3.- Preventing corruption: building an ethical infrastructure, transparency, and control mechanisms

Creation of corruption prevention structures at the local and regional level. Two practical cases: the Transparency and Good Practices Office of the Barcelona City Council and the Agency for the Prevention and Fight against Corruption of the Valencian Community

Presentation by Joan A. Llinares Gómez.

Basic problems and concepts addressed:

Public integrity: Prioritizing public interests over private interests. Aligning with the values, principles, and norms shared by the community. Placing the duty to act ethically, understood as doing what is right in all areas of institutions, from politics to civil service, as a fundamental axis of the political and governance system.

The framework of public integrity in a state governed by the rule of law must extend to every level of public administration, including regional and local levels. Its legal system must be solid; that is, it must be built on specific laws and regulations. And it must be done through the exemplary conduct of its leaders. It is pointless to demand ethical behavior from citizens or public officials if those at the top of power do not set an example.

Integrity is built from the top down, and its cascading effect must permeate all institutions and those who comprise them.

Corruption: Use or misuse of power or resources of public origin for purposes other than those granted; use or abuse of public power to obtain advantages, benefits, or any other private benefit, for oneself or for others, or for any other purpose contrary to the legal system.

Fraud: An act intended to evade a legal provision in a deceptive manner; inappropriate and harmful use of an organization's resources and assets, contrary to truth and integrity.

Administrative irregularities and behaviors constituting an administrative or disciplinary infraction, which underlie a potential situation of fraud or corruption.

Conducts and activities that are reprehensible for being contrary to ethics, objectivity, impartiality, efficiency, integrity, and good governance, as

well as the unnecessary and superfluous expenditure of public funds, whether or not they involve a direct violation of the positive legal system.

In addition to the economic damage to society caused by corruption, there is also the deterioration of the rule of law, the degradation of democratic principles, and the normal functioning of public services, threatening the constitutional principles that underlie it.

To build an architecture of integrity and the fight against corruption in public institutions, even at the regional and local levels, we have an essential guide found in the mandates of the United Nations Convention against Corruption, adopted in 2003

https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

and ratified by virtually all member states, which commit to creating independent, impartial, and adequately resourced bodies for the prevention and fight against corruption in their respective countries, as well as to protecting those who report corruption. The Handbook of Good Practices in the Fight Against Corruption, published by the European Commission in 2023, may also be very useful.

https://op.europa.eu/es/publication-detail/-/publication/df1a5278-ac18-11ed-b508-01aa75ed71a1

The objective of this handbook is to highlight various anti-corruption practices in EU Member States that have proven useful in addressing corruption-related problems and that can inspire similar initiatives elsewhere.

To this end, a good anti-corruption practice, whether established or innovative, with aspirations for positive impact in each EU Member State was selected and grouped. It has been divided into eight types of anti-corruption approaches. The Handbook is structured around these identified types. Each chapter consists of a theoretical section on the corresponding type of anti-corruption approach and is illustrated with relevant case studies. To ensure transferability, the analysis of the case studies focuses on the implementation mechanisms, the estimated costs of the practice, its results, and limitations.

This Manual is the result of a collaboration between the Ecorys research team and the Local Corruption Research Correspondents.

(LRCC) of each Member State. This ensured an internal understanding of the context of each case study. This was done through desk research and expert interviews (n=30) conducted between April and October 2022.

Among the cases studied by these researchers is the AVAF Agency for the Prevention and Fight against Fraud and Corruption of the Valencian Community

(Spain), where I was its first director from 2017 to 2024. The AVAF is a regional external oversight body with jurisdiction over the entire administration of the regional government and the 540 municipalities in the region, as well as their dependent companies and public bodies. It also has jurisdiction over the use of public resources and subsidies managed by private companies and individuals. It was the first institution in Spain to assume the protection of whistleblowers since 2017, long before the European Commission and the European Parliament approved Directive 2019/1937.

Its origins were the regional parliament's desire to establish an integrity and anti-corruption strategy in response to the countless cases that had occurred in the Valencian Community and throughout Spain, and the lack of a response from the State beyond a criminal legislation that was quite flawed in defining corrupt conduct and in the procedural framework for combating it. In this context, only a reactive and judicial response was provided when the acts had already occurred. The AVAF sought to materialize an effective response to complete the anti-corruption cycle at the regional level: prevention, detection, correction, prosecution, and recovery.

The creation of the AVAF is a decision of the regional parliament of the Valencian Community through a law in 2016.

https://www.boe.es/buscar/pdf/2016/BOE-A-2016-12048-consolidado.pdf.

The AVAF was created to prevent and eradicate fraud and corruption in Valencian public institutions and to promote integrity and public ethics. It also fosters a culture of good practices and the rejection of fraud and corruption in the design, implementation, and evaluation of public policies, as well as in the management of public resources.

