



## **ECONOMY / WELFARE CULTURE / ETHICS**

**GENERATING VALUE THROUGH  
PUBLIC AND SOCIAL REUSE  
OF PROPERTY CONFISCATED  
FROM ORGANISED CRIME**





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### **This publication was created by the confiscated assets sector and the international sector of Libera**

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“Strengthening the fight against transnational organized crime in South-Eastern Europe through improved regional co-operation in asset seizure, confiscation, management and re-use”

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Organization for Security and  
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## **Libera. Associations, names and numbers against mafia**

***For a society free from mafia,  
corruption and all forms of abuse***

Libera is a network of associations, social cooperatives, movements and groups, schools, unions and scout groups, involved in a commitment not only '**against**' mafias, corruption, crime and those who feed them, but strongly '**for**' for social justice, the search for truth, protection of rights, transparent politics, a democratic legality based on equality, a living and shared memory, and an active citizenship.

Established in **1995**, over the years it has maintained its ethical and practical orientations. The first focus is **continuity**. Good starting ideas must be implemented with tenacity and daily commitment. The second is its **proposal**. The fight against organised crime, mafias and corruption cannot be based solely on indignation. It must follow the proposal and the project. The third is 'us,' that is, **sharing** and **co-responsibility**. Mafias and corruption are not only a criminal issue, but also social and cultural, to be tackled by joining forces.

In 1995, Libera launched the first national campaign to collect signatures for a bill that could add an important piece to the Rognoni – La Torre Law; that is, the social reuse of assets confiscated from mafias. On **7 March 1996, Law 109** appeared in the Official Journal, finally making civil society the protagonist in the fight against mafias, through the possibility of re-appropriating spaces and creating new ones.

Libera does not directly manage the assets confiscated from organised crime but promotes training and participatory planning activities useful to enabling those resources to trigger local development processes and to increase social cohesion. To achieve this important objective, Libera has created a network to multiply opportunities for interaction among public entities (National Agency for the Administration and Allocation of Seized and Confiscated Assets to Organised Crime, Regions, Support Units at the Prefectures and Local

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third-sector organizations (associations, social cooperatives and consortia of cooperatives and foundations). Voluntary or cooperative organizations are the main beneficiaries of the project activities. They manage or intend to manage confiscated assets. These include public entities directly or indirectly involved in the destination and assignment process and citizens who can activate civic monitoring and participatory planning processes. Over the last twenty-five years, Libera has collaborated with the Forestry Carabinieri (formerly the State Forestry Corps), the Ministry of Economy and Finance, the Department for Cohesion Policies, the Agency for Territorial Cohesion, the Italian Episcopal Conference and the Progetto Policoro, the Fondazione con il Sud, the Agenzia Cooperare con Libera Terra association, Legacoop, Confcooperative, youth business associations, Unipol Group and Unipolis Foundation.

Libera is present throughout Italy in **20** regional groups, **82** provincial groups and **278** local groups; **80** international organizations belong to the Libera Internazionale network in **35** countries in Europe, Africa and Latin America.

In fact, since mafias increasingly know no borders, the action of prevention and combating them cannot remain inside the borders of a single country. Libera has therefore decided to engage beyond the Italian borders to which it is committed, feeling it necessary to build integrated strategies for global responses to the world-wide problem of organised crime, with all the grey areas it involves. The objective is twofold: educate for a long-sighted look at criminal phenomena, nowadays well established in the transnational dimension; and, at the same time, support, accompany and above all bridge the experiences of dependable civil societies engaged against mafias in other parts of the world. Examples of virtuous networking are represented by the European **CHANCE Network - Civil Hub Against organised Crime in Europe**, the new network promoted in **sub-Saharan Africa**, and the Latin American ALAS Network - **América Latina Alternativa Social**, and gathering members in Central and Southern America.



FOR FURTHER INFORMATION  
[www.libera.it](http://www.libera.it)

## **OSCE Project**

### ***Strengthening the fight against transnational organized crime in South-Eastern Europe through improved regional co-operation in asset seizure, confiscation, management and re-use***



OSCE's extra-budgetary project "Strengthening the fight against transnational organized crime in South-Eastern Europe through improved regional co-operation in asset seizure, confiscation, management and re-use" aims at improving the effectiveness of the fight against transnational organized crime and corruption in the OSCE region by improving regional co-operation among five participating States (pS) in South-Eastern Europe: Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Montenegro, and Serbia. The project adopts a comprehensive approach by providing support to the entire cycle of asset tackling, which is divided into three areas of intervention: (1) financial investigations, asset seizure and asset confiscation; (2) asset management; (3) social re-use of confiscated assets.

#### **Libera's Role**

Libera is one of the implementing partners of this project. Specifically, we support the OSCE in achieving the third project objective which is promoting the social re-use of confiscated property at national and regional level and enhancing the participation of civil society organizations in the fight against organized crime. To this end, Libera coordinated the planning and management of three training workshops targeting civil society organizations and asset management agencies. These activities aimed at raising the awareness of civil society organizations on the importance of social re-use of confiscated assets, as well as enhancing their engagement in the practice of social re-use through cooperation with asset management agencies.

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### **Project activities**

With the aim of raising awareness on the importance of social re-use of confiscated assets and sharing best practices and lessons learned from the Italian experience, Libera was directly involved in the following project activities:

- Training workshop for civil society organizations and asset management agencies in Albania, 28-29 April 2021;
- Training workshop for civil society organizations in North Macedonia, 17 and 18 May 2021;
- Regional workshop targeting civil society organization and asset management agencies in South-Eastern Europe, 8 and 9 June 2021; experts from Europe and South America participated in this event and shared their best practices of social re-use;
- Promotion and advocacy campaign on social re-use of confiscated assets.

## CHAPTER 1

# **Confiscated property: community resource**

*“As soon as you're charged with 416-bis (the criminal code article covering the crime of association with mafia-type crime, ed.), it automatically triggers confiscation of assets (...). There's nothing worse than having your property confiscated (...). Then, it's best to leave”*

That is what Sicilian-American boss Francesco Inzerillo said in a telephone conversation intercepted as part of the “Old Bridge” operation<sup>1</sup> in February 2008 that definitively dismantled the Inzerillo family “businesses.”

This sentence would suffice to explain the impact that seizure and confiscation of assets from mafia bosses has on their power and their control of the territory. However, we also need an initial explanation of social reuse's strong significance assumed in recent years, the bulwark of a new pact of trust that citizens can enter into with the State.

Confiscated assets must be seen as tools for reading the territory, social context and history of all of Italy. They bring together four different dimensions: a judicial dimension, with the affirmation of the principle of legality and repression against criminal economic phenomena; an economic dimension, with the direct return of illegally stolen resources to the territory; a political dimension, when the Republic manages to recreate a bond with citizens and impose its presence on mafia control, and finally, a social and cultural

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<sup>1</sup> Operation Old Bridge is a 2008 police operation against Cosa Nostra, conducted jointly by the Italian and US police; it led to the arrest of 90 people between Italy and the United States and thwarted the Inzerillo's plan to reconquer Palermo. In the operation, among others, the bosses Giovanni Inzerillo, Frank Cali, Filippo Casamento and Mario Sferrazza ended up in handcuffs. Nicholas Corozzo, certainly considered the Gambino family's head, managed to escape thanks to a tip, but he turned himself in on 29 May 2008 at the FBI in New York.

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dimension, when the confiscated property becomes a sign of “re-education” for the territory’s people, accustomed to seeing abuses without too many questions.

### **What are confiscated assets?**

There are three different categories of confiscated property, each with a specific regulation:

- **movable property:** this category includes cash and cheques, current assets and securities, personal receivables (promissory notes, bearer books, other bonds), or motor vehicles, boats and movable property not forming part of company assets. According to art. 48 of Legislative Decree 159/2011, the sums of money confiscated or those obtained from the sale of other movable assets are aimed at active management of other confiscated assets. According to the same article, confiscated money not necessary for management of other assets should be transferred to the Single Justice Fund (FUG). In addition to these, FUG should also pay the sums obtained from the sale of different categories of movable assets and from the recovery of personal debts;
- **immovable property:** apartments, villas, sheds, garages, and building or agricultural land. They have a high symbolic value, because they represent concretely the power that the boss can exercise in the surrounding territory. They are often the chosen places for meetings among the different mafia families. The State may decide to use them for “purposes of justice, public order and civil protection” as stated in the legislation, or transfer them to the assets of the Municipality in which they exist (as a priority, or of the Region or Province in a subsidiary way). The local authority can then administer them directly or assign them free of charge to associations, communities and voluntary organizations. A particular case is places confiscated for the crime of facilitating drug use: the property will be assigned preferably to associations and recovery centres for drug addicts. The real estate category is also the one that encounters the greatest obstacles during the allocation process: in fact, there are numerous cases of

assets blocked by bank mortgages, illegal occupation or confiscation of undivided shares, which considerably delay closing of destination procedures;

- corporate assets: this category represents one of the main sources of money laundering from illicit businesses. Seizures and confiscations cover a wide range of investment sectors: industries active in the construction sector; agri-food companies (such as the buffalo farm with adjoining dairy confiscated from the Camorra in the Castel Volturno area, Caserta province, and now managed by the social cooperative Le Terre di Don Peppe Diana - Libera Terra); restaurants and pizzerias practically everywhere, from Calabria to Lecco, as well as chains of pizzerias and tourist clubs in the centre of Rome connected to numerous confiscations against Camorra clans and Calabrian Ndrina's, and entire shopping centres, created out of nowhere as cathedrals in the desert used for money laundering. In recent years, mafias and organised crime investments have also affected the health and renewable energy sectors (in particular wind and photovoltaic plants). Whenever these business and commercial activities can actually continue production and maintain stable employment levels, the State may decide to rent them to public or private companies and enterprises, for consideration. Otherwise, the workers can form a cooperative; in this case they acquire the right to rent the company free of charge. The State may decide to sell or liquidate the company (after careful economic and strategic evaluation by the National Agency for the Administration and Destination of Seized and Confiscated Assets to Organised Crime) only if there is greater utility for the public interest.

From the moment of first degree confiscation to the destination of local authorities, the confiscated property (whether real estate or companies) follows a very complex bureaucratic process classified by phase:

- Assets under management: they are assets subject to confiscation, although not final, therefore still awaiting trial

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following challenge or appeal. From second-degree confiscation, assets are managed directly by the National Agency for the Administration and Allocation of Seized and Confiscated Assets from Organised Crime (ANBSC). Until then, they must be managed by a judicial administrator appointed by the Court of First Instance;

- Property destined for confiscation: this category of confiscated property has reached the end of the legislative process, from confiscation to allocation. Therefore, assets transferred to other State administrations for institutional purposes or governmental uses, or to Municipalities (or to Regions or Provinces) for social purposes, fall into this category. Allocation does not necessarily imply social reuse. Unfortunately, in frequent cases, local authorities in particular fail to guarantee their timely reuse for social purposes although the goods have been transferred to their unavailable assets.

The National Agency data, updated at the end of 2020, refer to:

- 19,051 items of real estate under management
- 16,586 items of assigned real estate
- 2,873 companies under management
- 1,330 assigned companies.

The numbers reported refer to the individual land registry parcels and not to the entire property or the entire real estate unit: in most cases, a piece of land and an apartment are formed of multiple parcels that represent multiple confiscated assets for the Agency. The figures also represent a historical fact since 1982.

### **Confiscated companies: a new value for the economy**

There were 2,873 companies under management in January 2021. Sicily (818, equal to 28.4%) and Campania (630, equal to 21.9%) have the highest values compared to all other regions. 1,330 companies are already allocated. Most are in the fields of “wholesale/retail” and “construction,” with a significant share in real estate

brokerage. Corporations account for 62% of the total, followed by sole proprietorships (22%) and partnerships (15%). The legislation on the social reuse of assets confiscated from organised crime presents some of its most problematic nodes, precisely in the regulations concerning confiscated companies. The need to continue to support and implement this sector aims to keep the spotlight on one of the most controversial aspects of Law 109 of 1996.

Unfortunately, there have been many experiences of bankruptcies and liquidations over the years, but it is equally important to remember good practices.

One of these is Calcestruzzi Ericina, a construction company in Trapani. Seized in June 2000, it belonged to boss Vincenzo Virga, commander of Trapani, an intermediary between Bernardo Provenzano's old mafia and Matteo Messina Denaro's new one. Immediately after the confiscation, the three different plants (located in Trapani, Valderice and Favignana) kept their production standards for reinforced concrete constant, also guaranteeing the employment levels prior to the seizure. The first problems arose in February and March 2001, coinciding with Virga's arrest, when the orders began to decrease systematically and the Mafia power made several attempts to bankrupt Calcestruzzi so that it could then be bought back at rock-bottom prices. These difficulties were the driving force behind the creation of the "Calcestruzzi Ericina Libera," a cooperative formed by six former company workers, officially presented on 9 February 2009. On that occasion, a stele was also unveiled in memory of Fulvio Sodano, prefect of Trapani, who spent his personal funds for the plants' survival. In the most difficult years, the contributions of the Libera association, the Prefecture of Trapani and local administrations were fundamental to increasing concrete production and ensuring that employment levels did not decrease. Thanks to the tenacity of all workers and civil society, in 2005 Calcestruzzi Ericina had the most important order in its history: 4 million euros for supplies to the America's Cup international tournament. In recent years, the cooperative has also managed to develop a new production chain, the recycling of aggregates. This

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allows creating new market prospects and improving land and environmental management, enabling recovery of materials otherwise destined to end up in landfills, or worse still abandoned in the environment, and to transform them into a resource.

With the collaboration of Unioncamere, as part of the “SOS Legalità” (SOS Legality) project (financed by the European Union), a strategic and industrial supply chain plan was defined, pursued by the “Il calcestruzzo della legalità” (Concrete of legality) path and aimed at affirming a logic of cost containment and maximization of revenues with a view to enhancing synergies among the different companies.

