICA/pubblicita_patrimoniale/index.html)

## Italy: Administration and Civil Service

### Sub-Category: IV-2/Whistle-blowing Measures

	Indicators	Scores
46	<a href="#">Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?</a>	0.50
47	<a href="#">Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?</a>	0.00

#### Indicator and sub-Indicator Details

**46 Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?**

- 46a: *In law, civil servants who report corruption are protected from recrimination or other negative consequences.*

**Score:** yes/1.00



**Comments:** However, it must be noted that Law 11May 1990 n. 108, and Law 20 May 1970 n. 300 setting rules on individual dismissal impose the duty to reintegrate the employee dismissed without relevant justification; this rule protects employees from the consequences of whistle-blowing.

**References:**

- 46b: *In practice, civil servants who report corruption are protected from recrimination or other negative consequences.*

**Score:** sometimes/0.50



**Comments:** There is no notice of complaint on this issue.

**References:**

**Peer Review Comments:** In practice private or public sector employees who report corruption face difficulties in their jobs. [Comment 2]: All these processes are not well-institutionalized; much depends on individual civil servants, on the context, and on opportunities and circumstances.

- 46c: *In law, private sector employees who report corruption are protected from recrimination or other negative consequences.*

Score: no/0.00



**Comments:** However, it must be noted that Law 11 May 1990 n. 108, and Law 20 May 1970 n. 300 setting rules on individual dismissal impose the duty to reintegrate the employee dismissed without relevant justification; this rule protects employees from the consequences of whistle-blowing.

**References:**

**- 46d: In practice, private sector employees who report corruption are protected from recrimination or other negative consequences.**

Score: sometimes/0.50



**Comments:** There are no data on this issue. Though, it seems that no private employees complained about this.

**References:**

**47 Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?**

**- 47a: In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.**

Score: almost never/0.00



**Comments:** There is no internal reporting mechanism for public sector corruption.

**References:**

**- 47b: In practice, the internal reporting mechanism for public sector corruption receives regular funding.**

Score: almost never/0.00



**Comments:** There is no internal reporting mechanism for public sector corruption.

**References:**

**- 47c: In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.**

Score: > 1 year/0.00



**Comments:** There is no internal reporting mechanism for public sector corruption.

**References:**

**- 47d: In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.**

Score: almost never/0.00



**Comments:** There is no internal reporting mechanism for public sector corruption.

**References:**

## Italy: Administration and Civil Service

### Sub-Category: IV-3/Procurement

	Indicators	Scores
48	<a href="#">Is the public procurement process effective?</a>	0.83
49	<a href="#">Can citizens access the public procurement process?</a>	1.00

#### Indicator and sub-Indicator Details

**48 Is the public procurement process effective?**

**- 48a: In law, there are conflict of interest regulations for public procurement officials.**

Score: yes/1.00



**Comments:** Members of the commission for the evaluation of the competitors cannot: have commitments in the project, be members of monitoring agencies, have been managers in the field in the past four years

or have evaluated other projects in the same area.

**References:** Art. 21 of Law 11-02-1994 n°109 and D.P.R. 21-12-1999 n. 554

**- 48b: In practice, the conflict of interest regulations for public procurement officials are enforced.**

**Score:** almost always/1.00



**Comments:** According to this specific rule, yes.

**References:**

**- 48c: In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.**

**Score:** no/0.00



**Comments:** There is no such law.

**References:**

**- 48d: In law, all major procurements require competitive bidding.**

**Score:** yes/1.00



**Comments:** There are four types of public procurements: supplies, works, services and "exclusive sectors" (transportation, water supply and telecommunications). The general rule (r.d. 18 November 1923 n.2440) states that the contractor must be selected upon precise conditions, not with discretionary power, from 200.000 Euro and up.

**References:** D.P.C.M. 10-1-1991 n. 55 and Art. 37 of law 11-02-1994 n°109 and Art. 7 of L. 1-8-2002 n. 166

**- 48e: In law, strict formal requirements limit the extent of sole sourcing.**

**Score:** yes/1.00



**Comments:** Yes, there are strict formal requirements.

**References:** Law 5-03-2001, n. 57

**- 48f: In law, unsuccessful bidders can instigate an official review of procurement decisions.**

**Score:** yes/1.00



**Comments:** Reviews can be done by ordinary administrative justice within 30 days.

**References:** L. 1-8-2002 n. 166

**- 48g: In law, unsuccessful bidders can challenge procurement decisions in a court of law.**

**Score:** yes/1.00



**Comments:** Decisions can be brought before ordinary administrative justices.

**References:** Art. 24 of Fundamental Chart

**- 48h: In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in procurement bids.**

**Score:** yes/1.00



**Comments:** Article 8 provides the exclusion from procurements for moral, financial or professional unreliability from three to six months.

**References:** Art. 8 Law 11/02/1994 n. 109; Art. 9 Law 08/06/01 n° 231

**- 48i: In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.**

**Score:** sometimes/0.50



**Comments:** Companies guilty of major violations of procurement regulations are sometimes prohibited from participating in future procurement bids.

**References:**

**Peer Review Comments:** The media reported many cases when companies guilty of major violations of procurements regulations (bribery) got around the law by participating in procurement bids through other companies linked to the guilty companies. Another way of getting around the law on procurements is based on "noncompetition" agreements clinched by companies when they present bids: a company doesn't present a competitive bid leaving the ground to another company which in turn will get back the favor in another bid. These kinds of illicit agreements are possible because public tenders are almost always rigged, as shown by hundreds of investigations run by Italian prosecutors and the arrests of procurements officials.

## 49 Can citizens access the public procurement process?

- 49a: *In law, citizens can access public procurement regulations.*

Score: yes/1.00



**Comments:** Procurement regulations are available to the public via the Web.

**References:** Law 11-02-1994 n°109 and D.P.R. 21-12-1999 n. 554

- 49b: *In practice, citizens can access public procurement regulations within a reasonable time period.*

Score: < 1 month/1.00



**Comments:** Procurement regulations are available to the public via the Web.

**References:**

- 49c: *In practice, citizens can access public procurement regulations at a reasonable cost.*

Score: almost always/1.00



**Comments:** They are available for free.

**References:**

- 49d: *In practice, major public procurements are widely advertised.*

Score: almost always/1.00



**Comments:** Different rules are set for procurements advertising: over 5,000,000 euros, competition must be done at the European level with (open or restricted) competitive tender; Up to 1,000,000 euro, competition must be done at the national level with competitive tender; Up to 1,000,000 euro, competition can be done at the regional or local levels with tender; and up to 200,000 euro competition can be private licitation.

