

Doing Business in Italy? You can do it better with a ‘legality certificate’

Since 2012, companies carrying their business in Italy can request and obtain from the Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato - AGCM) the attribution of the so-called Legality Rating, an **innovative tool based on incentives** aimed to increase the competitiveness of companies by promoting ethically principles in corporate conduct (see article 5-*ter*, Decree-Law 1/2012, converted into Law 62/2012).

The Legality Rating is a **certificate** – providing a numerical score, from a minimum of one star to a maximum of three stars – granted by the Italian Competition Authority to companies complying with a number of legal and quality requirements.

The **application for the Legality Rating** may be submitted to the Italian Competition Authority by all the companies (including branches/subsidiaries of multinational corporations) which have:

- (i) an operational office in Italy;
- (ii) a minimum turnover of two million Euros in the year preceding the request;
- (iii) been registered in the Companies’ Register in Italy for at least two years preceding the request.

In order to be awarded the certificate, the applicant company (and its management) must **prove** to do not have received preventive and/or restrictive measures, criminal judgments, settlements, for specific violations, including tax and criminal offences, serious breaches of antitrust and unfair commercial practices, as well as for major crimes against the public administration and for crimes related to the mafia.

Each company could growth its base rating if demonstrates that it complies with principles of corporate social responsibility (for instance, it has adopted processes aimed at encouraging Corporate Social Responsibility within the company and/or it has adopted an organizational model pursuant to Italian Legislative Decree 231/2001).

The rating (*i.e.* the number of starts from 1 to 3) is then granted by the Italian Competition Authority following the **examination of requirements and self-declarations** of the companies even through a cross-check with data held by Public Authorities.

The award of the certificate has a **duration of two years** from the issuance and is renewable upon request.

In terms of benefits, companies with a Legality Rating can profit of **competitive and economic advantages**.

Firstly, in procedure related to the grant of loans/incentives to companies and call for tenders, **Public Authorities** should provide – depending on the extent and the purpose of the loans – at least one of the following schemes of incentives for companies enjoying the Legality Rating: *i)* preference in ranking; *ii)* allocation of additional points; *iii)* reserved share in the appropriation of financial resources.

Likewise, **banks and financial institutions** must take into account the rating assigned to a company to decrease the time and costs involved in the granting of the loans and to determine applicant's credit rating and the related terms and conditions for access to credit.

Moreover, Legality Rating provides to companies more business opportunities and visibility since the awarding is publicized on Italian Competition Authority's website in a **specific list** (<http://www.agcm.it/rating-di-legalita/elenco.html>) - regularly updated - of most ethical companies, available for business partners, customers and suppliers.

For all these reasons, the Legality Rating attracts special interest from an increasing number of companies (on first half of 2018, there has been a 40% increase of Legality Rating's applications) and it could be an important tool to the growth of highest standards of ethical and social responsibility, governance and compliance in business conduct, thereby becoming a way to characterize (and diversify) companies with respect to their competitors.