In recent years, there have been other examples of cooperatives born from the synergy and willingness of the confiscated company’s former workers. For example, the Centro Olimpo in Partanna Mondello (in Palermo province), after more than a year of closure since the final confiscation, was entrusted to the “Progetto Olimpo,” cooperative founded by 34 employees. The workers’ buyout operation allows safeguarding employment and reaffirming legality in a sector such as large-scale retail, which is particularly exposed to the risk of infiltration by organised crime.

### **Legislation in Italy and its history**

The mafia phenomenon began to be socially relevant in Southern Italy and Sicily as early as the second half of the 1800s. The area was going through a difficult process of territorial adaptation to the new “national” rules of united Italy. However, only after the post-World War II period and the establishment of the first Anti-Mafia Commission was a careful analysis of the context carried out. This led to a first rule: Law 575 of 1965, which still constitutes the lynchpin of Italian anti-mafia legislation, approved following the Ciaculli massacre (Palermo) of 30 June 1963, in which seven police representatives lost their lives.<sup>2</sup>

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<sup>2</sup> The Ciaculli massacre was an attack carried out by Cosa Nostra in 1963 in which five Carabinieri and two Italian soldiers lost their lives. An Alfa Romeo Giulietta was blown up in the agricultural village of Ciaculli in Palermo on 30 June 1963. The victims were Carabinieri Lieutenant Mario Malausa, Marshals Silvio Corrao and Calogero Vaccaro, Corporals Eugenio Altomare and Marino

A real leap in regulatory quality, however, would have to wait until 1982, with the bill proposed by Pio La Torre and Virginio Rognoni. This rule truly represents a turning point in the recognition of the mafia phenomenon as organic and structured, an authentic anti-state to combat, first of all, having full awareness of its strength and ability to infiltrate public life. General Carlo Alberto dalla Chiesa, Special Prefect in the city of Palermo, was of the same opinion. In his last interview, he told Giorgio Bocca, then journalist of the daily newspaper "La Repubblica":

The mafia is now in the major Italian cities, where it has invested largely in construction, trade and also industry. You see, I am interested in knowing this "primitive accumulation" of mafia capital, this phase of money laundering, these stolen, extorted liras that well-known architects or designers have transformed into modern homes or hotels and restaurants à la page. However, I am even more interested in the mafia network of control, which, thanks to those houses, companies, and businesses transferred, possibly to hands above suspicion, clean hands, stands at the key points, securing shelters, procuring recycling routes, and controlling power.

The law, which took the name of Rognoni – La Torre (no. 646), was promulgated on 13 September 1982, just under five months after La Torre's assassination in Palermo<sup>3</sup> and ten days after the assassination of General Dalla Chiesa<sup>4</sup>.

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Altomare and Marino Fardelli, Army Marshal Pasquale Nuccio, and Private Giorgio Ciacci. The episode was one of the bloodiest during the 1960s, ending Sicily's first Mafia War, which saw the killing of numerous Mafia bosses.

<sup>3</sup> Pio La Torre was born in the hamlet of Altarello di Baida in the municipality of Palermo into a very poor peasant family. His father was from Palermo and his Lucan mother was the daughter of a shepherd from Muro Lucano (Potenza). From an early age, he committed himself to the struggle for the workers, also ending up in prison, first in Confederterra, then in Cgil (as regional secretary of Sicily) and, finally, joining the Italian Communist Party (PCI). In 1972, he was elected deputy to the Chamber of Deputies in the constituency of western Sicily. As soon as he was in Parliament, he dealt with agriculture. He proposed a law that introduced the crime of mafia association (Criminal Code Art.416 bis) and a rule that provided for the confiscation of assets from mafia members. Re-elected to the Chamber of Deputies in 1976 and 1979, he was a

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In those years, Cosa Nostra decided to take the shot and make a decisive leap in terms of visibility and fight against the institutions. In those same years, the president of the Sicily Region Piersanti Mattarella and the head of the Public Prosecutor's Office of Palermo Gaetano Costa were also assassinated in rapid succession.

Thanks to the work of years by La Torre (trade unionist first, then elected deputy in the PCI lists), with lucid analyses on the transformation now completed by a rural and latifondist mafia to a mafia of building speculation (“Sack of Palermo”, ed),

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member of the Parliamentary Anti-Mafia Committee until the conclusion of his work in 1976. In the same year, he was among the editors of the Anti-Mafia Committee minority report, which harshly accused Giovanni Gioia, Vito Ciancimino, Salvo Lima and other politicians of having connections with the Mafia. At 9:20 on 30 April 1982, , Pio La Torre was reaching the party headquarters in a Fiat 131 driven by Rosario Di Salvo. When the car was on a narrow road, a large motorcycle forced Di Salvo, who was driving, to a stop, immediately followed by bursts of bullets. Other killers got out of a car to complete the double murder. Pio La Torre died instantly, while Di Salvo only had time to pull out a gun and fire a few shots.

<sup>4</sup>Carlo Alberto dalla Chiesa was an Italian general and prefect. Founder of the Special Anti-Terrorism Corps, he was Deputy Commander General of the Carabinieri Army and Prefect of Palermo, appointed by the Council of Ministers in 1982. The government's aim was to achieve the same brilliant results against Cosa Nostra as against the Brigate Rosse. Dalla Chiesa was initially puzzled about this appointment, but was convinced by Minister Virginio Rognoni, who promised him extraordinary powers to counter the clan wars washing the island in blood. In July 1982, Dalla Chiesa ordered the “162 report” to be transmitted to the Palermo Public Prosecutor's Office. This report bore the “joint signature” of the police and carabinieri and reconstructed the organizational chart of the Palermo Mafia Families through detailed investigations and interviews. For the first time, with an anonymous phone call made to the Carabinieri in Palermo at the end of August, Cosa Nostra seemed to announce the attack on the General, declaring, after the latest mob killings, “Operation Carlo Alberto is almost over, I say almost over.” At 9:15 p.m. on 3 September 1982, the white A112 in which the Prefect was travelling, driven by his wife Emanuela Setti Carraro, was flanked in Via Isidoro Carini in Palermo by a BMW, from which Kalashnikov AK-47 shots were fired, killing the Prefect and his wife. At the same time, the car carrying the driver and escort agent, Domenico Russo, who was following the Prefect's car, was flanked by a motorcycle, from which another volley of shots killed Russo. The sentence of life imprisonment for the three murders was passed down for Cosa Nostra leaders Totò Riina, Bernardo Provenzano, Michele Greco, Pippo Calò, Bernardo Brusca and Nenè Geraci.

permanently inserted in the financial and productive fabric, a new social and political awareness developed, and, also based on the emotional impact of those murders, culminated in the approval of the new law.

The “Copernican revolution” of Law 646/1982 (Rognoni – La Torre) consists of introducing the crime of mafia association for the first time into Italian law. The article states:

Art. 416-bis. - Mafia-type association. - Anyone who is part of a mafia-type association formed by three or more people is punished with seven to twelve years of imprisonment. Those who promote, direct or organise the organisation, for this reason alone are punished with imprisonment for nine to fourteen years. The association is mafia-like when its members use the force of intimidation for the association bond and the condition of subjection and omertà (code of silence) that derives from it, to commit crimes, to acquire directly or indirectly the management or otherwise control of economic activities, concessions, authorizations, contracts and public services, or to achieve unfair profits or advantages for themselves or for others, or to prevent or hinder the free exercise of the vote or to procure votes for themselves or others during elections.

The underlying intuition is linked to the mafia phenomenon's change in direction. The simple “military” repression of criminal organizations would not have been sufficient to reduce its dangers, especially when capital reserves allowed replacing arrested minions with others or rebuilding the repositories of seized weapons and explosives. Mafia entrepreneurship, through economic control of the territory, therefore, over time, would have hindered the birth of that honest, healthy, “less recognizable” part of entrepreneurship. This is associated with money laundering, which is also highly detrimental to the most basic rules of free competition. For all these reasons, for the first time, Law 646 contains the confiscation of assets when no legitimate origin is found in the

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direct or indirect ownership of the suspect belonging to a mafia-type association. These confiscations may be preceded by seizure if there is a real danger that the goods may be dispersed, stolen or sold. Another substantial change introduced by the new law is found in the provision of capital measures in the traditional prevention procedure, namely the seizure and possible confiscation of assets also disposed of “by persons against whom a prevention measure can be proposed because they are suspected of belonging to mafia-type associations.” The law has therefore made it possible to investigate the assets and financial resources of the suspects, their family members and cohabitants and all those natural and legal persons, associations or bodies whose assets may be disposed of.

Following this first important step in the fight against mafia-style organised crime, legislators have sought to make a number of improvements to the entire legislation. In 1989, L.D. 230 amended Law 575/65, introducing provisions relating to the management and disposal of confiscated property. A significant innovation was the provision of the asset administrator, appointed by the Court with the same measure with which the seizure is provided. This person is responsible for diligently providing for the custody of the asset and its administration and conservation to increase its profitability, if possible. The administrator must also periodically draft a report, reporting other assets to be seized, of which he or she became aware during the management period. The administrator may also arrange for sums of money derived from the management of such seized assets to be used for payment of any expenses related to the management and conservation of the asset itself. In the event that the real estate is constituted in companies, the Finance expert will fix the exact value and communicate it to the competent Prefect. The Prefect, in turn, after consulting the Provincial Committee for Public Order and Security, formulates proposals for allocation to the Ministry of Economy and Finance, which will issue its own decree (even in disagreement). In 1990, the legislature took a further step forward with Law 55 of 19 March. To intensify preventive measures against the Mafia economy, it was considered appropriate to expand the recipients of asset

measures, including some classes of socially dangerous individuals such as those suspected of belonging to associations dedicated to drug trafficking and those deemed habitually living from the proceeds deriving from the crimes of extortion, usury, money laundering or use of money, goods or utilities of illicit origin and smuggling. Another innovation of the latter law was to allow the seizure and confiscation of assets in cases in which the special surveillance measure was not actually applicable, when, for example, the subject is absent, residing abroad or already subject to a measure of prison security or probation. The limit of this measure is that the asset intervention still cannot be separated from the consideration of a subject's social dangerousness, thus neglecting the inherent danger to the assets themselves.

L.D. 356 of 8 June 1992, then converted into law, goes in this direction. The new provisions have allowed temporary suspension of the administration of assets that can be used to carry out economic activities, if these are able to facilitate the activity of subjects against whom a personal prevention measure has been ordered, or of subjects subject to criminal proceedings for crimes of mafia-type association, kidnapping, or extortion. The seized property may then be confiscated by a subsequent order. These new rules are clearly aimed at expanding and strengthening the law enforcement action against Mafia crime entering the world of economy and business; the focus is not how dangerous the subject is, but above all, the verification of economic availability.

Despite all these advances, the legislation on confiscation of assets struggled to take off, especially due to the complex number of investigations to be carried out, but also due to the lack of provision for the destination and subsequent use of confiscated assets. It would take a new emotional wave to take an important step forward: on 23 May 1992, near Capaci, on the stretch of motorway that connects Punta Raisi airport with Palermo, five hundred kilos of explosives blew up Judge Giovanni Falcone, his wife Francesca Morvillo and the three police escorts Antonio Montinaro, Rocco Di Cillo, and Vito Schifani. Only fifty-seven days later, on 19 July, a car bomb in Via D'Amelio killed Paolo Borsellino and five escort agents:

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Agostino Catalano, Emanuela Loi, Vincenzo Li Muli, Walter Eddie Cosina, and Claudio Traina. Despite the capture in January 1993 of Totò Riina, considered the leader of Cosa Nostra, mafia intimidation continued to move towards more institutional and artistic targets. Between May and July of that year, explosive charges were placed in Florence in via dei Georgofili, behind the Uffizi Gallery (the attack cost the lives of five people); in Milan, the economic centre of the country (the attack took place in via Palestro, near the Contemporary Art gallery and caused the death of five innocent victims); in Rome, with simultaneous explosions in Piazza di San Giovanni in Laterano and in the church of San Giorgio al Velabro, fortunately without harm to people. These places were not chosen at random: Pope John Paul II had recently given his famous speech in Agrigento against the mafia, which ended with the words: "Convert! God's judgment will come!" Rome was also hit by another unsuccessful attack at the Olympic Stadium.

Thus, a movement of cultural and social rebellion was born. Citizens, associations, collective subjects of various political and religious orientations became aware that it was no longer possible to delegate only to the judiciary or to the armed forces and the police the commitment against the proliferation of mafia organizations. It was necessary to raise awareness of the constitutional principles and everyday legality. It was especially necessary to leverage the Mafia's economic heritage, which had the power to keep entire sections of the population under control.

Therefore, it was no accident that the first network of associations to combat organised crime was born with the name of Libera. Associazioni, nomi e numeri contro le mafie and, above all, that the first initiative of national importance was collecting signatures to introduce the reuse for social purposes of confiscated assets. The management of these assets thus becomes a sort of modern "counterbalance" to counter organised crime activities and spread that culture of legality that stands as the main antibody to the mafias. Giuseppe Di Lello, a former magistrate of Palermo's anti-mafia pool, was the first to formulate the legislation, while the result of Libera's campaign was the collection of over one million

signatures. Law 109 of 7 March 1996 was approved by the Justice Committee in record time and after the end of the legislature. However, there were numerous differences with the proposal promoted by the world of associations: first and foremost, elimination of the section dedicated to the social use of assets confiscated from corruption and the limitation to three years of activity of the prefectural fund for the management of resources of projects to support the reuse of confiscated assets. Among the technical innovations of Law 109 is the clause in which the asset administrator must have proven competence in this field. In addition, if the assets are incorporated in the company, the director may be one of the professionals who have performed or are performing the functions of commissioner for the administration of large companies in crisis, thus trying to safeguard companies with a good chance of development and employment levels.

The asset allocation procedures have been considerably streamlined and the parties involved in the confiscation procedure have also been reduced. A fund was set up in the prefectures to finance projects relating to the management of confiscated buildings and socially useful activities. The Fund consisted of sums of money obtained from the sale of movable property and securities, recovery of personal receivables, and rental, sale or liquidation of company assets. With this instrument, the law introduced the financing of projects related to the management of confiscated properties for institutional, social or public interest purposes. In particular, these were projects related to specific activities of rehabilitation of degraded urban districts, prevention and recovery from conditions of distress and exclusion, interventions in schools for legal education courses and promotion of entrepreneurial culture and entrepreneurial activity for unemployed young people.