**References:**

- 49e: *In practice, citizens can access the results of major public procurement bids.*

Score: almost always/1.00



**Comments:** Citizens can almost always access the results of major procurement bids.

**References:**

## Italy: Administration and Civil Service

### Sub-Category: IV-4/Privatization

	Indicators	Scores
50	<a href="#">Is the privatization process effective?</a>	1.00
51	<a href="#">Can citizens access the terms and conditions of privatization bids?</a>	1.00

### Indicator and sub-Indicator Details

#### 50 Is the privatization process effective?

- 50a: *In law, all businesses are eligible to compete for privatized state assets.*

Score: yes/1.00



**Comments:** There is no specific restriction set in law dealing with privatization of state assets.

**References:** L. 23 November 2001, n. 410

- 50b: *In law, there are conflict of interest regulations for government officials involved in privatization.*

Score: yes/1.00



**Comments:** There is a general provision for insider trading, which includes any subject that exploits information intended for his office for personal gain in acquiring or selling goods. CONSOB (Commissione

Nazionale per le Società e la Borsa), the public authority responsible for regulating the Italian securities market, is in charge for monitoring these conflicts of interests.

**References:** Law 58/1998; [www.consob.it](http://www.consob.it)

**- 50c: In practice, conflict of interest regulations for government officials involved in privatization are enforced.**

**Score:** almost always/1.00



**Comments:** It appears that CONSOB applies regulations in full independence. Moreover, CONSOB has the duty to report such cases to the judicial authority. These elements let assume that these regulations are fully enforced in practice, even if there has been no cases in the recent past.

**References:** <http://www.consob.it/index.htm>

## 51 Can citizens access the terms and conditions of privatization bids?

**- 51a: In law, citizens can access the terms and conditions of privatization bids.**

**Score:** yes/1.00



**Comments:** Yes, in law, citizens can access the terms and conditions of privatization bids.

**References:** L. 23 November 2001, n. 410

**- 51b: In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.**

**Score:** < 1 month/1.00



**Comments:** Citizens can access the terms and conditions in less than a month.

**References:**

**- 51c: In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.**

**Score:** almost always/1.00



**Comments:** Citizens can access the terms and conditions for free.

**References:**

# Italy: Oversight and Regulatory Mechanisms

## Sub-Category: V-1/National Ombudsman

	Indicators	Scores
52	<a href="#">In law, is there a national ombudsman, public protector or equivalent agency covering the entire public sector?</a>	1.00
53	<a href="#">Is the national ombudsman effective?</a>	0.72
54	<a href="#">Can citizens access the reports of the ombudsman?</a>	0.92

### Indicator and sub-Indicator Details

#### 52 In law, is there a national ombudsman, public protector or equivalent agency covering the entire public sector?

Score: yes/1.00



**Comments:** Italy does not yet have a national ombudsman or a National Committee on Petitions. However, it does have an extensive network of regional ombudsmen (Art. 11 D.Lgs 18/08/2000 n°267).  
**References:** <http://www.euro-ombudsman.eu.int/links/en/it.htm>

#### 53 Is the national ombudsman effective?

- 53a: *In law, the ombudsman is protected from political interference.*

Score: yes/1.00



**Comments:** Regional statutes discipline the independence of regional ombudsmen (there are 14 regional, two provincial and a number of local ombudsmen). In 1971, Tuscany was the first region to adopt this figure. Every region sets its own rules (e.g. duration, multiple nominees and independence).  
**References:** <http://www.consiglio.regione.toscana.it/difensore/dife/htm/leggi.htm>

- 53b: *In practice, the ombudsman is protected from political interference.*

Score: almost always/1.00



**Comments:** The ombudsman is nominated by the Regional Council. This does not seem to be a problem as the ombudsman's functions are well defined in regional laws.  
**References:**

- 53c: *In practice, the ombudsman is protected from removal without relevant justification.*

Score: almost always/1.00



**Comments:** For example, the ombudsman from Veneto is nominated for five years and can be confirmed only once.  
**References:** <http://www.consiglio.regione.veneto.it/Organi/AltriOrgani/difensorecivico/difcivnuovo.htm>

- 53d: *In practice, the agency has a professional, full-time staff.*

Score: almost always/1.00



**Comments:** For example, ombudsman of Tuscany has 13 full-time, professional staff members.  
**References:** <http://www.consiglio.regione.toscana.it/difensore/dife/htm/ufficio.htm>

- 53e: *In practice, agency appointments support the independence of the agency.*

Score: almost never/0.00



**Comments:** The rules for local or regional ombudsmen are set in local or regional statutes. There is no central authority that monitors the elections of local ombudsmen.  
**References:**

- 53f: *In practice, the agency receives regular funding.*

Score: almost never/0.00



**Comments:** The rules for local or regional ombudsmen are set in local or regional statutes. There is no

central authority that monitors the elections of local ombudsmen.

**References:**

- 53g: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



**Comments:** Every year the ombudsman reports to regional council and to the Parliament.

**References:** <http://www.consiglio.regione.toscana.it/difensore/attivita/relaz/home.htm>

- 53h: *In practice, the government acts on the findings of the agency.*

Score: sometimes/0.50



**Comments:** Local ombudsmen can investigate the omission or delays of public administration, and can nominate commissioners to act instead of the administration. If it is required by at least a quarter of members of local council, an ombudsman can control the legitimacy of council decision.

