



CORTE DEI CONTI

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## TFA&E meeting

*Deontological rules in auditing: the Italian case.*



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# The Italian Court of Auditors:

- supreme auditing institution of the Republic;
- part of the jurisdictional branch under articles 100, 2nd par., and 111, last par., of the Constitution.

**Some procedures of control have jurisdictional structure and are ruled accordingly.**

The related deontological aspects in exerting functions of control on budget are connected with the nature of the Court and, therefore, with the office of magistrates.





# Deontology:

- “nomos à grafos”;
- written law:
  - the Constitution;
  - a Statute enacted by Parliament.



## The Constitution states the following relevant principles:

- a) A reserve to the law of the task to ensure independence of so-called “special judges”, like the Court of Auditors (art. 108, second paragraph);
- b) A duty of loyalty to the Republic (art. 54, first paragraph);
- c) The fulfillment of civil servants’ (Magistrates’) duties “with discipline and honor” (art. 54, second paragraph);
- d) The “impartiality” of all public administrations (art. 97, first paragraph);
- e) A reserve to the law of the possibility to set limitations of the right to associate in political parties for magistrates (art. 98, second paragraph).



**Article 58-bis of the legislative decree n. 29/1993, as amended by art. 26 of the legislative decree n. 546/1993:**

- requested to all the associations representing categories of Magistrates, under a mandatory term of 120 days, the adoption of an «ethical code» (one for each category of Magistrates).
- Once the term had expired, the code could be directly adopted by the self-governing bodies of the interested branch of judiciary power.
- The last code has been approved by the Association of the Magistrates of the Court of auditors on January 23<sup>rd</sup>, 2006, and it is made up of 13 articles.



## The «ethical code» states:

- the general rules of autonomy and independence of the Magistrates of the Court of Auditors;
- the fundamental principles of dignity, fairness, impartiality, diligence (art. 1-3), together with some practical implementations;
- rules directly and specifically related to the activity of auditing in article 12, concerning «Magistrate's behavior».

## Deontological rules on controls (1/2)

- a) «The magistrate always behaves with discretion and guarantees the secrecy of discussion in Camera, as well as an ordered and peaceful conduct of (...) meetings related to functions of control. In performing his/her duties, the Magistrate listens to other people's opinions so to subject his/her idea to a continuous verification, considering dialectic as an occasion of professional and personal enrichment» (art. 12, first paragraph).
- b) «In writing collegial decisions, the Magistrate faithfully explains all the grounds of the decision taken in Camera and adequately examines all the facts and legal issues introduced by the parties» (art. 12, second paragraph).

## Deontological rules on controls (2/2)

- c) «The Magistrate neither solicits nor receives informally information on the cases he/she has dealt with» (art. 12, third paragraph).
- d) «In writing the grounds of the decisions and in attending hearings or meetings, the Magistrate avoids any comment on facts or persons unrelated to the issues discussed and avoids assessments on the professional ability of other Magistrates or Attorneys or on other person involved in the activity of control (...), when these assessments are not indispensable for the purposes of the decision» (art. 12, fourth paragraph).
- e) «In particular, performing activities of control, the Magistrate always gives special relevancy to the necessities of protecting public finances and of guaranteeing the proper conduct of administrative procedures» (art. 12, fifth paragraph).





## Deontological rules.

- Any breach of the “ethical code” can be considered as an evidence of violation in a disciplinary perspective.



*Thank you for your attention.*