In the years following the enactment of Law 109 of 1996, numerous studies and monitoring activities have been carried out to identify the right corrections, especially in the bureaucratic allocation process. In particular, considerable administrative difficulties have been encountered in the timing of the various phases. Realistically, the definitive confiscation should be completed in a few months so that the

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asset's characteristics can then be defined and a precise allocation can be envisaged, to transform it into a work of conservation and concrete enhancement.

Thanks to careful analysis, first by the Court of Auditors and then by the National Council of Economy and Labour, it was possible to find appropriate solutions to improve the process of confiscation and management of assets. A first step in this direction was taken, in the two-year period 1999-2000, with the creation of the Office of the Extraordinary Commissioner of the Government for the management and disposal of property confiscated from criminal organizations. This experience lasted until 2003, then was interrupted for four years and resumed again in 2007 with a new Commissioner, Judge Antonio Maruccia, already a member of the Supreme Court. In his 2008 final report, he expressed the need to set up a National Agency for Seized and Confiscated Assets from Crime. There was a unanimous need to provide the legal system with a legal entity capable of responding, in the delicate field of asset control of mafia-style criminal organizations, to the need to ensure the profitable management and return of the wealth recovered from crime through their effective and rapid social and institutional reuse. The new body would be designed as a valid support for the confiscation process from the judicial seizure, placing itself at the direct service of the judicial administrator at first, managing the next phase of the asset's final confiscation until adoption of the assignment measure. For the first time, the need became clear for a single contact as an intermediary between institutions and the world of associations.

L.D. 4 of 4 February 2010 (converted into Law 50 of 31 March 2010) is thus revolutionary in its scope because it established the country's first "mixed" Agency. The new Agency for the Administration and Allocation of Seized and Confiscated Assets from Organised Crime is not only a working and consultation table governed by specific rules, but a body responsible for important political decisions on the management and allocation of confiscated assets. Precisely for this reason, the legislature explicitly provides for the presence of magistrates and managers of government offices on the Governing Council. From this point of view, the Agency

constitutes a new model of inter-institutional cooperation. To curb organised crime, a convergence of public entities is needed with a plurality of readings aimed at a given context. The Agency accompanies the asset's route from the moment of the preventive seizure and manages it directly from the second degree confiscation phase until the full completion of the judicial process.

The next step forward was the approval, on 6 September 2011, of Legislative Decree 159 (better known as the Anti-Mafia Code), the result of Delegated Law no. 136 of 13 August 2010. With this, the Government was specifically delegated to issue a legislative decree with the task of carrying out a complete recognition of the anti-mafia rules of a criminal, procedural and administrative nature, as well as their harmonization and coordination. The Code, rather than being a single text of anti-mafia laws, proved to be a single text of preventive measures. In any case, one of the fundamental innovations introduced with the new Anti-Mafia Code is the provision of a time limit for the issuance of the allocation orders. According to Article 38, the National Agency has ninety days to complete the procedure. In some particular cases, this period can be doubled. The organization employs executives and officials of the Civil Administration of the Interior, officers and non-commissioned officers of the State Police, the Carabinieri Army and the Guardia di Finanza Corps. There are also executives and officers of the Fire Brigade, necessary for the initial inspections of the assets. In November 2011, the Agency's Governing Council gave the green light to opening decentralised offices in Palermo, Naples and Milan, relying on the principle of constant dialogue among local authorities, mayors and prefects.

With the 2013 Stability Law (Provisions for the preparation of the State's annual and multi-annual budget, Law 228 of 24 December 2012) the Government introduced some regulatory and technical changes to the Anti-Mafia Code and new developments on the functioning of the institutional body. The Stability Law finally amended Article 12e of Law 356/92, giving the National Agency the necessary powers to manage the confiscated assets in a unitary manner, regardless of the

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type of crime committed (provided they fall within the cases listed in the aforementioned regulatory article). Another important innovation is the remodelling of Article 48 of the Anti-Mafia Code. The recipients of movable assets have been extended, with the inclusion of local authorities and voluntary associations. Article 51 also expressly provides that, during the seizure and confiscation of assets and until their allocation, exemption from taxes, duties or levies is ensured. A fundamental novelty concerns the new protection of third parties. The Anti-Mafia Code provides for the subpoena of some third parties, regulating the conditions and methods of protection through a procedure in which all the “events” concerning the asset are resolved. The State therefore acquires it free of any issue that could involve charges or expenses.

### **The Anti-Mafia Code amendment process**

Since its approval, Libera has immediately reported limits, inconsistencies and difficulties in applying the Anti-Mafia Code. For this reason, in an attempt to obtain a further modification of this important provision, on 3 June 2013, the President of the Chamber of Deputies Laura Boldrini was given the text of Bill No. 1138 of popular initiative “IO RIATTIVO IL LAVORO (I Reactivate Work),” to favour the emergence to legality and the protection of workers of companies seized and confiscated from organised crime.

In November 2013, the Chamber of Deputies Justice Committee initiated the discussion of the bill of popular initiative AC 1138. Two years of discussions, debates and hearings, also thanks to the contribution of the work of the Parliamentary Anti-Mafia Committee and the Garofoli Commission, enriched the original text with numerous other provisions aimed at revising Legislative Decree no. 159.

On 23 January 2014, the Report “Per una moderna politica antimafia” (For a modern anti-mafia policy) was presented. It gathers the results of the work of the Commission established by Prime Minister Enrico Letta and chaired by Councillor Roberto Garofoli. The Commission’s intention was to try to standardise and improve the anti-mafia legislation in force,

paying special attention to the whole asset seizure and confiscation process.

With regard to asset prevention measures, the Commission has proposed the extension of the subjects entitled to propose them to the National Anti-Mafia Prosecutor; the establishment of a national register of preventive measures; some mechanisms for linking investigations and proposals among the Prosecutor, Commissioner and Director of the Anti-Mafia Investigation Directorate, and the strengthening of confiscation by equivalent, then limited to the case when the proposal has manifested elusive purposes. The Commission has also proposed measures to reduce the length of the prevention process.

Precisely the enormous capital from assets and companies confiscated both preventively and definitively has allowed grasping the importance of an efficient management system capable of enhancing assets as resources for the reaffirmation of legality and economic revival. The strong critical issues relating to the Agency's organisation and functioning and the need to relaunch its role and effectiveness have led the Commission to suggest an effective involvement of the ministries concerned and of the Presidency of the Council itself in performance of the steering functions through an interdisciplinary approach. All this is with a view to ensuring strengthening of the Agency's competences, with the provision that the Agency, on one hand, could carry out continuous and systematic monitoring on the reuse of confiscated assets, verifying their consistency with the related allocation provision; on the other hand, it could assign real estate directly to the associations and organizations contemplated by the Anti-Mafia Code.

With particular reference to the management of immovable property, the Commission has proposed mechanisms to cover ordinary maintenance and management costs and to satisfy creditors who have been recognised as showing good faith. The known cases of criticality identified over the years have shown the need for measures aimed at ensuring the effectiveness of the clearance of the properties by planning,

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already during the preventive or criminal procedure, the property's immediate occupation by another subject (obviously unrelated to the proposed asset or third party owners), in view of the final assignment (encouraging the participation of local authorities and associations for this). To complete the picture, moreover, some measures were aimed at mitigating the various difficulties faced by companies subject to seizure or confiscation during the process of emergence towards legality, starting with those deriving from the inevitable increase in management costs due to the company's emergence process and the need, therefore, to meet tax and social security payments, as well as the regularization of employment relationships and application of accident prevention legislation.

Other interesting proposals can be identified in the Commission report. These include measures to support the regularisation of employment relationships and provision of guarantees for protection of workers' health and safety; mechanisms to overcome the blockage of funding, which frequently occurs at the time of seizure; forms of "sterilisation," limited in time, of the enforcement and precautionary actions taken by creditors on the seized company's assets, and measures aimed at guaranteeing greater specific managerial skills in the company management.

On 18 June 2014, the Chamber of Deputies and the Senate approved the text of the Report on the prospects for reforming the system for managing assets seized and confiscated from organised crime, unanimously dismissed by the Parliamentary Committee of Inquiry into the phenomenon of mafias and other criminal associations, including foreign ones, on 09 April 2014.

On 11 November 2015, after careful work by the Justice Committee and with the improvement of some of the House's amendments, the Anti-Mafia Code reform text was approved in the Chamber of Deputies, collecting most of the proposals contained in the bill and the requests of those who work daily in the fight against organised crime. These include those who

carry out property investigations and those who work to avoid dispersing the legacy and democracy constituted by the concrete return to the community of seized and confiscated movable, immovable and corporate assets.

On 21 April 2016, the Senate Justice Committee started the examination of provision AS 2134 by scheduling a new cycle of hearings. However, the Committee's work was considerably prolonged, leading to the postponement of the debate in the Chamber of Deputies, which started only on 19 June 2017. Finally, on 6 July 2017, the Senate approved the provision.

On 19 July 2017, the Chamber of Deputies' Justice Committee returned to work on the text approved by the Senate, scheduling the subsequent review of the measure for September. On 18 September, the deadline expired to table amendments, all rejected in subsequent sessions, to avoid a second passage to the Senate and therefore the risk of not reaching approval. On 25 September, the debate in the Chamber of Deputies began with the general debate and on 27 September, after rejecting a preliminary question, the Senate definitively approved the law amending the Anti-Mafia Code, labelled Law no. 161. On 17 October, the Head of State promulgated the law "with reservations," and it entered into force on 19 November 2017. In December, the inconsistencies noted by the President of the Republic were finally remedied.

The main innovations the Reform introduced concern the following points:

- the extension of the application cases, for which, among the recipients of preventive measures, suspects of other crimes are also included. Among these, in particular, are those against the public administration, such as embezzlement, bribery and corruption, although with the associative bond;
- the impossibility of justifying the legitimate origin of the asset with the proceeds or reuse of a previous tax evasion;
- the introduction of the principle of seizure and confiscation by equivalent, according to which, if it is not possible to

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seize the assets because the one proposed is not available, the seizure and confiscation may concern other assets of equivalent value of legitimate origin;

- the principle of absolute priority in dealing with asset prevention procedures and the establishment of specialised sections;
- judicial control of companies and economic activities for a period ranging from 1 to 3 years, if the mafia facilitation is occasional and there are factual circumstances from which can be deduced the real danger of mafia infiltration conditioning the activity;
- the requirement to choose the judicial administrators, even more than one, from among those recorded in special registers and the appointment by grounded decree. Appropriate correspondence must be ensured between the professional profile and the activity to be managed. In addition, adequate rotation of tasks must be ensured to avoid an excessive burden of duties, and tasks identified that, due to their complexity, involve the prohibition of cumulation. Finally, exclusions are identified for the appointment, including those relating to the previous performance of work or professional activities in favour of the proposed person or the existence of professional and family relationships with the magistrate;
- ANBSC's management competences start from second-degree confiscation. Until then, the Agency must carry out tasks in support of the judicial authority;
- In the case of companies, the legislature based the reform on the principle of greater protection of third parties and workers, with a view to encouraging the continuation of activity. Only if the continuation of business is not a viable means may the administrator propose liquidation of the company, which is therefore a residual resort;
- for companies of extraordinary socio-economic interest, the judicial administrator can be appointed from among the members of the section of experts in corporate management of the national register of judicial administrators indicated by Invitalia s.p.a. among its employees;
- to ensure continuation of the business activity, facilitate the judicial administrator and safeguard employment levels,

the legislature has established permanent Boards on seized or confiscated companies in the prefectures;

- the judicial administrator can take advantage of the free support of entrepreneurs active in the same sector in which the company operates or in sectors considered related. In addition, the technical support of the Chambers of Commerce is also available;
- immovable property may also be transferred for economic purposes, but it is mandatory to respect the obligation to reuse the proceeds for social purposes;
- institutions are required to publish on their institutional websites, and to update monthly, the list of confiscated assets transferred to them, under penalty of managerial liability;
- the National Agency Director does not necessarily have to be chosen from among the prefects, and an Advisory Committee is also set up. Support Cores are also established at each prefecture.

Legislative Decree 113/2018, converted into Law no. 132 of 1 December 2018 and better known as the First Security Decree or Salvini Decree, introduced some further amendments to the Anti-Mafia Code, regarding in particular the strengthening of the National Agency and the possibility of selling the assets for which it is not possible to proceed with the allocation. Moreover, this provision was already covered by the law since the approval of Law 109. However, it was considered an *extrema ratio* (last resort) and, moreover, the sale could only take place to certain specific categories of subjects. The Security Decree, while providing for pre-emption mechanisms, ended up expanding the audience of potential buyers also to private individuals, through the typical methods of auctioning and awarding to the highest bidder. This rule has raised many controversies and Libera and other social realities have called for revising this dangerous provision, which risks dispersing the efforts made to guarantee the social reuse of assets confiscated from Mafias.

## **European legislation on public and social reuse of confiscated property**

### **A European definition of organised crime**

Serious and Organised Crime (SOC) is one of the greatest threats to the security of the European Union. According to Europol's SOCTA (2017) report, more than 5,000 organised crime groups are currently under investigation in Europe. Organised crime is profit-driven and its illegal activities generate huge revenues. The proceeds of organised crime within the EU are currently estimated at around EUR 110 billion per year.

In the European Union, currently only about 2% of the proceeds of crime are frozen and about 1% confiscated. This allows organised crime groups to invest in expanding their criminal activities and infiltrating the legal economy. Europol estimates that between 0.7 and 1.28% of the EU's annual GDP is involved in suspicious financial activities.