**References:** Once again, there is no general agency and only local government can act on the findings of local ombudsman. Nevertheless, regional ombudsmen provide annual reports that can influence governmental acts (see an example in

<http://www.consiglio.regione.toscana.it/difensore/attivita/relaz/home.htm>)

**Peer Review Comments:** Every region is different and it is quite difficult to give a general, nationwide assessment.

- 53i: *In practice, the agency acts on citizen complaints within a reasonable time period.*

Score: < 1 month/1.00



**Comments:** It is very difficult to answer this. Every ombudsman has its own rules, powers, and acts in a different environment. Nevertheless, it is possible to argue that the role of the ombudsman implies prompt answers to citizen complaints. In some cases, statistics show that procedures have been closed, almost always, within 60 days from the complaint.

**References:** See for example the ombudsman of Regione Toscana:

[http://www.consiglio.regione.toscana.it/difensore/attivita/relaz/doc/rel02\\_4.doc](http://www.consiglio.regione.toscana.it/difensore/attivita/relaz/doc/rel02_4.doc) pag 71

**54 Can citizens access the reports of the ombudsman?**

- 54a: *In law, citizens can access reports of the ombudsman.*

Score: yes/1.00



**Comments:** Reports are available to the public (many are available via the Web).

**References:** <http://www.consiglio.regione.toscana.it/difensore/attivita/relaz/home.htm>

- 54b: *In practice, citizens can access the reports of the ombudsman within a reasonable time period.*

Score: < 3 months/0.75



**Comments:** This is the amount of time necessary to put the relation on the Web sites.

**References:**

- 54c: *In practice, citizens can access the reports of the ombudsman at a reasonable cost.*

Score: almost always/1.00



**Comments:** They are available for free on the Web.

**References:**

## Italy: Oversight and Regulatory Mechanisms

### Sub-Category: V-2/Supreme Audit Institution

	Indicators	Scores
55	<a href="#">In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?</a>	1.00
56	<a href="#">Is the supreme audit institution effective?</a>	1.00
57	<a href="#">Can citizens access reports of the supreme audit institution?</a>	1.00

## Indicator and sub-Indicator Details

### 55 In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Score: yes/1.00



**Comments:** "Corte dei Conti" is the Supreme Audit Court. The Court has preventive review on the legitimacy on the acts of the executive and has the ex-post review of the management of the budget of the State. The Court participates, when provided by law, in the control of financial management of bodies publicly funded and reports the results to the Chambers.

**References:** Art. 100 and 103 of the Fundamental Chart; [www.corteconti.it](http://www.corteconti.it)

### 56 Is the supreme audit institution effective?

- 56a: *In law, the supreme audit institution is protected from political interference.*

Score: yes/1.00



**Comments:** The law sets the rules for an effective independence of the court and its members from the executive.

**References:** Art. 100 of the Fundamental Chart

- 56b: *In practice, the head of the agency is protected from removal without relevant justification.*

Score: almost always/1.00



**Comments:** The president of the court is nominated by his colleagues.

**References:** Law 21 July 2000 n. 202; [www.corteconti.it](http://www.corteconti.it)

- 56c: *In practice, the agency has a professional, full-time staff.*

Score: almost always/1.00



**Comments:** The court is composed of judges and administrative staff.

**References:** [www.corteconti.it](http://www.corteconti.it)

- 56d: *In practice, agency appointments support the independence of the agency.*

Score: almost always/1.00



**Comments:** The court judges are appointed by public competitive exams, with public criteria for the evaluation. The committee is made up of members of the court.

**References:** [www.corteconti.it](http://www.corteconti.it)

- 56e: *In practice, the agency receives regular funding.*

Score: almost always/1.00



**Comments:** The court has financial autonomy. Each year its budget is reviewed and approved. See for example the official journal, n.133 of 11 June 2003.

**References:** Art. 100 of the Fundamental Chart; Del.C.C. 14-12-2000; [www.corteconti.it](http://www.corteconti.it)

- 56f: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



**Comments:** The court makes annual reports to the Parliament.

**References:** Art 7 and 8 of L. 21 March 1958 n.259

- 56g: *In practice, the government acts on the findings of the agency.*

Score: almost always/1.00



**Comments:** The Corte dei Conti has functions of audit and jurisdictional powers on acts of a specific nature. In both cases, decisions of the court are binding for the government.

**References:** Art 100, 103 and 111 of Fundamental Chart

### 57 Can citizens access reports of the supreme audit institution?

- 57a: *In law, citizens can access reports of the agency.*

Score: yes/1.00



**Comments:** Yes, in law, citizens can access reports of the agency.

References: [www.corteconti.it](http://www.corteconti.it)

- 57b: *In practice, citizens can access the agency reports within a reasonable time period.*

Score: < 1 month/1.00



Comments: Acts are freely available on the Web site of the Corte dei Conti.

References: [www.corteconti.it](http://www.corteconti.it)

- 57c: *In practice, citizens can access the agency reports at a reasonable cost.*

Score: almost always/1.00



Comments: Acts are freely available on the Web site of the Corte dei Conti.

References: [www.corteconti.it](http://www.corteconti.it)

## Italy: Oversight and Regulatory Mechanisms

### Sub-Category: V-3/Taxes and Customs

	Indicators	Scores
58	<a href="#">In law, is there a national tax collection agency?</a>	1.00
59	<a href="#">Is the tax collection agency effective?</a>	1.00
60	<a href="#">In practice, are tax laws enforced uniformly and without discrimination?</a>	1.00
61	<a href="#">In law, is there a national customs and excise agency?</a>	1.00
62	<a href="#">Is the customs and excise agency effective?</a>	1.00
63	<a href="#">In practice, are customs and excise laws enforced uniformly and without discrimination?</a>	1.00

### Indicator and sub-Indicator Details

#### 58 In law, is there a national tax collection agency?

Score: yes/1.00



Comments: Yes, there is the Agenzia delle Entrate of the Ministry of Finances.

References: Statute of the Agency (see [http://www.agenziaentrate.it/comunicare/agenzia/statuto\\_provvedimenti/statuto.pdf](http://www.agenziaentrate.it/comunicare/agenzia/statuto_provvedimenti/statuto.pdf))

Peer Review Comments: The Tax Collection system is a mess: It is inefficient, unfair, unequal and often corrupt. [Comment 2]: There is an instrument called "interpello" that can be used to ask answers in situations of objective uncertainty.

