

Both Montenegro and Spain have signed and ratified the United Nations Convention against corruption

Both countries know, as that Convention says, that corruption undermining the institutions and values of the democracy, ethical values and justice.

The purposes of this Convention are:

- a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively
- b) To promote and support international cooperation;
- c) To promote integrity, accountability and transparency

The fifth article provides that each State party shall ensure the existence of a body or bodies or persons specialized in combating corruption. Such body, bodies or persons shall be granted the necessary independence to be able to carry out their functions effectively and without any undue influence.

It is therefore obliged the necessary Independence. Should be avoided all kinds of undue influence. Free of political interference.

Make no mistake. If there is no Independence then effective fight against corruption is not possible, especially within the public administration.

Madrid City Council complies with mandate of Convention against corruption.

The plenary of the city council of Madrid resolved to establish an anticorruption office following the recommendation of United Nations Convention.

To elect the Director of the anticorruption office, the Mayor contacted the president of the supreme court and asked if would be interested some of the judges who were going to retire.

I said yes and I was elected by the plenary of the City Council of Madrid. I have been a judge of the Supreme Court for twenty five years.

Anticorruption Office of Madrid City Council, according to Office regulations, is an Independent body from municipal government but administratively attached to the Plenary.

The Director of the anticorruption office should report to the Plenary of the City Council on the activities of the Office every six months.

I have to recognize that the municipal government and the Plenary allow to the anticorruption Office carry out their functions without interferences. And that is because the councillors and all political parties represented in City Council have the willingness to promote integrity and good practices. The result is the high level of integrity in municipal actions.

Functions:

The anticorruption office has two basic functions and tasks: investigation and prevention of corruption. But It is essential to focus efforts on prevention.

The reports of our Office are useful instruments for improve the prevention.

Those reports examine subjects or issues related to sectors that seem more at risk such as:

public procurement or contract. We pay attention to the execution of public contract.

Urban Plans and Urban Planning Licenses

Damage on the environment

Recruitment and selection of civil servants

Conflicts of interest

The reports prepared by our office respond either

Issues identified in the complaints received, or respond to legal reforms, or issues related to areas or sectors that may be more vulnerable to risks.

Our prevention reports have no other purpose than to help improve integrity with the utmost respect for other areas or sectors within the City Council.

The prevention reports and the annual report are open to citizens through the website of the Office.

In the prevention function it is also important the participation of the Office in the training courses of officials and civil servants, explaining what is being done or can be done to improve integrity.

The office has an advisory board that is made up of six members who represent civil society and provide suggestions for the better functioning of the Office and for the benefit of citizens.

The Anticorruption Office is part of a network involving all agencies and offices in Spain, which meet twice a year to exchange views on common issues.

Regarding investigation functions, it cannot be forgotten that we are not judges, prosecutor or police officers, for this reason our investigation functions are limited. We cannot punish, only send our final report to the competent authority for taking measures or, where appropriate, to send the facts under investigation to the prosecutor when they are considered to constitute a criminal offence.

It is interesting to mention the Directive 2019/1937 of the European Parliament and of the Council of 2019 on the protection of persons who report breaches of Union law.

The purpose of this Directive is to provide protection against retaliatory actions and require establish channels and procedures for internal reporting and for follow-up.

The directive shall ensure that the identity of the reporting person is not disclosed to anyone and required

to accept and follow up on anonymous reports of breaches.

That Directive has been implemented by Spanish Law in 2023

This Spanish law that has transposed that Directive in 2023 require all municipalities the implementation of internal reporting channels to accept and follow up all the complaints including on anonymous report of breaches.

The anticorruption office of Madrid Council has an internal reporting channel to comply the Law that has implemented that Directive.

The channel of the office uses a software tool that allows to intercommunicate with whistleblower, even if they are anonymous.

Mention should also be made of the law on public sector contracts, article 64 of which refers to the fight against corruption and the prevention of conflicts of interest, It provides that contracting authorities shall take appropriate measures to combat fraud, favoritism and corruption, and to prevent, detect and effectively resolve conflicts of interest that may arise in tendering

procedures in order to avoid any distortion of competition and to ensure transparency and equal treatment of all tenderers.

The purpose of this article is to promote impartiality in the tendering procedure.

There are three essential grounds or reasons to create an anticorruption office

First one: Politically. That creation means that the town councilors have the will and desire of fighting against corruption and enhancing integrity.

Second one: economically. The anticorruption office aims or promotes saving public funds. It is a good investment.

Third one: Socially: Offers and make easier for the citizens to present their complaints. Citizens' collaboration is very important in the fight against corruption.

There are more and more anti-corruption agencies and offices in Spain

The question we ask ourselves is why there are no independent anti-corruption offices in all cities in Spain when they are obliged to establish channels to receive

the complaints referred to in the law that has transposed the directive on the protection of whistleblowers.

Some claim that the Offices are expensive, others that they already have bodies that deal with these competencies, others even go so far as to say that if there is an anti-corruption office it is because there is corruption.

None of that is true.

The office is not expensive and as I said before it is a good investment.

We believe that the real reason not to have an independent anti-corruption office is that the politicians who govern in those cities want to have everything under their own control and do not allow an independent office to exist that is not under their orders.

It's also possible that they have irregularities that they don't want to be discovered.

For all these reasons, we must recognize the merit and willingness of the Madrid City Council to want to fight



corruption effectively by creating an independent office and giving it the means to be effective.

For all that I have said, the City Council of Madrid is a model and example to follow for its advances in transparency and for the desire to achieve maximum integrity in their actions.