The scenario of reference is clearly outlined in the **European Parliament resolution of 25 October 2011** on organised crime:

- organised crime has a substantial social cost, in that it violates human rights, undermines democratic principles, and diverts and wastes financial, human and other resources, distorting the free internal market, contaminating businesses and legitimate economic activities, encouraging corruption and polluting and destroying the environment;
- the purpose and basis of organised crime is to make an economic profit. Consequently if action to prevent and combat the problem is to be effective, it must focus on identifying, freezing, seizing and confiscating the proceeds of crime;
- criminal organisations are concentrating their activities on a large number of ever-expanding fields including, for example, international drug trafficking, trafficking in and the exploitation of human beings, financial crime, international

arms trafficking, counterfeiting, cybercrime, environmental crime, the diversion of public funds, fraud and extortion, most of which activities are trans-national and pan-European by nature;

- evidence emerging from the courts and from investigations by police and journalists indicates that, in some Member States, organised crime has infiltrated, and become solidly entrenched in, political circles, the public sector and legitimate economic activities;

- corruption is the standard means by which organised criminals employ blackmail or dispense rewards in order to divert public resources and worm their way into local politics, government and the private sector, while money laundering is one of the most insidious channels, enabling legitimate activities to be contaminated by illicit activities and an indispensable transition process, without which the purchasing power acquired through crime would remain merely potential, usable within illegal circles but incapable of translating into real economic power.

The existing regulatory framework at the level of individual nations seems, of course, insufficient to guarantee a serious law enforcement action that must, instead, be addressed with a **global and international approach** and therefore with **close cooperation** between the countries concerned and international bodies.

Therefore, the European Parliament, in the above-mentioned resolution, which states, *“whereas it is one of the primary objectives of the European Union to create an area of freedom, security and justice without internal borders, in which crime is prevented and combated (Article 3 of the TFE), and to ensure a high level of security through measures to prevent and combat crime and measures for coordination and cooperation between police and judicial authorities and other competent authorities,”* on one hand, called on Member States to improve cooperation and coordination and to approximate their legislation, especially with reference to the development of common, standard procedures and types of criminal offence,

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drawing on the good practices of the legal systems that are the most highly developed in terms of countering organised crime; on the other hand, it called on the Commission to submit a framework proposal for a directive on the procedure for the seizure and confiscation of the proceeds of crime, with regard to the requirement to respect fundamental rights as enshrined in the Charter of Fundamental Rights and the European Convention on Human Rights:

- elaborate rules on the effective use of instruments such as extended and non-conviction-based confiscation;
- elaborate rules concerning the mitigation of the burden of proof after an offender's conviction for a serious offence (including offences related to organised crime) concerning the origin of assets held by the offender;
- encourage the introduction of instruments in national legal systems which, under criminal, civil or fiscal law, as appropriate, mitigate the burden of proof regarding the origin of assets held by a person accused of an offence related to organised crime;
- include rules allowing for the seizure and subsequent confiscation of assets assigned to third parties; calling for the actions of the front person in such cases to be treated as a criminal offence, since their aim is to sidestep the enforcement of asset protection measures or facilitate the commission of the offences of receiving, laundering and using money obtained illegally.

The foreword of the aforementioned resolution recalls the most significant documents that over time have outlined the evolution of international cooperation.

### **The European Confiscation Directive**

Directive 2014/42/EU on the freezing and confiscation of instrumental assets and proceeds of crime in the European Union, as specified in Article 1, has introduced minimum rules on the freezing of assets with a view to possible subsequent confiscation and on the confiscation of assets in criminal

matters.

The Directive states that the main objective of cross-border organised crime, including mafia-type criminal organisation, is economic gain. Consequently, the competent authorities must have the means to trace, freeze, manage and confiscate the proceeds of crime. A comparable minimum set of appropriate statistical data on the freezing and confiscation of assets also must be collected to allow their distribution and to analyse the distribution of criminal organisations in the EU. In particular, Article 10.3 of the Directive stresses that Member States should consider allowing confiscated assets to be used in the public interest and/or for social purposes.

## **The ARO platform**

### **Asset Recovery Offices Platform**

The ARO platform - promoted by the European Commission and Europol - aims to facilitate cooperation among Member States for the retrieval and identification of the proceeds of crime and other property belonging to criminals throughout the EU. The platform has thus accompanied and accompanies Member States in the implementation of Directive 2014/42/EU. National offices face a number of common challenges, in particular their ability to access relevant financial information, and it is therefore essential to have central support from the European Union.

In 2012, as part of the ARO platform, Member States were invited to envisage creation of an Asset Management Office, to identify existing asset management laws and practices, share current institution-building agreements in EU countries and facilitate the exchange of experiences among existing AMOs. Within the ARO platform, the AMO sub-group was thus created to support Member States in the specific phase of management of confiscated property and therefore also in the introduction and application of the hypothesis of public and social reuse of confiscated property, contained in Article 10.3 of the Directive.

## **The new European report “Asset recovery and confiscation: Ensuring that crime does not pay”**

This report by the Commission and the European Parliament published in June 2020 analyses the implementation of Directive 2014/42/EU on the freezing and confiscation of the proceeds of crime and assesses the feasibility and benefits of introducing further common rules at EU level.

It reflects on the need for stricter provisions to improve the identification, tracing, freezing, management and confiscation of illicit assets. It also provides an overview of the work of Asset Recovery Offices (AROs) and the challenges they face in carrying out their day-to-day tasks. The ability to freeze and confiscate assets depends on the ability to trace and identify them effectively. It is therefore essential to ensure that property recovery offices are equipped to carry out their tasks effectively. It provides an overview of international instruments relevant to the field of asset recovery. International cooperation is essential for the effective recovery of criminal assets.

The report also analyses the implementation of Article 10.3 of Directive 2014/42/EU, highlighting that in 19 Member States (Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Austria, Poland, Portugal, Romania, Slovenia) there is specific legislation on the use of confiscated assets for public or social interest purposes.

*“There is a growing need to maximize the social impact of a criminal case. A sentence or conviction alone is not enough to take a stand against serious crimes,” says Ishan Ahmadali, Senior Policy Advisor of the National Office for Serious Fraud, Environmental Crime and Asset Confiscation in The Netherlands.*

## **Regulation 2018/1805 for mutual recognition**

Regulation 2018/1805 of the European Parliament and of the Council on the mutual recognition of freezing and confiscation orders aims to overcome the difficulties or impossibility of



cooperation (anti-mafia) so far justified by the member countries' different confiscation models. In fact, the Regulation affirms the principle of mutual recognition imposed by a directly applicable legislative measure such as a regulation adopted by the ordinary legislative procedure based on Article 82, par. 1 of the Treaty on the Functioning of the European Union.

The Regulation entered into force on 19 December 2020 and allows the competent institutions to work more quickly in the fight against organised crime, with the provision of standard procedures and shared documents.

On 20 January 2021, this new European Regulation was applied for the first time in Italy: the investigation of the Mobile Operational Team of Salerno, in Campania, concerned the massive infiltration of a local entrepreneur in the transport of the sick and funeral services. In addition to allowing the confiscation of some €16 million, the investigation also led to the first freezing of assets abroad, in Romania, without the need to use the "classic" international letters rogatory. In fact, this Regulation provides that once the freezing or confiscation order has been issued, it is sent to the Ministry of Justice which, in turn, transmits it or to the foreign authority responsible for executing it without delay or to its counterpart and, at that point, the police of reference execute the order.

This new European legislation directly attacks money laundering and mafia investments abroad, where they attract less attention, given the lack of specific anti-mafia legislation outside Italy. And that is why this recent law enforcement operation will remain in Italian and European judicial history, because it will allow us to tackle the issue of the fight against Serious and Organised Crime increasingly incisively.

*"The mobsters know that with the wealth accumulated, when they end up in jail, their business outside continues and their crime family continues to receive its salary, along with their family members, and when they get out of jail, their criminal charisma is intact and they can return to command as before. If we take this availability from them, when they come out, they will be economically ruined and will no longer have their men. That's why for bosses it's important to accumulate money and keep it safe often by relocating it abroad."*  
*Prefect Francesco Messina, Central Anti-Crime Director of the State Police*

## CHAPTER 2

### **A new way to “make” an economy**

The word *crisis* comes from the Greek *verb krino*: separate, sort, judge, evaluate.

So, if we were to give meaning to this word, so abused in recent years, it could only be positive. A crisis, even economic, must be a necessary prerequisite for improvement and rebirth towards a new way of life. The world is at a turning point. The challenge for the coming years must be to give answers to a generation that is atoning for the previous one's mistakes and does not find enough space to emerge. The social economy, innovation and a new way of organising the market and labour spaces and times should also guide future government policies.

The need to study the social economy and its fields of application arises from this desire to try to change the market-oriented vision of the choices that the community makes every day.

In this chapter, therefore, we will try to define the social economy and link it to two fundamental issues, the fight against organised crime (not only repressive and military) and social innovation.

#### **Social economy: some notions**

The term “social economy” contains different meanings and also many contradictions. It is thus important to try to mark boundaries to guide subsequent analysis. An activity can be considered social if it aims at the production, distribution and consumption of goods and services belonging to a certain community of people. The activities of a social enterprise, although considered economic (transform an input into output), have something other than mere profit as their ultimate objective. Therefore, forms of non-profit are certainly included within the social economy.

However, this first characterisation is not enough to delineate boundaries around the social economy. In the case of Italy, from the nineties onwards, legislation has been enacted aimed precisely at regulating the third sector and the world of cooperation. In particular, Legislative Decree 155 of 24 March 2006<sup>1</sup> regulates the areas within which a company can be defined as social<sup>2</sup>: social assistance; health and socio-health care; education, instruction and training; protection of the environment and the ecosystem; enhancement of cultural heritage; social tourism; university and post-university training; research and provision of cultural services; extra-school training, and instrumental services to social enterprises. All these activities can be summarised in the broader field of general interest, referring to the production of goods and services that tend to improve the daily life of the population of reference.

The purpose of social enterprise, therefore, is to maximize social utility with the constraint of economy; for traditional enterprise, on the other hand, it is precisely the second term that represents the function to be maximized. Despite this, the gap between the two types of companies is not total. The main objective still remains to produce goods and services and to be able to last long term within the market; this, however, is accompanied by a different view of economic activity and the propensity to solve community problems. This allows us to add another element. Social enterprises, unlike cooperatives, are concerned with also providing solutions to “non-members,” thus becoming a point of reference for the entire territorial context.

The social economy, therefore, seems to run on two parallel tracks. On one hand, the creation of networks, including digital and technological, can promote their dissemination and support information in different contexts. On the other hand, it

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<sup>1</sup> Legislative Decrees 155 of 24 March 2006, “Social enterprise discipline, pursuant to Law no. 118 of 13 June 2005.»

<sup>2</sup> Specifically, the following legal forms are defined as “social enterprises”: moral entity, religious institute, mutual insurance, foundation, social cooperative, mutual aid society, ecclesiastical body and enterprise foundation.

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becomes vital to link all social enterprise actions to the territory and to the needs that it expresses, emphasizing the human dimension of production. In this way, the consumer goes from being a taxable person to an active person, an economic actor, a contributor, but above all, a creator of rights. Commerce becomes a circular system in which the domestic dimension complements the traditional world of the economy, supporting it.

### **Social enterprise and territorial development**

The social economy, through the creation of new networks and new services, is a third party actor compared to the traditional market-state combination.

One example is the world of social agriculture, which starts from the land and the local movement to try to give new impetus to the economy. There are two main axes on which this sector is based. One is the reintegration of disadvantaged people into employment and the production of agricultural products, in most cases an expression of territorial characteristics. Partnerships are developed with local farmers for creation of social farms and research centres for organic production. Social agriculture, therefore, could become an operational tool through which governments can implement welfare policies in the territorial context, involving multiple legal entities. It would create a model that sees the individual, even belonging to disadvantaged groups, regain a role in society also at a professional level.

In recent years, social farming has been at the centre of renewed interest also by those young people who decide not to leave their territory and try to produce change, combining everything with their technical knowledge and technologies. This seeks to express the vast world of the social economy when choosing the territory as a privileged interlocutor. It must be the dimension closest to the citizen's daily action and represent a valid alternative to the easy call of organised crime.

The territory is finally understood as a place of shared interests, generating virtuous processes up to the creation of strong bonds of trust within society. Growth, first individual and then collective, becomes one of the objectives that the territory learns to privilege, putting the citizen at the centre of political and economic action. In this way, the goods and services produced by the social economy become both cause and effect of the relationship with the territory. It is a cause because the territory itself expresses needs and potential, occupying a place at the table of economic planning. It is an effect because the goods and services produced have a direct impact not only in economic terms but above all in terms of relational and community welfare.

This creates a dedicated ecosystem in which the economic development trajectories aim to become community welfare, with the basic idea that each component of this process becomes essential for the others in a mechanism of self-selection and expulsion of criminals.

Creating an alternative welfare system at a time of economic crisis (and beyond) and in territories that present critical issues on several levels strengthens local institutions' role as main interlocutors for citizens' requests and creates new job opportunities, even for the weakest groups within the social context.

### **Relationship of the social economy and organised crime**

It is now an established fact that mafia activity is above all economic, and that the growth of the territories, being deeply conditioned by it, is strongly affected by its presence. The mafias use violence to achieve illicit objectives, organise entire production chains and influence market trends. The criminal enterprise thus manages to adapt to the market's conformation, identifying specific objectives and methods of governance. It establishes a relationship of total control and intimidation with the territory, carrying out activities such as racketeering, usury and smuggling of counterfeit goods. This

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permeability with the context makes it difficult to perfectly identify the boundaries of criminal enterprises, which instead are configured through different models<sup>3</sup>:

- *criminal – legal enterprise*: responsibility for decisions lies with the boss, who at the same time becomes an entrepreneur. This type of company produces illegal goods and services through legal forms.
- *illegal – legal enterprise*: the real owner of the industrial structure is the criminal, who puts in his place a “clean entrepreneur,” acting as a figurehead for the boss. This creates a relationship of subjection in which the criminal moves the strings of business decisions.
- *legal – illegal company*: it is a company that begins as legitimate, but enters into partnership with the mafia and with its capital; it presents itself to the market as a clean company, while inside is mafia DNA. This allows it to act undisturbed in the circuits of the clean economy, distorting the normal dynamics of competition.