#### 59 Is the tax collection agency effective?

- 59a: *In practice, the tax collection agency has a professional, full-time staff.*

Score: almost always/1.00



Comments: The agency has a central office in Rome, as well as regional agencies. The central structure has one direction (head of office), four direction staff offices, and seven general directions. There are 21 regional directions and more than 380 local agencies.

References: <http://www.agenziaentrate.it/comunicare/agenzia/organigramma/centrale.htm>

- 59b: *In practice, the agency receives regular funding.*

Score: almost always/1.00



Comments:

References:

- 59c: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



**Comments:** The agency delivers an annual public report, available via the Web.

**References:** [http://www.agenziaentrate.it/comunicare/agenzia/2003/rapporto\\_annuale/index.htm](http://www.agenziaentrate.it/comunicare/agenzia/2003/rapporto_annuale/index.htm)

**60 In practice, are tax laws enforced uniformly and without discrimination?**

**Score:** almost always/1.00

Positive



Negative

**Comments:** Tax laws are almost always enforced uniformly and without discrimination.

**References:**

**61 In law, is there a national customs and excise agency?**

**Score:** yes/1.00

Positive



Negative

**Comments:** Yes, there is the Agenzia delle Dogane.

**References:** D. LGS. 30 July 1999, n. 300.; Law 3 August 2001, n. 317.; [www.agenziadogane.it](http://www.agenziadogane.it)

**62 Is the customs and excise agency effective?**

**- 62a: In practice, the customs and excise agency has a professional, full-time staff.**

**Score:** almost always/1.00

Positive



Negative

**Comments:** The Customs Agency has a central structure in Rome and local structure in airports, harbors, train stations and state borders.

**References:**

<http://www.agenziadogane.it/italiano/dcagp/organigrammi/organigrammacentrale/organizzazionecentrale.htm>;

<http://www.agenziadogane.it/italiano/dcagp/organigrammi/organigrammaperiferico/organizzazioneperiferica.htm>

**- 62b: In practice, the agency receives regular funding.**

**Score:** almost always/1.00

Positive



Negative

**Comments:** The agency receives funding by the Ministry of Finance (the amount is fixed yearly by the Minister of Finance with any agency with specific conventions, and must be approved by the Parliament), through compensations for specific services, and by profits from fund administration.

**References:** Art. 59 and 70 of D. LGS. 30 July 1999, n. 300.

**- 62c: In practice, the agency makes regular reports to the legislature.**

**Score:** almost always/1.00

Positive



Negative

**Comments:** The agency almost always makes regular reports to the legislature.

**References:**

**63 In practice, are customs and excise laws enforced uniformly and without discrimination?**

**Score:** almost always/1.00

Positive



Negative

**Comments:** In practice, customs and excise laws are almost always enforced uniformly and without discrimination.

**References:**

## Italy: Oversight and Regulatory Mechanisms

### Sub-Category: V-4/Financial Sector Regulation

	Indicators	Scores
64	<a href="#">In law, is there a central bank?</a>	1.00
65	<a href="#">In practice, is the central bank independent of the executive?</a>	1.00
66	<a href="#">In law, is there a financial regulatory agency overseeing publicly listed companies?</a>	1.00
67	<a href="#">Is the financial regulatory agency effective?</a>	1.00
68	<a href="#">Can citizens access the financial records of publicly listed companies?</a>	1.00
69	<a href="#">Are business licenses available to all citizens?</a>	0.94

#### Indicator and sub-Indicator Details

**64 In law, is there a central bank?**

Score: yes/1.00

Positive



Negative

**Comments:** Yes, there is the "Banca d'Italia."**References:** Law 10 August 1893, n. 449**Peer Review Comments:** Policy decisions of central bank, as well as most of its acts, are completely available to the public via the Web.**65 In practice, is the central bank independent of the executive?**

Score: almost always/1.00

Positive



Negative

**Comments:** Traditionally the governor of the bank of Italy has been selected among personalities of the economy with the highest morality and independence. In many occasions, the sight of the governor has been different from the economic strategic choices of the executive and this has been openly declared.**References:** [http://www.bancaditalia.it/interventi\\_comunicati](http://www.bancaditalia.it/interventi_comunicati)**Peer Review Comments:** The governor is nominated by the head of the state, proposed by the head of the executive and the minister of finance, after approval of the council of ministers. Former members of the Parliament cannot enter the central bank. [Comment 2]: The governor of the bank of Italy is independent, as shown when he was attacked by the economy minister for the Parmalat scandal.**66 In law, is there a financial regulatory agency overseeing publicly listed companies?**

Score: yes/1.00

Positive



Negative

**Comments:** The Commissione Nazionale per le Società e la Borsa (CONSOB) is the public authority responsible for regulating the Italian securities market. Its activity is aimed at the protection of the investing public. In this connection, the CONSOB is the competent authority for ensuring: transparency and correct behavior by securities market participants; disclosure of complete and accurate information to the investing public by listed companies; accuracy of the facts represented in the prospectuses related to offerings of transferable securities to the investing public; and compliance with regulations by auditors entered in the Special Register.**References:** Law 7 June 1974, n° 216**67 Is the financial regulatory agency effective?****- 67a: In law, the financial regulatory agency is protected from political interference.**

Score: yes/1.00

Positive



Negative

**Comments:** The commission has legal personality and full autonomy. The commission is made of one president and four members, selected among persons of specific and demonstrated experience and unquestioned morality and independence.**References:** Art 2 and 3 of Law 7 June 1974, n° 216 ; And law 4 June 1985 n. 281; [www.consob.it](http://www.consob.it)**- 67b: In practice, the agency has a professional, full-time staff.**

Score: almost always/1.00

Positive



Negative

**Comments:** CONSOB has 450 full-time staff members, a number is set by law.**References:** Law 23.12.1996, n. 662 (Art. 2)**- 67c: In practice, the agency receives regular funding.**

Score: almost always/1.00

Positive



Negative

**Comments:** Since 1995 CONSOB has received part of its funding directly from the budget of the state and part from subjects acting on the securities market for its monitoring activity. Every year the CONSOB presents a budget and a provision of expenses that must be approved by the Corte dei Conti.**References:** [www.consob.it](http://www.consob.it)**- 67d: In practice, when necessary, the financial regulatory agency independently initiates investigations.**

Score: almost always/1.00

Positive



Negative

**Comments:** The CONSOB conducts investigations with respect to potential infringements of insider dealing and market manipulation law.**References:** Law 7 June 1974, n° 216; [www.consob.it](http://www.consob.it)**- 67e: In practice, when necessary, the financial regulatory agency imposes penalties on offenders.**

Score: almost always/1.00

Positive



Negative

**Comments:** The CONSOB has the power to impose administrative sanctions directly or to ask the Ministry

of Finance to adopt sanctions. However, the CONSOB complains about its limited powers and the low deterrence of sanctions it can impose.

