

NOTA PER LA STAMPA

Rekeep S.p.A.: Il Consiglio di stato accoglie la domanda cautelare proposta dalla Società avverso la sentenza n. RG 3754/2021 del TAR Lazio.

Sospeso allo stato ogni effetto del c.d. Provvedimento Anac

*Zola Predosa (Bologna), 23 aprile 2021 – Rekeep S.p.A. (“Rekeep” o la “Società”), facendo seguito a quanto comunicato da ultimo in data 6 dicembre 2020, rende noto che, il Consiglio di Stato, con ordinanza depositata in data odierna, n. 2163/2021 (l’**Ordinanza**), ha accolto la domanda cautelare proposta dalla Società nell’ambito del giudizio di appello avverso la sentenza del TAR Lazio n. 3754/2021.*

Alla luce dell’Ordinanza, deve considerarsi sospeso allo stato ogni effetto del provvedimento interdittivo (il **“Provvedimento ANAC”**) adottato dall’Autorità Nazionale Anticorruzione (**“ANAC”** o l’**“Autorità”**) nei confronti della Società e che aveva comportato, oltre a una multa di Euro 10.000, l’esclusione, ai sensi del Decreto Legislativo 50/2016 (il **“Codice dei Contratti Pubblici”**), della società Rekeep S.p.A. dalle procedure pubbliche di gara e dagli affidamenti in subappalto di contratti pubblici per un periodo di 6 mesi.

Nell’Ordinanza il Consiglio di Stato, all’esito della sommaria deliberazione propria della fase cautelare, ha ritenuto *«vulnerato il principio di stretta tipicità legale della fattispecie sanzionatoria (...) atteso che (...) l’omissione dichiarativa [contestata alla Società con il Provvedimento] non coincide con la falsa dichiarazione»*.

Rekeep in data 20 ottobre 2020 aveva presentato ad ANAC una istanza di riesame del provvedimento interdittivo originariamente assunto dalla medesima Autorità con la Delibera n. 1106/2017 e, successivamente, ne aveva impugnato l’esito unitamente all’annotazione del Provvedimento ANAC nel Casellario Informativo, avvenuta in data 25 dicembre 2020, con ricorso al TAR Lazio. Il TAR Lazio aveva dichiarato in data 29 marzo 2021 l’inammissibilità del ricorso proposto da Rekeep con sentenza n. 3754/2021 e avverso tale Sentenza la Società aveva proposto appello con ricorso recante l’istanza cautelare che è stata accolta dal Consiglio di Stato con l’Ordinanza odierna.

Come già comunicato, il Provvedimento ANAC era stato adottato a seguito di una segnalazione da parte dell’Azienda Ospedaliera Santobono-Pausilipon di Napoli in cui veniva contestata alla Società l’omissione, nella documentazione amministrativa richiesta nell’ambito di una gara bandita nel 2013, di una dichiarazione relativa all’assenza di precedenti penali a carico di uno dei procuratori della Società, peraltro pienamente in possesso dei suddetti requisiti di legge.

Per ulteriori informazioni:

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