Any type of mafia company has the power to influence and change market trends, becoming a leader in the sector in which it operates. In this way, the criminal enterprise succeeds in subjecting legal companies, creating a network of branches to transform them into affiliates. With criminal association, even conniving “legal” entrepreneurs acquire a competitive advantage within the market to the detriment of those who decide to act in total legality.

But criminal economic organisations do not only insist on productive resources and the market, but also on social capital. In fact, they remove confidence in the relationship between citizens and civil institutions. Areas of active citizenship are greatly reduced as a result of criminal control, so much so that those who experience social exclusion processes come closer to the mafia context.

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<sup>3</sup> Michele Mosca and Marco Musella in MOSCA M. and MUSELLA M., L'economia sociale come antidoto dell'economia criminale, in Rassegna

For this reason, an effective instrument to combat organised crime must act not only on military repression, but in relations of trust within the social context. It would be a matter of devising and implementing prevention policies, which demonstrate to market users (the labour market, above all) the convenience of spending their time and professionalism in a clean market. Prevention policies, moreover, if properly planned, can reduce the costs of the sentencing system and improve reintegration standards. A good welfare system must affect people's well-being, lifestyles and environmental factors. It must be able to expand citizens' areas of action, within which they can fully express fundamental rights and bring new demands. Today, it becomes important to focus on the potential of the territory and the human resources that are part of it, to create a network of widespread solidarity that is a valid alternative to mafia organizations.

### **Third sector reform**

After several years, on 3 August 2017, the Third Sector Code entered into force in Italy. This was the result of a long work of reform and reorganization of all the rules and characteristics concerning private non-profit organizations that have civic and solidarity purposes. The reform text was drafted based on a consultation open to all third sector actors.

The Third sector is defined as “the complex of private entities established for the pursuit, not for profit, of civic, solidaristic and socially useful purposes and which, in implementation of the principle of subsidiarity and in accordance with their respective statutes or instruments of incorporation, promote and carry out activities of general interest through forms of voluntary and free or mutual action or production and exchange of goods and services. The Third Sector does not include training and political associations, trade unions, professional associations and representatives of economic categories.”

The reform provided for reorganisation of all existing legislation and drafting of a code dedicated to the third sector, with general provisions applicable to all entities and the identification of all the activities that characterise the social sphere. Support instruments are indicated, including ad hoc tax legislation and measures to support the creation of social enterprises.

## CHAPTER 3

### **Beneltalia *Project***

### **Strategies, objectives and methodology**

#### **Introduction**

In 2015, Libera celebrated its first twenty years of activity. Its birth in 1995 coincided with the first major initiative promoted by the association, the collection of over one million signatures from citizens to promote the social use of assets confiscated from mafias. That extraordinary experience of active participation led, a year later, on 7 March 1996, to the approval of Law 109/96 on the social use of assets confiscated from mafias. That law is now twenty years old.

In these twenty years, from the campaign start to date, the experiences of managing assets confiscated from mafias have multiplied, although critical issues remain to be resolved. Real territorial community projects have been carried out around these good practices, involving all stakeholders: associations, institutions and local authorities, foundations, businesses, and individual citizens. In short, the social use of these goods has become a real laboratory of new citizenship, in which everyone has been called to play a role and make a concrete contribution.

Many factors have contributed to the construction and dissemination of these experiences: shared design, transparency, volunteering, corporate social responsibility, and fundraising activities. Assets confiscated from mafias and reused socially, the subject of this broad and widespread commitment, have thus become a sort of “indicator” of the effectiveness of the strategy, instruments and resources committed in terms of legality, social justice, inclusion, dissemination of a culture of responsible citizenship, and business ethics.

The Beneltalia project aimed to conduct a survey of experiences of social reuse of confiscated assets in our country. It defined their bureaucratic and administrative

process, committed resources and needs. The survey also evaluated the ability to generate values in terms of volunteering hours, employment created, services rendered to the community, educational and training activities.

### **Identified needs**

From analysis of the database provided by the National Agency for the Administration and Allocation of Seized and Confiscated Assets (ANBSC), a considerable wealth of information emerges, up to the phase of the allocation of assets for the institutional and social purposes provided for by Law 109/96. However, there is a lack of structured and comparable information on the state and actual use of the assets themselves.

Research on the assets actually reused, therefore, responded first of all to the need to fill this information gap, bringing its results to serve the institutional task of ANBSC and all actors, public and private, involved in the processes of valorisation of assets confiscated from organised crime.

The dissemination of transparent, up-to-date and public data on reused assets also responds to the need to publicise these places' positive potential. Especially in a time of crisis like the current one, it is essential to promote positive examples of territorial development to trigger development processes. The projects of social re-use of assets confiscated from mafias are exactly this:

- culture vectors of participation: from the moment of its reuse for social purposes, the asset becomes a common heritage. From that recovered territory, a training course aimed at citizenship and above all at young people can then start, making them aware of the proactive role of “civil society,” creating the basis to combat the culture of indifference and therefore bringing out the culture of participation and change;
- re-territorialization factors: the social re-use of confiscated assets favours the construction of local development models that rethink the territory, no longer as an object to

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be exploited indiscriminately, but as a subject to be protected and enhanced. In this perspective, the property belonging to the Mafia can therefore become a privileged “re-territorialization” vehicle understood as the care of the natural environment and its interweaving with the human settlement;

- elements of development and factors of socio-occupational inclusion: the conversion of the asset from the illegal original circuit to a legal production circuit represents a concrete and tangible action in favour of the territory and the community in terms of local development and “healthy” job opportunities;
- semiotic objects: a new sign of the desire for and possibility of change, eagerness for social redemption and commitment to redevelop one’s territory, usually stigmatized as a socially degraded, economically and culturally underdeveloped area.

Confiscated assets are now widespread resources in the territory, acting as a stimulus for organic and structured local development intervention. Consequently, the ANBSC and all the actors involved must equip themselves with the skills and resources necessary to seize these opportunities. This is the only way to value confiscated assets as precious resources for creation of new jobs and improvement of the social and economic well-being of the communities of reference, avoiding the danger of their non-use and abandonment to degradation and neglect. It is important, therefore, to estimate with objective criteria the actual generative capacity of values of each individual project of social reuse of confiscated assets, analysing both the “outputs” and the “inputs” that have allowed the development of the different projects.

Therefore, the performance of a study with these characteristics also aims to provide a useful tool for a number of public and private subjects to identify the priorities for intervention in the matter, to promote innovative projects for the enhancement of assets and to better guide policies to support the enhancement of confiscated assets, today

fragmented into a series of interventions managed at the different levels of public administrations, constituting a factor weakening the effectiveness of incentives as well as waste and inefficiency.

### **Project idea**

The project stems from a reconnaissance activity Libera already carried out starting in December 2013 and never interrupted. These activities made it possible to map, at the time the Beneltalia project began, 432 different subjects (associations and social cooperatives) engaged in the management of assets confiscated from mafias, pursuant to Law 109/96. Until then, this information was not otherwise available from official sources.

This experience gave us some concrete data on which to develop further evaluations on the social cooperatives gathered in the Consorzio Libera Terra Mediterraneo, in this case, in terms of turnover and employment created through the cultivation of confiscated land, processing and marketing of products.

A further area of investigation on social use is E!state Liberi!, engagement and training camps on assets confiscated from mafias, which see the participation of thousands of young people every year.

The survey activity was developed and implemented starting from these concrete examples. The aim was to perform research through which to extend to all the surveyed realities the collected data useful for estimating the value-generating capacities of each individual project. This range from the creation of new work, as already mentioned, to the people involved in training and educational activities; from the products marketed, to the users of the social services offered. In the recognition phase, in addition to the “outputs,” the “inputs” that allowed the development of the different projects were also explored. This includes any public funding, contributions from foundations, donations from citizens, fundraising activities and fundraising campaigns, contributions from private companies in the “social

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responsibility” context, and volunteer days. This data, in turn, is significant from the point of view of the “generation” of values among the subjects called upon in various capacities to participate in the birth and growth of initiatives for the social use of assets, also from the cultural and ethical point of view.

The ultimate aim of the work was therefore to carry out an initial research activity entirely dedicated to benetalia and to indicate, starting from the social use of confiscated assets, a possible work path to extend the analysis to other areas of activities oriented to the “production” of “good.”

### **Project phases**

Given the size and complexity of the data to be collected and analysed, the project has been characterised by a very articulated structure, which has developed in several intervention and research phases.

In a first phase, asset enhancement interventions to date were mapped, including those financed through public funds (National Operational Safety Plans and Regional Operational Plans, just to give examples) or private (banking foundations, community foundations), with particular attention to the results they achieved in terms of stimulating the territory’s planning and socio-economic development. All the actions and outputs envisaged in this macro-phase began from the database developed by the National Agency for Seized and Confiscated Assets and the objective to enrich it with qualitative and quantitative information aimed at increasing its usability for enhancing the assets themselves.

Subsequently, we performed the cognitive survey, which provided for two sub-phases. The first was dedicated to the detailed structuring of the survey (defining the parameters to be detected, sharing the methodology to be used, drafting the questionnaire to be submitted to the surveyed realities). The second was dedicated to the start of the actual cognitive survey, through creation of focus groups, administration of an online questionnaire, and performance of in-depth interviews with the socio-economic actors operating in the territory (consortia of social cooperatives, research bodies, social

entrepreneurs, trade associations, and local administrators). In the following phase, the project implemented data collection and processing and the drafting of research, producing a structured report on experiences of social reuse of assets confiscated from mafias, presenting the results obtained in the recognition phase. Basically, this is the publication you have in your hands.

The last action concerns the dissemination of research.

## CHAPTER 4

### **Experiences of social reuse: the asset numbers**

#### **Introduction and methodological note**

This chapter presents the results of the survey activity developed during the Beneltalia project.

The numbers on the pages of this research report are to be understood as partial and constantly updated. Information collection has been very difficult due to the research complexity. Moreover, the third sector universe is a highly dynamic environment, and the number of assets confiscated from the mafias and their management experiences is increasing. We can therefore expect some of the information gathered and presented here not to be entirely “scientific.” In any case, we will try to make these physiological oscillations as marginal as possible, with the aim of returning as current and effective a picture as possible of a world that is still so complex and articulated.

The numbers that we are presenting essentially refer to three research areas, which constitute the three stages of a progressive work of in-depth analysis. The survey carried out does not concern, nor could it concern, the total number of confiscated assets brought for reuse, but the number of management bodies currently engaged in experiences of social reuse. The two data are not compatible, and the first is significantly higher than the second, bearing in mind that it is extremely widespread for the same subject to be managing two or even more confiscated assets (in the same territory or even in different territories). From this point of view, the example is particularly significant of cooperatives managing confiscated agricultural land and to which several land registry parcels are very often assigned.

#### **First phase: managing bodies database**

In the **first phase**, we worked on implementing the recognition work Libera had already carried out starting in December 2013

and never interrupted.

The research at this stage allowed for creation of a database including 523 managing bodies of experiences of different nature and type originating in real estate confiscated from organised crime. The figure refers to 16 out of 20 Italian regions; it was conceived with a set of basic information necessary to define an initial survey on the social realities (associations, cooperatives, temporary associations) that manage confiscated assets:

**Region**

**Managing body**

**Managing body's Company name**

**Email**

**Telephone**

**Province**

**City**

**Asset type**

**Type of reuse practice**

**Number of employees**

**Number of beneficiaries**

**Volunteer Hours**

**Economic data (inferred from the last financial statements)**

In general terms, the framework outlined by the research work is summarized in the following diagram:

**Survey of third sector bodies managing confiscated and reused real estate divided by Region**



This first research and mapping of third sector subjects engaged in practices of social reuse of confiscated assets has experienced some difficulties in collection of more specific information (employees, volunteers, economic data), but nevertheless had the merit of constituting a valuable and consistent starting point for subsequent and further in-depth

work. It has also allowed for a significant first classification of the managing operators and reuse practices in which they are engaged.

### Classification by type of managing body

<b>associations</b> <i>of different type</i> <b>284</b>	<b>social cooperatives</b> <b>131</b>	<b>church bodies</b> <i>parish, diocese, other</i> <b>22</b>
<b>foundations</b> <b>20</b>	<b>temporary associations</b> <b>14</b>	<b>public bodies</b> <i>consortia of Municipalities, other</i> <b>13</b>
<b>consortia of social cooperatives</b> <b>10</b>	<b>other type</b> <b>9</b>	<b>answer not available*</b> <b>21</b>

\* refers to all those managing operators for which, at the time of drafting the database, it was not possible to specify the type of asset managed

### Second phase: administration of the online questionnaire and analysis of the responses received

The data reported are the heart of the first mapping work carried out in the Benelitalia research area. Starting from this information core, a further study was carried out. It constitutes the second phase of the work and involved the preparation and administration of an online questionnaire dedicated to the management subjects. The questionnaire allowed obtaining more specific information to outline a more complete picture and, at the same time, to gather more detailed value data to be

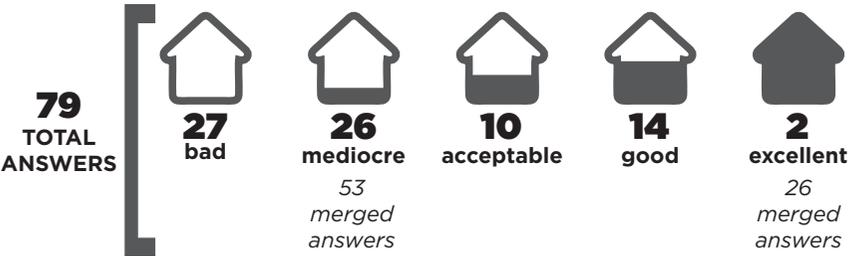
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added to the - equally significant - number and type of beneficiaries of the services and welfare network put in place by the numerous practices of social reuse spread throughout the country.

Of the 523 managing bodies surveyed, 105 returned useful information that allowed for an in-depth analysis of the data.

The sample was asked to specify the asset's actual structural conditions at the time of transfer (on loan for free use) on a scale of 1 to 5, where 1 means poor and 5 means excellent. Out of the 105 questionnaires collected, 79 cases were answered.