**References:** [www.consob.it](http://www.consob.it); [http://www.consob.it/produzione/Pubblicazioni/Relazione\\_annuale/lin2002.pdf](http://www.consob.it/produzione/Pubblicazioni/Relazione_annuale/lin2002.pdf)

## 68 Can citizens access the financial records of publicly listed companies?

- 68a: *In law, citizens can access the financial records of publicly listed companies.*

**Score:** yes/1.00

Positive  Negative

**Comments:** It is possible to search and download from the CONSOB Web site information on: ownership, share capital, board members, new major shareholdings and potential major shareholdings.

**References:** [www.consob.it](http://www.consob.it)

- 68b: *In practice, the financial records of publicly listed companies are regularly updated.*

**Score:** almost always/1.00

Positive  Negative

**Comments:** In practice, the financial records of publicly listed companies are almost always regularly updated.

**References:**

- 68c: *In practice, the financial records of publicly listed companies are audited according to international accounting standards.*

**Score:** almost always/1.00

Positive  Negative

**Comments:** Since November 2002, new accounting practices have been adopted by the auditing society, mutated by the international auditing principles ISA (International Standards on Auditing), set by IAPC (International Auditing Practices Committee), now IAASB (International Auditing and Assurance Standards Board) and the IFAC committee (International Federation of Accounts).

**References:** CONSOB weekly bulletin year VIII - N° 42 - 4 November 2002

- 68d: *In practice, citizens can access the records of disciplinary decisions involving publicly-listed companies.*

**Score:** almost always/1.00

Positive  Negative

**Comments:** Records are published on the Web site and are reported in the CONSOB annual report.

**References:** [www.consob.it](http://www.consob.it)

- 68e: *In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.*

**Score:** < 1 month/1.00

Positive  Negative

**Comments:** Information is accessible in real time on the Web site.

**References:** [www.consob.it](http://www.consob.it)

- 68f: *In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.*

**Score:** almost always/1.00

Positive  Negative

**Comments:** Information is accessible at no cost on the Web site.

**References:** [www.consob.it](http://www.consob.it)

## 69 Are business licenses available to all citizens?

- 69a: *In law, business licenses are not restricted to domestically-owned enterprises.*

**Score:** yes/1.00

Positive  Negative

**Comments:** The only requirements are those of morality: not being bankrupt, not having been condemned with a minimum three-year sentence for malicious (doloso) crime, not having been condemned for crimes against the public administration, economy, commerce or industry, or condemned for receiving of stolen goods, fraudulent bankruptcy, money laundering, emission of bad checks, usury, kidnapping for ransom or robbery; not having been condemned more than two times in the past five years; not having been subject of police supervision, residence prohibition or residence duty; and not having been declared habitual criminal. For the selling of foods, further requirements are set for health reasons. There is the duty to communicate the starting of the activity to the local public authority and to wait for 30 days. If starting large activities, it is necessary to require a license.

**References:** Art. 5 D.lgs. 114/98

- 69b: *In law, a complaint mechanism exists if a business license request is denied.*

Score: yes/1.00

Positive



Negative

**Comments:** Decisions of the public administration can be brought in front of the administrative court. The first instance can be brought before of Tribunali amministrativi regionali (regional administrative courts) and then before the Consiglio di Stato (administrative court of second instance).

**References:** Decree of Law 31 March 1998, n. 114 (c.d. Bassanini decree)

**- 69c: *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.***

Score: < 3 months/0.75

Positive



Negative

**Comments:** For small activities, it is necessary to wait for 30 days and to register in the registry of enterprises. For larger business activities, the time is longer because some evaluations must be done by the public authorities (e.g. the environmental impact evaluation). Sometimes, the list of documents and certificates to provide can require some time.

**References:** [www.report.rai.it](http://www.report.rai.it)

**- 69d: *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.***

Score: almost always/1.00

Positive



Negative

**Comments:** There are costs related, e.g. to the constitution of a society in a certain form, but individual activity can be started with very little costs for registration (maximum US\$2,000).

**References:** [www.report.rai.it](http://www.report.rai.it)

# Italy: Anti-Corruption Mechanisms and Rule of Law

## Sub-Category: VI -1 /Anti-Corruption Law

	Indicators	Scores
70	<a href="#">In law, is there legislation criminalizing corruption?</a>	1.00
71	<a href="#">In practice, are anti-corruption laws enforced?</a>	0.50

### Indicator and sub-Indicator Details

#### 70 In law, is there legislation criminalizing corruption?

- 70a: *In law, attempted corruption is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, attempted corruption is illegal.

**References:** Art. 322 Criminal Code

**Peer Review Comments:** Both direct and indirect corruption are criminalized in the same articles (see: Art. 321 - 322 Criminal Code).

- 70b: *In law, extortion is illegal.*

Score: yes/1.00



**Comments:** Article 317 refers to "Concussione". Extortion in general ("anyone who, with violence...") is criminalized at Article 629 of the Criminal Code.

**References:** Art. 317 and Art. 629 of Criminal Code

**Peer Review Comments:** The crime of extortion committed by a public official is under the Italian criminal procedure "concussione." This crime is sanctioned more seriously than usual extortion, because of the aggravating circumstance.

- 70c: *In law, offering a bribe (i.e. active corruption) is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, offering a bribe is illegal.

**References:** Art. 321 - 322 Criminal Code

- 70d: *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, receiving a bribe is illegal.