Therefore, the AVAF was created with a fundamentally preventive purpose, providing oversight and collaboration with government institutions, judicial authorities, the Public Prosecutor's Office, and other oversight bodies (the Court of Auditors and OLAF). It was established as an independent body from all public administrations, attached to the regional parliament, to whom it reports periodically.

Its director is elected for a single seven-year term by the parliament itself by a qualified two-thirds majority, which encourages the search for professional profiles that command broad consensus. Recently, the new parliamentary majority introduced a change in the law so that in a second round, an unqualified majority is sufficient, which has allowed my successor to be elected without consensus, relying solely on the votes of the governing parties.

The AVAF's founding structure was established with the following functional areas:

- Prevention, Training, and Documentation Area.

- Analysis and Investigation Area. Complaints Inbox.

- Legal and Whistleblower Protection Area.

As an institution with management autonomy, the regional parliament annually allocates financial resources to it, which are administered by the Agency's economic, administrative, and human resources management area.

The AVAF annually submits an Activity Report to the regional parliament detailing all the actions carried out and reporting the results. These reports are posted on the Agency's transparency portal, www.antifraucv.es. A section of this report includes the ratio between operating costs and recovered resources. The average ratio during the first seven years was three euros for every euro of cost. Likewise, the AVAF is empowered to impose sanctions and can impose fines of between €200 and €400,000 depending on the severity of the violation.

The AVAF's operations are governed by organizational and internal regulations

https://dogv.gva.es/auto/dogv/docvpub/rlgv/2019/RAF_20190627_ca_RAF_20190716.pdf,

which are complemented by a Code of Ethics and Conduct

https://dogv.gva.es/datos/2022/02/18/pdf/2022_1132.pdf

governed by an Ethics Committee made up of three renowned external experts and a fourth member elected by secret ballot by all AVAF staff.

AVAF staff must be career civil servants of any public administration and are selected through public competitions. The oversight and control of the AVAF's operations, in addition to being accountable to parliament, is also responsible for resource management to the Parliamentary Audit Office and the Audit Office.

Finally, the AVAF establishes a special relationship with the public through a Participation Council made up of representatives of civic organizations involved in the fight for public integrity, including Transparency International and the World Compliance Association.

For additional information, see the Seven-Year Review (2017-2024).

https://www.antifraucv.es/wp-content/uploads/2024/05/BALANCE-AVAF-2017-2024_CAS.pdf

A local model for ethical and integrity architecture could be that of the city of Barcelona, where I participated in its implementation: the so-called Office of Transparency and Good Practices, created in 2015 by the Barcelona Municipal Government Board. In this sense, the model of the Anti-Corruption Office of the Madrid City Council is also important. The objective of both local-level bodies is

also the defense of public integrity in their respective municipal areas, as well as the prevention and fight against corruption. Their operational structures are similar:

- Analysis and Investigation Area. Ethics or Complaints Mailbox.

- Audit Area.

- Transparency Area.

The OTBP strengthened the city council's Code of Ethics, approved by a qualified majority of the municipal council members, as well as its corresponding Ethics Committee, made up of external experts elected by a qualified majority by the full municipal council, ensuring good governance and effective implementation of the municipal Code of Ethics.

Their staff are officials from the city councils themselves and are accountable to their respective municipal councils.

Conclusion

In summary, and based on my experience, the basic model for subnational bodies that contribute to the creation of an ethical architecture and the prevention of corruption must meet the following essential characteristics:

1.Solid legal regulation.

• Laws and regulations governing integrity, transparency, and anti-corruption.

• Codes of ethics and conduct that resolve conflicts of interest and other irregular behavior for both elected and non-elected officials and public officials.

• They must be governed by effective governance mechanisms, with sanctioning mechanisms that guarantee their implementation.

2. Independent oversight bodies free from any partisanship

• Provide institutions with internal oversight bodies with autonomy and resources.

• Create external oversight agencies and offices for the prevention and fight against corruption with investigative and sanctioning capabilities.

• Promote collaboration between auditing, oversight, and justice entities.

3. Transparency and Access to Information

• Publish open data on budgets, contracts, grants, and asset declarations.

• Develop digital tools for citizens to access information.

• Promote regular accountability of public managers.

4. Protection of Whistleblowers and Ethics Mailboxes

• Implement secure and anonymous reporting channels.

• Legally protect whistleblowers against retaliation.

5. Education and a Culture of Integrity

• Include public ethics training in the administration and the education system.

• Raise awareness about the costs of corruption.

• Encourage citizen participation in the oversight of public management.

6. Technology and digital tools

• Use artificial intelligence and big data to detect irregularities in procurement and budgeting.

• Digitize administrative processes to reduce discretion and the risk of fraud.

• Implement traceability systems in public decisions.

7. Inter-institutional and international cooperation

• Coordinate efforts between public administrations, international organizations, and the private sector.

• Share good practices and lessons learned in global forums.

• Implement international anti-corruption conventions such as the UN Convention against Corruption.

The success of this model depends on political will and the commitment of civil society. Without these conditions, any integrity architecture risks becoming a mere formality without real impact.

March 2024

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