### Structural conditions of the asset at the time of entrustment to the managing body



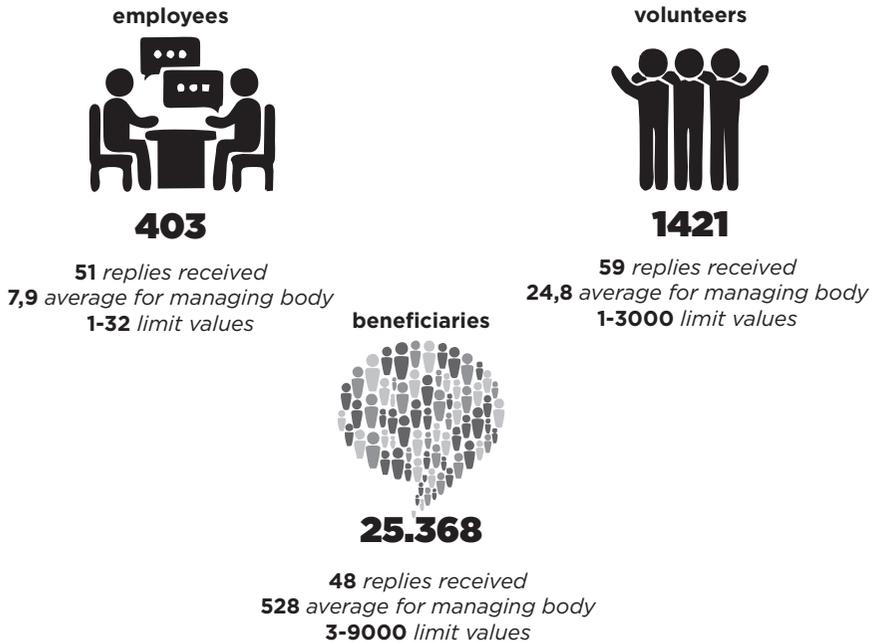
Clearly, although the item “acceptable” is included in the macro-area of positive judgments, the percentage of asset cases reaching the reuse phase in poor structural conditions is clearly prevalent.

Another very significant fact can be seen from the analysis of the responses relating to the time elapsed between the asset's seizure and its actual and real social reuse. This information was provided in 53 cases out of the same 105 managing bodies in the sample. The figure (not new or surprising) obtained from the arithmetic average obtained by dividing the total number of years by the number of answers provided (559/53) is 10.5. This means that in our sample, 10 years have elapsed on average (minimum value 1 year - maximum value 29 years) between confiscation of the asset and its social reuse. In an

effort to calculate the median value, the result is basically the same: in more than 50% of cases, 9 years or more have elapsed between the seizure and the social reuse of the asset.

Let's move onto the results of research on the specific issue of human capital activated by experiences of social reuse of assets confiscated from mafias. We have tried to build this data around two particularly representative indicators, the staff broken down as employees and volunteers and the services provided, in terms of beneficiaries and activities. This figure does not refer to the whole sample: each of the three fields recorded 35 cases of blank answers. Therefore, in this case, the total sample drops to 70 managing operators. Paradoxically, as the total reference number is rather reduced, the resulting figure is even more representative, turning out to be very consistent with the benchmark. The following table summarizes the survey results on this point.

**Share capital developed on a sample of 70 management bodies**



### **Third phase: the territory and the social commitment**

In the third and final phase of the research activity, we tried to respond to a need to expand the investigation. Our goal was to explore beyond the already large universe of confiscated asset managing operators and Libera's extensive network. We have thus prepared a data collection sheet to share with Libera's local and coordination groups, with a view to proximity. It will allow us to discover Italian assets ("BeneItalia") that are often visible only to territorial experiences. This is a universe of associations, groups and informal movements that, despite not having formally joined Libera's network, operate daily in collaboration with it. The survey sheet therefore came from the need to account as widely as possible for the enormous wealth of energy and resources in the varied universe of the third Italian sector. This is obviously both in quantitative and, as far as possible, qualitative terms.

We therefore decided to reason in terms of proximity, asking a sample of Libera's network scattered throughout the territory to fill out the questionnaire, looking for information on the associative realities directly and also indirectly linked to Libera. By indirect link, we mean all the occasions on which Libera's roads, paths and even associations not registered with it, intersect and are completed. We asked the presidencies and coordinators to indicate the quantitative data, specifying the areas of intervention and the activities carried out with the different associations. For the qualitative aspects, we asked them to tell us, in a few individual lines, cases and positive experiences that would allow us to detect Libera's commitment in the territory and the collaboration received in terms of values and social capital.

Among the replies received, a few have detailed a number of initiatives, some of which are very innovative in terms of structure and objectives.

Data Analysis made clear some points worth fixing:

- the relationship with the world of school and education

continues to be an element of primary importance, both inside and outside Libera's network. On the contrary, in schools, relationships of sharing and collaboration between the realities operating in the territory are born, grown and consolidated;

- the idea of setting up formal and/or informal networks remains the cornerstone for optimising work in the territories and promoting initiatives and paths capable of building change through participatory methods;
- Libera's presence seems to stimulate the commitment of local associations everywhere around the traditional themes of the Association and campaigns born in recent years (from the confiscated property in Miseria Ladra);
- the local associations world, in many cases, places itself at the service of Libera initiatives and campaigns at the territorial level, becoming an active protagonist, fuelling its commitment both in terms of civil mobilization and in more concrete terms of "reception" and logistical support (offices, spaces, funds, tools).

In almost all cases, as we said, this translates into services and tools to accompany and support people, especially those who struggle the most. In this interweaving of paths and stories, an extraordinary patrimony of values and social capital is naturally generated, Beneitalia in fact, which ends up generating an equally significant patrimony of economy and wealth. In short, this is a welfare system capable of taking charge of the territory's needs, often unfortunately being forced to replace the shortcomings of a state system that fails to plan and implement adequate social policies.

## FOCUS 1

### Updated data

Twenty-five years have passed since the approval of Law No. 109/96 on the social re-use of assets confiscated from mafias, sought by over one million citizens, who signed the popular petition promoted by Libera's national network in 1995.

The ethical dimension of the paths arising from the reuse of assets for social purposes is found in the co-responsibility that has transformed those assets from "exclusive" to "common" and shared goods.

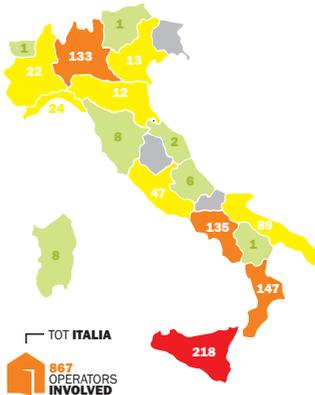


A survey by Libera has recognised, so far, **867 different operators** involved in the management of real estate confiscated from organized crime, obtained by concession from local authorities, in as many as 17 out of 20 regions.

Data collected through the territorial action of Libera's network shows that more than half of those social organisations consist of various types of associations (486), while there are 188 social cooperatives (figure including cooperatives of workers of confiscated companies and cooperative consortia). Among the other managing bodies belonging to the third sector are 11 amateur sports associations, 31 public bodies (including local health units, Park Authorities and consortia of municipalities that offer

subsidiary welfare services), 33 temporary purpose associations, 54 organisations from the religious world (dioceses, parishes and Caritas), 24 foundations, 14 scouting groups and, finally, 10 schools of different levels.

### division by region of operators involved



**OPERATORS INVOLVED IN THE MANAGEMENT CONFISCATED ASSETS**

DIVISION BY REGION

Data collect by Libera

Libera's survey does not include real estate reused for institutional purposes by state and local administrations. Sicily is the region with the most bodies managing assets confiscated from mafias, with 220 operators, followed by Calabria with 147, Campania with 138, and Lombardy 133.

The action of Libera's associative network has been mainly oriented towards information and training initiatives; social animation; support to the National Agency and the Prefectures, the Regions, local authorities and associations; civic monitoring and promotion of paths of transparency and participation in collaboration with schools, universities, dioceses, trade unions, business and professional organizations. However, the number of seizures and confiscations has now reached a considerable dimension in terms of economic and financial assets. Current competences and tools are thus insufficient for the various public and private entities called upon to intervene in the various phases of seizure, confiscation, allocation and assignment provided for in current legislation (Legislative Decree No. 159/2011, Code of Anti-Mafia Laws and subsequent amendments).

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It is therefore important to adopt the National Strategy for the public and social enhancement of confiscated assets through territorial cohesion policies to support sustainable interventions in the affected communities.

Twenty-five years after adoption of the law for social reuse, now modelled in Europe and internationally, Libera highlights some calls for action, such as:

- 1.** Implement the anti-mafia code reform in its successful innovations, in the current system of anti-mafia prevention measures, as an effective means of combating mafia assets;
- 2.** Integrate confiscation and reuse of the assets seized from corruption and economic and financial crime;
- 3.** Ensure support for the judicial authorities during the seizure phase and transparency in asset managers' duties;
- 4.** More widely disseminate provisional allocations of property and connection with their assignment after final confiscation to promote good reuse practices from the time of first instance seizure or confiscation;
- 5.** Establish a National Agency with appropriate tools, staff and knowledge, and faster and more transparent asset allocation and assignment procedures;
- 6.** Strengthen the capacity of state, regional and municipal administrations to manage assets and support local authorities in the procedures for allocating assets to associations;
- 7.** Promote reuse of confiscated assets for public and social purposes as a priority destination, providing for their sale only as a very last resort, with adequate checks and controls to avoid re-appropriation by the same mafia members;
- 8.** Ensure public access to information on seized and confiscated property and promote civic monitoring and participation of citizens and associations;
- 9.** Protect workers of seized and confiscated companies and offer adequate support to guarantee their business continuity;
- 10.** Extend confiscation and public and social reuse in Europe, through the implementation of Directive No. 42 of 2014 and the 2018 Mutual Recognition Regulation, and internationally.



A venticinque anni di distanza dall'approvazione della legge per il riutilizzo sociale, oggi presa a modello in Europa ed a livello internazionale, evidenziamo alcuni punti rispetto ai quali chiediamo:

**1** L'attuazione della riforma del Codice Antimafia nelle sue positive innovazioni, con il sistema attuale delle misure di prevenzione antimafia, quale strumento efficace di contrasto patrimoniale alle mafie e alla criminalità economica e finanziaria;

**2** La promozione del riutilizzo per finalità pubbliche e sociali dei beni confiscati quale destinazione prioritaria e la previsione della loro vendita solo come ipotesi residuale, con verifiche e controlli adeguati al fine di evitare la riappropriazione da parte degli stessi mafiosi;

**3** L'effettiva estensione ai corrotti delle norme su sequestri e confisci previste per gli appartenenti alla mafia, assicurando la piena equiparazione della confisca e del riutilizzo dei beni tolti ai corrotti. Le indagini giudiziarie degli ultimi mesi e i rapporti istituzionali evidenziano come mafie e corruzione stanno approfittando sempre di più dell'emergenza sanitaria e della crisi economica e sociale;

**4** L'introduzione di specifiche fattispecie penali dirette a sanzionare le azioni di contrasto ed elusione dei sequestri e delle confisci, non essendo talvolta sufficienti o efficaci le attuali previsioni normative;

**5** La modifica della normativa che disciplina la restituzione per equivalente dei beni immobili confiscati in caso di revoca della confisca. La restituzione per somma equivalente andrebbe

prevista come unica soluzione. Proponiamo anche di eliminare che la stessa venga posta a carico dell'amministrazione assegnataria, ma al Fondo unico giustizia;

**6** L'assegnazione di adeguati strumenti e risorse per gli uffici giudiziari che si occupano della gestione dei beni nelle fasi del sequestro e della confisca, sia in materia di prevenzione antimafia sia in ambito penale. L'adozione dei criteri uniformi e la trasparenza e rotazione degli incarichi di amministratori dei beni;

**7** La promozione - presso gli uffici giudiziari e l'Agenzia nazionale - di una maggiore diffusione delle esperienze di riutilizzo sociale dei beni con comodato d'uso gratuito - prima della confisca definitiva - con le assegnazioni provvisorie. Insieme al necessario raccordo tra la fase di sequestro e quella della confisca definitiva, e poi con la destinazione finale, al fine di non disperdere la continuità di buone pratiche attivate. Prevedendo, altresì, la stipula di appositi protocolli tra l'Agenzia e i tribunali;

**8** L'attribuzione all'Agenzia nazionale di competenze e professionalità tali da poter adempiere pienamente e senza ritardi a tutte le funzioni e compiti di gestione, destinazione, verifica e monitoraggio del riutilizzo, insieme al supporto all'Autorità giudiziaria, alle Prefetture, alle Amministrazioni locali e ai soggetti del terzo settore;

**9** La piena accessibilità delle informazioni sui beni sequestrati e confiscati e la promozione di percorsi di monitoraggio civico, di partecipazione ai cittadini e di progettazione partecipata del terzo settore;

**10** La destinazione di una quota del Fondo Unico Giustizia per rendere fruibili i beni mobili ed immobili e sostenere la continuità delle attività d'impresa, nonché per dare supporto a progetti di imprenditorialità giovanile e di economia sociale, insieme al sostegno per le vittime e i

testimoni di giustizia;

**11** La destinazione di una quota del Fondo Unico Giustizia per soddisfare i creditori riconosciuti in buona fede ed evitare che una parte di questi beni vengano messi all'asta, a partire da quelli già individuati e accantonati dall'Agenzia ai sensi della Legge 228\2012, e prevedere, invece, una loro destinazione per scopi sociali, soprattutto in questo periodo di ripartenza da pandemia

**12** Il rapido avvio delle progettualità presentate per il riutilizzo sociale dei beni inseriti nel bando dell'Agenzia di assegnazione diretta ai soggetti del terzo settore, prevedendo l'attribuzione di ulteriori risorse finanziarie per la loro sostenibilità. Possibilità di una seconda pubblicazione del bando, recuperando quei beni immobili per i quali non sono state presentate finora proposte di riutilizzo e inserendo nuovi beni per i quali si può attivare un percorso di restituzione alla comunità;

**13** La tutela dei lavoratori delle aziende sequestrate e confiscate ed un supporto adeguato al fine di garantire la loro continuità imprenditoriale, istituendo i tavoli provinciali presso le Prefetture;

**14** L'inserimento della valorizzazione pubblica e sociale dei beni confiscati nei documenti di programmazione economica e di coesione territoriale. Insieme a un percorso condiviso di utilizzo delle risorse previste nella proposta di Piano nazionale di ripresa e resilienza Next Generation Eu, assicurando trasparenza e partecipazione civica nella progettazione e nel monitoraggio;

**15** L'impegno, al Governo ed al Parlamento, nell'ambito delle rispettive competenze istituzionali, per assicurare il loro apporto alla promozione del riutilizzo pubblico e sociale dei beni sequestrati e confiscati a livello europeo ed internazionale, così come riconosciuto in Europa e nelle recenti risoluzioni delle Nazioni Unite.