**References:** Art. 321 - 322 Criminal Code

- 70e: *In law, bribing a foreign official while in domestic territory is illegal.*

Score: yes/1.00



**Comments:** Law 29-09-2000 n° 300 authorized the ratification of the OECD Convention on combating bribery of foreign public officials in international business transactions (ratified on Dec. 15, 2000).

**References:** Art. 322-bis Criminal Code; Law 29/09/2000 n°300 and Ratification of the OECD Convention on combating corruption in international transaction (15/12/2000)

- 70f: *In law, using public resources for private gain is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, using public resources for private gain is illegal.

**References:** Art. 314, 317 and 323 of Criminal Code

- 70g: *In law, using confidential state information for private gain is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, using confidential state information for private gain is illegal.

**References:** Art. 323 of Criminal Code

- 70h: *In law, money laundering is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, money laundering is illegal.

**References:** Art. 648 of Criminal Code, Law 9 August 1993, n. 328

- 70i: *In law, conspiracy to commit a crime (i.e. organized crime) is illegal.*

Score: yes/1.00



**Comments:** Yes, in law, conspiracy to commit a crime is illegal.

**References:** Art. 416 bis of Criminal Code

## 71 In practice, are anti-corruption laws enforced?

Score: sometimes/0.50



**Comments:** The current Italian prime minister is accused in a trial for corruption. As a general rule, the problem is not enforcing the law, but detecting the commission of the crime and proving it in a trial.

**References:**

# Italy: Anti-Corruption Mechanisms and Rule of Law

## Sub-Category: V1-2/Anti-Corruption Agency

	Indicators	Scores
72	<a href="#">In law, is there an agency (or group of agencies) with a legal mandate to address corruption?</a>	1.00
73	<a href="#">Is the main anti-corruption agency effective?</a>	0.86
74	<a href="#">Can citizens access the main anti-corruption agency?</a>	1.00

### Indicator and sub-Indicator Details

#### 72 In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Score: yes/1.00



**Comments:** There are no agencies with a specific legal mandate on corruption. Though, the "prevention, search and denunciation" of economic criminality (in general) is one of the main tasks of tax police (Guardia di Finanza).

**References:** <http://www.guardiadifinanza.it/>; law 189/1959, law n. 78/2000 and D.Lgs. 19-3-2001 n. 68

#### 73 Is the main anti-corruption agency effective?

- 73a: *In law, the agency is protected from political interference.*

Score: no/0.00



**Comments:** The agency depends directly on the minister of economy (see reference 1). The general commander (comandante generale) is appointed by the head of state, upon deliberation of the council of ministers, suggested by the minister of finance (Treasury), together with the minister of defense (see reference 2).

**References:** Ref 1: Art. 1 D.Lgs. 19-3-2001 n. 68; Ref 2: Art. 4 D.Lgs. 19-3-2001 n. 68

- 73b: *In practice, the agency is protected from political interference.*

Score: often/0.75



**Comments:** The Guardia di Finanza is a special police body under the Ministry of Finance, with general competence in economic and financial matters. Despite the political dependence on the Minister of Finance, as the Guardia di Finanza is organized with a military structure and appointments are made with competitive examinations, the independence of the police can be affirmed.

**References:** D.Lgs 19 March 2001, n. 68

**Peer Review Comments:** Political interference is frequent in "high places" of the Guardia di Finanza. But usually Guardia di Finanza officers, when they start anti-corruption investigations, depend totally on prosecutors, who are autonomous and not politically biased. In this case it's impossible to influence an investigation.

- 73c: *In practice, the head of the agency is protected from removal without relevant justification.*

Score: almost always/1.00



**Comments:** The actual General Commander (Comandante della Guardia di Finanza) has been confirmed in his place on July 11, 2003.

**References:**

[http://www.governo.it/Governo/ConsiglioMinistri/dettaglio.asp?d=19862&pg=1%2C2055%2C4059%2C6065%2C8365&pg\\_c=2](http://www.governo.it/Governo/ConsiglioMinistri/dettaglio.asp?d=19862&pg=1%2C2055%2C4059%2C6065%2C8365&pg_c=2)

- 73d: *In practice, appointments to the agency are based on professional criteria.*

Score: almost always/1.00



**Comments:** Appointments are made by competitive examination.

**References:** D.Lgs. 19-3-2001 n. 68

- 73e: *In practice, the agency has a professional, full-time staff.*

Score: almost always/1.00



**Comments:** Actually Guardia di Finanza has 66,984 employees.

**References:** [www.guardiadifinanza.it](http://www.guardiadifinanza.it)

- 73f: *In practice, the agency receives regular funding.*

Score: almost always/1.00



**Comments:** Guardia di Finanza is on the budget of the state. Its budget is fixed every year by the minister of finance.

**References:** See Law 27 December 2002 n.290

- 73g: *In practice, the agency makes regular reports to the legislature.*

Score: almost always/1.00



**Comments:** Guardia di Finanza delivers annual reports, available on the Web.

**References:** [http://66.71.164.120/finanza\\_2002.asp](http://66.71.164.120/finanza_2002.asp)

- 73h: *In practice, the agency has sufficient powers to carry out its mandate.*

Score: almost always/1.00



**Comments:** Members of the Guardia di Finanza are public officials (as are police officers and carabinieri).

**References:** Law 23 April 1959, n. 189 and decree of law 19 March 2001, n. 68

- 73i: *In practice, when necessary, the agency independently initiates investigations.*

Score: almost always/1.00



**Comments:** In practice, when necessary, the agency almost always independently initiates investigations.

**References:** [www.guardiadifinanza.it](http://www.guardiadifinanza.it)

## 74 Can citizens access the main anti-corruption agency?

- 74a: *In practice, the main anti-corruption agency acts on complaints within a reasonable time period.*

Score: < 1 month/1.00



**Comments:** The agency acts on complaints within less than a month.

**References:**

- 74b: *In practice, citizens complain to the agency without fear of recrimination.*