## FOCUS 2

### **Stories of social reuse in Italy**

A journey through Italy to discover some stories of social reuse of assets confiscated from organised crime.

Places that have opened up to the community, that have created new social ties, but above all development policies throughout the territory.

LECCO

#### **PIZZERIA FIORE CUCINA IN LIBERTÀ**



On August 31, 1992, 'ndrangheta boss Franco Coco Trovato was arrested in the Wall Street operation of the Anti-Mafia District Directorate of Milan, conducted by then deputy prosecutor Armando Spataro. The operation is named after the pizzeria in Via Belfiore 1 owned by the Mafia family. Coco Trovato was sentenced to life imprisonment and his property seized and subsequently confiscated.

On 19 November 1994, the Court of Lecco signed an interim order for confiscation of the pizzeria and other properties in the province of Lecco. In 1996, the law on the social use of assets confiscated from the mafia was approved and the measure became final. The Municipality of Lecco requested the concession of the property through the state property agency, becoming owner only in 2006. The intention of this

first project was to transform the premises into a pizzeria; it would never be built and the entire structure would be abandoned and deteriorated for three years due to the high renovation costs.

Between September and December 2009, the Public Prosecutor's Office of Lecco requested the Municipality to take possession of the building, in exchange for two other confiscated assets, the Giglio pizzeria and an apartment in Viale Adamelio. The Municipality, at the time under extraordinary administration, accepted the request and the premises became the Prefecture's responsibility. Since 2010, it has been used as a provisional archive of the Prefecture of Lecco.

In 2011, Libera Lecco Group, wondering how to use the confiscated property, proposed to create a pizzeria of legality. The new cultural and entrepreneurial project "I saperi e i sapori della legalità" (The knowledge and flavours of legality) was presented to then prefect Marco Valentini.



This is not only a public pizzeria, but also a space for promotion of a culture of democratic legality. The Municipality and the Prefecture welcomed the Libera project and in April 2012 asked the National Agency for the Administration and Allocation of Assets Seized and Confiscated from Organised Crime to transfer ownership of the premises back to the Municipality. In April 2013, the confirmation arrived and on 29 May of the same year the Agency signed the allocation decree. The asset is again the Municipality's responsibility. Before being able to use the facility, all files had to be transferred from the Prefecture's interim archive. The move started six months later and ended in April 2014.

On 16 May 2014, the Lombardy Region also joined the project. The Board approved a memorandum of understanding, which was signed by the Region, Municipality, Prefecture, and ALER

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(Lombardy residential construction company responsible for the renovation) and Libera. After some initial difficulties, the work was completed at the end of 2015.

In March 2015, the Municipality published the first notice of assignment, but the entity concerned decided to withdraw. On 25 May of the same year, the temporary association of purpose (Tap), composed of the social cooperative La Fabbrica in Olinda, Milan, Arci Lecco and Auser Lecco participated in the RFP with a management project. The Municipality decided to entrust them with the premises and in January 2016 the free management contract was signed. Finally, on 1 April 2017, the new restaurant and pizzeria, “FIORE - CUCINA IN LIBERTÀ” was born. It allowed starting work reintegration paths for disadvantaged people.

*from: [fiorecucina.org/project](http://fiorecucina.org/project)*

MILANO

### **CASA CHIARAVALLE**



Casa Chiaravalle is the largest confiscated asset in Northern Italy. It consists of two villas surrounded by greenery, heritage of the Mollusos, 'ndrangheta clan near the Barbaro-Papalia. It was private wealth, ostentation of illicit pride, possible thanks to the network of crime and omission that characterises the mafia and that is also plaguing Northern Italy. However, seizure took place in 2008; in 2012, confiscation; 1600 square

meters of housing, 200 of forest and 7 hectares of agricultural land finally returned to the community.

The reuse experience is the result of a shared path, which involved many subjects including Passepartout – Network of Social Enterprises (which brings together La Cordata, FuoriLuoghi, Tuttinsieme, Progetto Integrazione e Genera), institutional partners (the social policies council of the Municipality of Milan, the Metropolitan City, MM Milan metropolitan society), some social private sector entities and civil society organizations. Passepartout, Bpm Spa and the Friends of Casa Chiaravalle association were specifically involved in the renovation.

Casa Chiaravalle makes social diversity its strength, both through the origin of the people who live there (foreign and Italian women victims of violence with their children and families) and the diversity of life paths of the guests who come from the Cas (Extraordinary Reception Centres) as well as from the municipal Tsr lists (temporary social residency).

The fundamental objective of this reuse practice is to guarantee the 70 people who live there a unique housing, cultural and educational mix. They are surrounded by Passepartout operators who guarantee constant daily supervision and support, non-profit associations and volunteer citizens who help everyone together to grow the forest, vegetable and flower gardens and to promote job training paths. These include a tailoring workshop started with the donation of four sewing machines; the Food Forest project (in collaboration with the City Forest Community), which provides for the shared construction of a natural forest and a permaculture workshop; the European Food Relations project, which speaks of food as a vehicle for intercultural dialogue in collaboration with the NGO Acra and the Kamba Food association, and the Italian language school for asylum seekers and refugees (entrusted to NoWalls and also open to residents of foreign origin who inhabit the territory).

ROMA

**COLLINA DELLA PACE**



The story of this confiscated asset began in 2001. The area, in Borgata Finocchio (along Via Casilina), was confiscated from Enrico Nicoletti, the Magliana Gang cashier, who had illegally built a six-storey building there to be used as a hotel. Through the commitment and implementation of participatory processes, between 1994 and 2002, the space was allocated to the community as public green space and for social activities, as required by Law 109 of 1996.

In 2002, the “Collina della Pace” association asked citizens to propose a draft project to the institutions, expressing themselves with a survey. The idea of building a shopping centre, as other subjects proposed to the City and the Municipality, was scrapped, and the “multipurpose cultural centre” project was born. This comprised a media library, a playroom, a small café, and a 70 sqm conference room to be allocated to associations in rotating turns.

In May 2004, the economster was finally shot down.

On 17 December 2007, the Collina della Pace Park, dedicated to the memory of Peppino Impastato, victim of the Sicilian mafia, was inaugurated with the president of Libera don Luigi Ciotti.

Since then, unfortunately, there have been several obstacles to tackle. They began in 2009, when the VI Municipality of Rome tried to dismantle the project built by the territorial

associations to create a youth gathering centre with the help of the Curia. Thanks to the citizens' demands, in 2011, work began on the farmhouses surrounded by 13,000 square meters of public green. Over the years, to keep attention high, many demonstrations have been organised by the "Collina della Pace" association, anti-mafia sentinel in the territory. Finally, on 23 April 2016, the municipal library "Collina della Pace" was inaugurated as a public culture and community regeneration centre.

SCAFATI (SALERNO)

### **THE NICOLA NAPPO AGRICULTURAL FUND**



The experience of the Nicola Nappo Agricultural Fund took its first steps in the second half of 2018. The assignment to the Special-Purpose Temporary Association Terra Vi.Va. is the last act of a path the Municipality of Scafati initiated in July 2017 in the province of Salerno, at that time under the guidance of an extraordinary Commission following the dissolution of the Municipal Council for Mafia infiltrations. The Commission, also thanks to Libera's support, decided to issue a call for proposal for the 11 hectares of agricultural land confiscated from camorra boss Pasquale Galasso, subject to a final confiscation dating back to 2007 but transferred to the Municipality's assets only in 2016 and, for all this time, occupied and used without title.

One year after the publication of the call, the land was

allocated for ten years to Terra Vi.Va., finally liberated and returned to the community thanks to a social reuse project based on the agricultural production of some valuable local products.

The project actually goes far beyond agriculture. These lands, adjacent to the castle in which Galasso had lived, today also confiscated and home to the Guardia di Finanza, are intended to be made a symbol of concrete legality and an opportunity for redemption, dignity, work and development.

The Fund is named after Nicola Nappo, a 23-year-old man killed by mistake in Poggiomarino, not far from the land, on 9 July 2009. It is the largest asset confiscated for agricultural purposes in the province of Salerno. The central idea of the reuse project is to restore and redevelop the entire area of the asset, make it a safeguard of legality in the territory, and develop a sustainable and quality agriculture experience, based on respect for the dignity of work and the environment. These objectives have been pursued with sacrifice and perseverance in recent years, during which the confiscated land has changed its face, becoming a real point of reference for the entire territory. The redevelopment work characterized the entire first phase of the activities. It was followed by the first important initiatives of social animation and re-functionalization of the asset, starting from the extraordinary experience of the Urban Gardens. They occupy an area equal to about 7% of the confiscated land and involve about 70 orchard workers. The actual agricultural production then began with the cultivation of PDO “cipollotto nocerino” onions and PDO San Marzano tomato, among other products. Tomatoes were then transformed into peeled tomatoes, thanks to collaboration with some local companies, and marketed under the Fund’s brand name.

The asset also hosted volunteers of E!State Liberi, the engagement and training camps on confiscated assets sponsored by Libera, which brought volunteers to Scafati from all over Italy (and beyond) to support the activities of the Fund.

Meanwhile, a new didactic and educational path was created with the involvement of schools and universities, which has led many students to rediscover contact with nature and the earth through direct experiences.

Among its main outputs, the project envisages the creation of a cooperative through the involvement of young people from the territory to provide a concrete opportunity for growth and work.

Thanks to the work of Libera Scafati Group, also dedicated to Nicola Nappo, and the experience of the Fund, the memory of this young innocent victim of the Camorra has become a collective heritage. Nicola's parents themselves concretely live the experience of the Fund, regularly meeting activists and volunteers, to tell their son's story to the many people who visit a place that, until a few years ago, was a symbol of criminal and mafia power in the territory and today is a seed of hope and change.

TRAPANI

### **CALCESTRUZZI ERICINA LIBERA**



The company, which was seized in August 1996 and finally confiscated in June 2000, belonged to the sons of the boss Vincenzo Virga.

The first problems arose in February and March 2001, coinciding with Virga's arrest, when the orders began to decrease systematically, and the Mafia power made several attempts to bankrupt Calcestruzzi so that it could then be bought back at rock-bottom prices. Then, a long and difficult journey began that, thanks to the commitment of many, starting with the workers of the same company, overcame all

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attempts at boycott and mafia penetration, and today allows creating a new healthy and clean company.

As required by Law 109 of 1996 on the social use of assets confiscated from mafias, in fact, the company assets of Calcestruzzi Ericina are entrusted to the cooperative constituted by the workers of the company: Calcestruzzi Ericina Libera, officially presented on 9 February 2009.



In the most difficult years, the contribution of the Libera association, the Prefecture of Trapani and local administrations was fundamental to increasing the production of concrete and ensuring that employment levels did not decrease. In the vicinity of the completely renovated facilities, a technologically advanced aggregate recycling plant for Italy was built in the Trapani plant area. This has given rise to a real business chain, which makes it possible to recover materials that would otherwise end up in landfills, or worse still, abandoned in the environment, and transform them into a resource. This important result was made possible by the joint action of the Institutions (Prefecture of Trapani, law enforcement and Public Prosecutor's Office, State Agency, Sicily Region), Libera's constant commitment, the contribution of private companies and trade associations (Unipol Banca, Anpar and Lega Coop), and the passion and sense of responsibility of those who managed the company on behalf of the State and those who continued to work there. Thanks to the tenacity of all workers and of civil society, in 2005, Calcestruzzi Ericina had the most important order in its history: 4 million euros for supplies to the America's Cup international tournament.

Today, the new company is aiming for an important role in the construction market, made even more difficult by the invasive presence of criminal and mafia organizations.

## FOCUS 3

### **European commitment**

The social and economic prevention of criminal phenomena at European level began as early as 1997 with the first hearing in the European Parliament. Thanks to Libera's growing commitment to promoting such prevention, an increasingly strong action has been structured to promote the public and social reuse of confiscated property also abroad, as a key tool for activating communities against criminal infiltration and for the recovery of movable and immovable property, creating new vectors of social and economic welfare.

Libera has always believed that repression should be complemented by a greater involvement of civil society, as also reaffirmed by the association at the international level during the tenth session of the United Nations Convention against Transnational Organised Crime. Furthermore, this direct commitment by citizens should be achieved mainly through support of reporting and clarity of information to build a common strategy to prevent and combat *Serious and Organised Crime*.

#### **Libera's stages**

For 25 years, Libera has also been present at European level in the support of associations and authorities that encourage promoting the reuse of confiscated assets for public and social purposes. At the same time, with the multiple realities committed to promoting social justice in Europe, it brings this legal instrument as best practice to be implemented nationally, showing its potential at institutional level and building training courses with associations and social enterprises throughout Europe.

This European commitment has been translated into a number of key steps:

**1997** Libera's public hearing in the European Parliament within the Resolution for the action plan against organised crime.

**2009** presented to the Committee on Civil Liberties, Justice

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and Home Affairs (LIBE), the proposal for a Directive on the seizure and confiscation of criminal property, in which Libera supported the inclusion of public and social re-use of confiscated property.