Score: almost always/1.00



**Comments:** Citizens can almost always complain to the agency without fear of recrimination.








**References:**

# Italy: Anti-Corruption Mechanisms and Rule of Law

## Sub-Category: VI-3/Rule of Law and Access to Justice

	Indicators	Scores
75	<a href="#">In practice, does the criminal justice process function according to the rule of law?</a>	1.00
76	<a href="#">In law, is there a general right of appeal?</a>	1.00
77	<a href="#">Are citizens protected from detention without trial?</a>	1.00
78	<a href="#">Are individual economic rights guaranteed?</a>	1.00

### Indicator and sub-Indicator Details

75	<p><b>In practice, does the criminal justice process function according to the rule of law?</b></p> <p><b>Score:</b> almost always/1.00 </p> <p><b>Comments:</b> The criminal justice process is regulated by the Fundamental Chart in its main principles (right to appeal, presumption of innocence, denial of death penalty, denial of sanctions against human rights, personality of criminal liability, liability only for breach of previous law, equality among the accused and the defense, and fair trial) and is regulated with extremely detailed rules known as its proceedings code.</p> <p><b>References:</b> Art. 24, 25 and 27 of the Fundamental Chart and Codice di Procedura Penale (Decree of the President of the Republic 22 September 1988, n. 447)</p>
76	<p><b>In law, is there a general right of appeal?</b></p> <p><b>Score:</b> yes/1.00 </p> <p><b>Comments:</b> The system of justice in Italy foresees three levels of judgment.</p> <p><b>References:</b> Art. 24 of the Fundamental Chart</p>
77	<p><b>Are citizens protected from detention without trial?</b></p> <p><b>- 77a: In practice, the government does not detain anyone without charging them for more than 48 hours.</b></p> <p><b>Score:</b> almost always/1.00 </p> <p><b>Comments:</b> No one can be detained or searched if not requested by the judicial authority. In cases of necessity or urgency, temporary actions can be taken, with the duty to validate them within 48 hours.</p> <p><b>References:</b> Art. 13 of the Fundamental Chart</p> <p><b>- 77b: In practice, the government does not detain anyone accused of petty theft for longer than two weeks without a resolution in a court trial.</b></p> <p><b>Score:</b> almost always/1.00 </p> <p><b>Comments:</b> The government almost always does not detain anyone accused of petty theft for longer than two weeks without a resolution in a court trial.</p> <p><b>References:</b></p>
78	<p><b>Are individual economic rights guaranteed?</b></p> <p><b>- 78a: In law, individual property rights are protected</b></p> <p><b>Score:</b> yes/1.00 </p> <p><b>Comments:</b> Yes, in law, individual property rights are protected.</p> <p><b>References:</b> Art. 42 of the Fundamental Chart</p> <p><b>- 78b: In practice, individual property rights are protected.</b></p> <p><b>Score:</b> almost always/1.00 </p> <p><b>Comments:</b> Yes, in practice, individual property rights are almost always protected.</p> <p><b>References:</b></p> <p><b>- 78c: In practice, the government does not expropriate property without appropriate compensation.</b></p> <p><b>Score:</b> almost always/1.00 </p>

**Comments:** In practice, the government almost always does not expropriate property without appropriate compensation.

**References:**

- 78d: *In practice, legal contracts are honored.*

**Score:** almost always/1.00



**Comments:** In practice, legal contracts are almost always honored.

**References:**

## Italy: Anti-Corruption Mechanisms and Rule of Law

### Sub-Category: VI -3/Rule of Law and Access to Justice

	Indicators	Scores
75	<a href="#">In practice, does the criminal justice process function according to the rule of law?</a>	1.00
76	<a href="#">In law, is there a general right of appeal?</a>	1.00
77	<a href="#">Are citizens protected from detention without trial?</a>	1.00
78	<a href="#">Are individual economic rights guaranteed?</a>	1.00

#### Indicator and sub-Indicator Details

##### 75 In practice, does the criminal justice process function according to the rule of law?

**Score:** almost always/1.00



**Comments:** The criminal justice process is regulated by the Fundamental Chart in its main principles (right to appeal, presumption of innocence, denial of death penalty, denial of sanctions against human rights, personality of criminal liability, liability only for breach of previous law, equality among the accused and the defense, and fair trial) and is regulated with extremely detailed rules known as its proceedings code.

**References:** Art. 24, 25 and 27 of the Fundamental Chart and Codice di Procedura Penale (Decree of the President of the Republic 22 September 1988, n. 447)

##### 76 In law, is there a general right of appeal?

**Score:** yes/1.00



**Comments:** The system of justice in Italy foresees three levels of judgment.

**References:** Art. 24 of the Fundamental Chart

##### 77 Are citizens protected from detention without trial?

- 77a: *In practice, the government does not detain anyone without charging them for more than 48 hours.*

**Score:** almost always/1.00



**Comments:** No one can be detained or searched if not requested by the judicial authority. In cases of necessity or urgency, temporary actions can be taken, with the duty to validate them within 48 hours.

**References:** Art. 13 of the Fundamental Chart

- 77b: *In practice, the government does not detain anyone accused of petty theft for longer than two weeks without a resolution in a court trial.*

**Score:** almost always/1.00



**Comments:** The government almost always does not detain anyone accused of petty theft for longer than two weeks without a resolution in a court trial.

**References:**

##### 78 Are individual economic rights guaranteed?

- 78a: *In law, individual property rights are protected*

**Score:** yes/1.00



**Comments:** Yes, in law, individual property rights are protected.

**References:** Art. 42 of the Fundamental Chart

**- 78b: In practice, individual property rights are protected.**

**Score:** almost always/1.00



**Comments:** Yes, in practice, individual property rights are almost always protected.

**References:**

**- 78c: In practice, the government does not expropriate property without appropriate compensation.**

**Score:** almost always/1.00



**Comments:** In practice, the government almost always does not expropriate property without appropriate compensation.

**References:**

**- 78d: In practice, legal contracts are honored.**

**Score:** almost always/1.00



**Comments:** In practice, legal contracts are almost always honored.

**References:**

## Italy: Anti-Corruption Mechanisms and Rule of Law

### Sub-Category: VI -4/Law Enforcement

	Indicators	Scores
79	<a href="#">Is the law enforcement agency (i.e. the police) effective?</a>	0.92
80	<a href="#">Can law enforcement officials be held accountable for their actions?</a>	1.00

#### Indicator and sub-Indicator Details

##### 79 Is the law enforcement agency (i.e. the police) effective?

**- 79a: In practice, appointments to the law enforcement agency are made according to professional criteria.**

**Score:** almost always/1.00



**Comments:** Police officers are nominated through a competitive examination.

**References:** Decree of Law 31 January 2000, n. 24, and Law 78/2000 and Directive of the Ministry of Interior

**- 79b: In practice, the agency has a budget sufficient to carry out its mandate.**

**Score:** often/0.75



**Comments:** In the past months, law enforcement agencies complained about the insufficient budget they are provided.

**References:** See Law 27 December 2002 n.290

**- 79c: In practice, the agency is protected from political interference.**

**Score:** almost always/1.00



**Comments:** In practice, the agency is almost always protected from political interference.

**References:**

**Peer Review Comments:** There are four national law enforcement agencies: Polizia di Stato, Carabinieri, Guardia di Finanza and Corpo Forestale dello Stato. Polizia di Stato is under the Ministry of Interior, Guardia di Finanza is under the Ministry of Finance, Arma dei Carabinieri is part of the National Army, Corpo forestale dello Stato is under the Ministry of Agriculture. The law does not protect expressly law enforcement agencies from political interference.

##### 80 Can law enforcement officials be held accountable for their actions?

- 80a: *In practice, there is an independent mechanism for citizen complaints about police action.*

Score: almost always/1.00



**Comments:** Citizens can appeal to ordinary justice. In particular, Article 28 of the Fundamental Chart says, "Public officers are directly responsible, according to criminal, civil and administrative laws, for actions done in violation of rights. In these cases, liability is extended to the State and Public Bodies."

**References:** Art. 24 and Art. 28 of the Fundamental Chart

- 80b: *In law, there is an agency to investigate and prosecute corruption committed by law enforcement officials.*

Score: yes/1.00



**Comments:** Yes, there is the Guardia di Finanza.

**References:**

- 80c: *In law, law enforcement officials are not immune from prosecution.*

Score: yes/1.00



**Comments:** There is no law that keeps law enforcement officials immune from prosecution. Their liability comes from the general rules on law enforcement officials (Articles 55-59 of Code of Criminal Procedure).

**References:** Art 55-59 of Code of Criminal Procedure

- 80d: *In practice, law enforcement officials are not immune from prosecution.*

Score: almost always/1.00



**Comments:** Law enforcement officials are prosecuted as other citizens. Striking cases can be referred to the disorders following the G8-meetings in Naples and Genova. In the first case, 100 officials were investigated, in the second 73.

**References:** <http://www.repubblica.it/online/cronaca/questuranatre/cento/cento.html>;  
[http://www.corriere.it/Primo\\_Piano/Cronache/2003/09\\_Settembre/12/indagini\\_g8.shtml](http://www.corriere.it/Primo_Piano/Cronache/2003/09_Settembre/12/indagini_g8.shtml)

# Italy: Country Facts

Land	Facts
Land area (sq km)	294,110
Population	Facts
Adult illiteracy rate (% of people ages 15 and above)	1.52
Life expectancy at birth (years)	78.52
Infant mortality rate (per 1,000 live births)	4
Population growth (annual %)	-0.05
Population	57.95 million
Ethnic breakdown	Primarily Italian, but there are small groups of German, French, Slovene and Albanian-Italians.
Religious breakdown	Roman Catholic (majority)
Languages	Italian (official)
Murder rate (per 100,000)	3.75
Political	Facts
Capital city	Rome
Character of government	Republic, current constitution in effect since 1946
Current president/prime minister	President: Carlo Azeglio Ciampi; Prime Minister: Silvio Berlusconi
Executive branch description	The president, selected for a seven-year term by an electoral college consisting of both houses of Parliament plus delegates named by regional assemblies, appoints the prime minister and, on the latter's recommendation, other members of the Council of Ministers. The president may dissolve Parliament at any time prior to the last six months of a full term.
Legislative branch description	The bicameral Parliament (Parlamento) consists of two bodies of approximately equal power: an upper house (Senate or Senato) and a lower house (Chamber of Deputies or Camera dei Deputati). The Senate consists of 315 members elected by universal suffrage (232 directly elected, and 83 elected by regional proportional representation) and a number of life senators who are appointed by the head of state. The Chamber of Deputies consists of 630 members (475 elected directly by the constituency, and 155 by proportional representation).
Judicial branch description	The judiciary is headed by the Constitutional Court (Corte Costituzionale) and includes (in descending order of superiority): the Supreme Court of Cassation (Corte Suprema di Cassazione), assize courts of appeal (corti di assize d'appello), courts of appeal (corti d'appello), tribunals (tribunali), district courts (preture), and justices of the peace (guidici conciliatori).
Percentage of women in legislature	12
Economics	Facts
Net foreign direct investment (current US\$)	-6.89 billion
GDP growth (annual %)	1.78
GDP per capita (constant 1995 US\$)	21,144
Consumer prices inflation (annual %)	2.79

Military expenditure (% of central government expenditure)	4.79
Military expenditure (% of GDP)	2
Tax revenue (% of GDP)	38.5
Exchange rate to US\$1 (as of January, 2004)	0.8
Currency	Euro
Public spending on education (% of GDP)	4.55
Public health expenditure (% of GDP)	5.97
Main exports	Machinery and transport equipment, chemicals, clothes, wine
Unemployment (% of total labor force)	10.8
<b>Information/Technology</b>	<b>Facts</b>
<i>Radio:</i>	
Radio broadcast stations	2,000 private radio stations broadcast locally
Radios (per 1,000 people)	878
<i>Telephone:</i>	
Telephone mainlines (per 1,000 people)	471
Mobile phones (per 1,000 people)	839
<i>Television:</i>	
Television sets (per 1,000 people)	494
Television broadcast stations	900 private TV stations transmit locally
<i>Other Media:</i>	
Daily newspapers (published at least four times a week) in circulation per 1,000 people	104
Internet users	16.40 million