**2012** support to the Special Commission on organised crime, corruption and money laundering (CRIM), for development of a European strategy against criminal systems.

**2015** Cosponsor of the Parliamentary Intergroup on transparency, the fight against corruption and organised crime (ITCO).

**2015** (to date) Libera is involved as a consultant in the ARO Platform (Asset Recovery Offices Platform) promoted by the European Commission and Europol.

### **CHANCE Network**

#### **Civil Hub Against organised Crime in Europe**

The end of 2016 brought the first steps of the network CHANCE - Civil Hub Against organised Crime in Europe, promoted by Libera with associations, activists and informal groups from more than 10 European countries. This new European network of organised civil society aims to respond to the need to effectively counter the economic and social power of criminal and corrupt systems as a common European priority.

On 3 April 2019, the CHANCE network presented its Political Agenda to the European Parliament on 15 thematic points, from proposing a new common definition on the subject of "organised crime" to strengthening confiscation instruments through the public and social reuse of property. This network aims to bring the fight against Serious and organised crime and corruption to the centre of the European debate. The CHANCE network represents a new opportunity to address these criminal phenomena, parasites of society and the economic system, with new strategic directions that start from sharing innovative tools and good practices, without neglecting dialogue with the institutions of reference.

The network was immediately engaged in a number of joint actions, from preparation of thematic reports such as "Free

Your Ideas” (first qualitative analysis of the perception of organised crime in Romania, Germany, France and Belgium) to promotion of international events including “COREACT – How to work together for a just society” in Berlin, where more than 300 activists, associations and citizens have shared innovative methods and tools against mafias, crime and corruption for an increasingly fair and supportive Europe.

In particular, the promotion of public and social reuse of criminal property is a central objective of the Political Agenda and, at the same time, of the activities carried out by the network, favouring its deepening and discussion in the design and institutional context.

### **The Political Agenda and promotion of public and social reuse of confiscated property in Europe**

The political agenda of CHANCE aims to strengthen the fight against organised crime and corruption throughout Europe with the European institutions to:

- share the need to implement common work on the social and cultural level;
- propose new tools to improve the perception of the criminal and mafia phenomenon;
- support the growth of a civil society network, based on the promotion of social justice and the fight against organised crime and corruption, capable of interacting with national and European institutions.

The agenda, composed of 15 political points, focuses specifically on promoting the reuse of confiscated assets for public and social purposes, indicating some actions to be implemented so that this good practice is increasingly widespread and practiced within and outside the European Union.

*“That is why we call for strengthening the fight against organised crime and the confiscation of criminal assets. Based on the new Regulation 1805/2018 for the mutual recognition of freezing and confiscation orders and Directive 42/2014, we*

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ask to:

- (1) push for the harmonisation of rules against organised crime at European level, in line with the European Commission's European Agenda on Security (July 2017), with a specific focus on promoting the public and social re-use of criminal property, both directly and indirectly;
- (2) strengthen the ARO – Asset Recovery Offices – platform to be able to provide for justice any relevant economic and financial information on natural and legal persons;
- (3) strengthen the AMO – Asset Management Offices – platform as a key tool to encourage the exchange of knowledge and good practices on the management of seized/confiscated assets;
- (4) encourage the provision and use of non-conviction-based confiscation measures, including asset prevention, with a specific Directive that includes due process guarantees;
- (5) set up a fund dedicated to reuse of confiscated assets through Cohesion Policies in 2021-2027 programming, encouraging the creation of a European strategy for public and social allocation of criminal assets.”

### PUBLIC AND SOCIAL RE-USE OF CONFISCATED ASSETS

Twenty years after the adoption of the United Nations' Palermo Convention, we have to stop and think about what Europe has achieved in the fight against organised crime and money laundering. We have to duly consider and assess the important instruments put in place to date, such as Directive 2014/42 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. Since its first hearing at the European Parliament in 1997, Libera has always believed that repressive action should be complemented by a greater involvement of civil society and for this reason we have directly supported the introduction of the possibility to re-use confiscated assets for public and social purposes in all Europe, not only in European Member States.

**Together with CHANCE - Civil Hub Against organised Crime in Europe - network we want to say out loud: it's time to act!**



it's time to  
**ACT!**

### WE CALL FOR

better harmonization of rules for combating organised crime at the EU level, in line with the European Security Agenda of the European Commission, with specific focus on the public and social re-use of criminal assets, both directly and indirectly the ARO platform (Asset Recovery Offices) to be strengthened to provide any relevant financial information on natural and legal persons for justice purposes the AMO platform (Asset Management Offices) to be boosted, as a key tool in promoting the exchange of knowledge and good practices on the management of seized/confiscated assets greater provision and recourse to non-conviction based confiscation measures, including those for patrimonial prevention, through a specific Directive that includes the guarantee of a fair trial a fund dedicated to the re-use of confiscated assets through the Cohesion Policies in the 2021- 2027 programming period, encouraging the creation of a European strategy for the public and social destination of criminal assets.

## **From action to construction. Projects to promote public and social re-use of confiscated property in Europe**

Libera advocacy and the European CHANCE network have increasingly become concrete projects to be developed in collaboration with other associations and international organisations at European level. In fact, the projects make it possible to increase awareness and knowledge of the public and social reuse of confiscated property in European countries, providing the opportunity to meet with other institutional representatives and professionals in the sector.

Some of the ongoing European projects in which Libera collaborates on the public and social reuse of confiscated property are:

### **RISE-Alb**

#### **Strengthening Social Entrepreneurship in Albania: development of social enterprises on confiscated assets in Albania (2019/2022)**

The project is financed by the Italian Agency for Cooperation and Development and is led by the Engim International association. Libera's role refers to training activities for young leaders and Albanian institutional representatives (confiscated property agency, Ministry of Welfare, Municipality of Fier and Permet), and organization of guided tours on confiscated property in Italy to learn about concrete experiences of public and social reuse of confiscated property as responsible and participatory citizenship practices.

### **Good(s) Monitoring, Europe! (2020/2021)**

The project is financed by the European Commission Directorate General of Regional and Urban Policy (REGIO). Libera is the only beneficiary in enhancing the role of non-profit organisations that already manage assets confiscated in Europe or that could do so, with the aim of creating an informal European network of monitoring communities. An analysis is planned of the impact of Cohesion Policies on the possibility of reusing confiscated assets, mapping the

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implementation of Article 10.3 of Directive 2014/42/EU in EU Member States. As a final commitment, Libera and the operators involved will propose the adoption of a European strategy for public and social reuse of confiscated assets through cohesion policies, to locally establish discussion groups with the competent authorities and the economic and social partnership.

## FOCUS 4

### **Libera Terra**

**Libera Terra** is an entrepreneurial reality based on cooperation, created at the instigation of the association Libera. Associazioni, nomi e numeri contro le mafie. Today, Libera Terra brings together nine social cooperatives and a consortium that is also a social and non-profit cooperative. **Social and agricultural cooperatives** manage **land and real estate confiscated from mafias** in **Sicily, Calabria, Puglia and Campania**. They involve in their revival those **organic farmers in Southern Italy** who share their principles.

Libera Terra's ultimate goal is to **restore dignity, value and beauty to gorgeous but difficult territories**, through the recovery of assets confiscated from mafias, to create economically healthy cooperative businesses able to generate employment and wealth spillover, and to produce **quality agri-food products** obtained with eco-friendly and human-friendly methods. Through these activities, Libera Terra aims to promote a **virtuous and sustainable economic system** based on **legality, social justice** and the **market**.

Thanks to Libera Terra's activities, over the years, cultivating land removed from organised crime and creating **quality organic products** has thus become a tool to stimulate **social, economic and cultural change** in territories historically characterized by a strong presence of organised crime.

#### **Libera Terra project guidelines, stages and stakeholders**

In 2000, Libera supported the creation of Libera Terra to promote the practical implementation of Law 109 of 1996 and demonstrate that reusing confiscated assets could be a great opportunity for economic development, employment and redemption of territories oppressed by mafias.

The project sets out some guidelines to follow for enhancement of the territories in which the Libera Terra cooperatives operate:

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**Quality:** both in the production and management processes of cooperatives and Libera Terra agri-food products.

**Excellence:** intended as a guidepost for continuous improvement.

**Organic production:** Libera Terra cooperatives cultivate on lands confiscated for pre-set periods of time that are limited to the period of management. That is, these lands are common assets assigned to them only for a given time. Therefore, it is crucial for the organic method to be used, as it not only avoids depleting these lands, but also increases their value for future generations.

**Sustainability:** in terms of social, environmental, and economic activities of the Libera Terra cooperatives.

**Involvement:** meant as a continuous effort towards involving local communities in reuse of confiscated assets and action aimed at ensuring broader impact of benefits on the community;

**Continuous monitoring** of activities.

The first Libera Terra cooperative was founded in 2001, named after Placido Rizzotto, a Corleonese trade unionist killed by the mafia in 1948. The cooperative was entrusted with assets confiscated from the mafia in the Municipalities of Alto Belize Corleonese, Palermo province, gathered in the Consorzio Sviluppo e Legalità.

The first Libera Terra product, pasta, was launched in 2002, followed by many other products in later years. At the same time, other Libera Terra cooperatives were born: Valle del Marro cooperative in Calabria (2004), Pio La Torre cooperative in Sicily (2007), Terre di Puglia cooperative (2008), Beppe Montana cooperative in Sicily (2010), le Terre di Don Peppe Diana cooperative in Campania (2010), Rosario Livatino cooperative in Sicily (2012), Terre Joniche cooperative in Calabria (2013) and Rita Atria cooperative in Sicily (2014).

Libera Terra cooperatives are class B social cooperatives, all established by public tender, which temporarily manage assets seized and/or confiscated from mafias (usually concessions of 20-30 years), largely consisting of agricultural land.

The decision to establish the cooperatives by public tender was taken to meet a dual objective. One was public evidence in the procedures for allocation of confiscated assets, initially not provided for by the legislation. The other was to ensure maximum openness and transparency in local communities' involvement in the projects for reuse of the assets.

Libera Terra cooperatives are, therefore, the heart of the entire project. They are the operational tool through which groups of people come together to undertake an entrepreneurial path with strong ethical and social characteristics and great impact on the territory through the social and productive reuse of assets removed from the mafias. Moreover, because they are agricultural businesses, their main specific activity is recovery and cultivation of the lands assigned to them.

In 2006, some important cooperatives, mostly members of the Legacoop Bologna cooperative association, supported the establishment of Cooperare con Libera Terra – Agenzia per lo sviluppo cooperativo e della legalità, an association for cooperative development and legality. The association was founded with the aim of consolidating and supporting the economic-entrepreneurial development of Libera member cooperatives that manage assets confiscated from mafias, through the sharing of skills and expertise of associated bodies.

Libera Terra Mediterraneo was born in 2008. It is a consortium, a non-for-profit social cooperative, which brings together Libera Terra cooperatives along with other operators sharing its values and objectives.

The consortium was established with the aim of pooling the agricultural activities of Libera Terra cooperatives, enhancing their production, and entering the market jointly and effectively. Therefore, Libera Terra Mediterraneo coordinates the cooperatives' production activities and follows the transformation of agricultural raw materials into finished products, taking care of all phases of product development, from conception to marketing, seed-to-shelf.

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The production and marketing of products with a great value-price ratio, ensuring repeat purchases by the customers, enables Libera Terra's sustainability, generating employment and dissemination of a virtuous economic system.

[www.liberaterra.it](http://www.liberaterra.it)



**100ha**  
**1400ha**

**Number of hectares managed  
by Libera Terra cooperatives**

From the initial **100ha** of Placido Rizzotto cooperative to about **1400ha** of the 9 cooperatives today



**170**  
**yearly**

**Workers involved**  
*in the 9 cooperatives  
and the Consortium*



**90**  
**members**

**Cooperative Members**

**58** workers

**12** volunteers

**20** sponsors

**LIBERATERRA**

## FOCUS 5

### **E!State Liberi!**

#### **engagement and training camps on confiscated assets from organised crime**



Libera has created a direct and real action that, through the participation of thousands of people, has become an important tool to combat mafia organizations: E!State Liberi! - summer camps - engagement and training camps on confiscated assets.

E!State Liberi! summer camps are an all-encompassing training experience, where young people from all over Italy and/or abroad have the real opportunity to spend a week (or more) of their summer on a journey of experience on land and property once owned by bosses and now reused for social purposes by associations and cooperatives. From assets confiscated from mafias to venues of civil and social engage-

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ment, participants have the opportunity to experience sharing, exchange, training and real engagement.

Specifically, a camp day is divided into three key moments:

- **Manual commitment** alongside the activities of the cooperative/association that manages the confiscated asset; enhancement interventions on confiscated assets and on the surrounding territory;
- **Training activities** on the themes of democratic legality and social anti-mafia, starting from the territory and history of confiscated property;
- **Entertainment-cultural insights** and/or public meetings open to citizens.

E!State Liberi! camps are therefore part of the daily action of Libera and its network throughout Italy, with the aim of strengthening existing projects and enhance and illuminating their positivity while generating new paths of activism.

Thanks to the commitment of many Libera volunteers every year, the camps run throughout Italy in 60 locations across 14 regions. From the Piana di Gioia Tauro on the properties confiscated from the Ndrangheta, to the lands once belonging to the bosses Brusca and Riina in Sicily, through Apulia on the estates confiscated from the Mafia families of the Sacra Corona Unita, to the assets of the Camorra clans, to the hidden treasures of the Ndrangheta in Lombardy and Piedmont.

This offer takes into account all types of participation, differentiated with dedicated proposals: camps for minors, adults and groups. The first two types are dedicated to individual participation. The last, on the other hand, is reserved for pre-established groups such as scout groups, parish groups, associations, etc.



In 2019, more than 3,000 participants chose to spend some of their free time with Libera. Most of them, 8 out of 10, are students between the ages of 14 and 25.

Those who participate in the fields of Engagement and Training fit into a context of daily mobilization, wide and participatory, which involves Libera's coordination and local groups, social cooperatives, associations and realities active in its network. Participating means taking part in that movement aiming to transform the territories and places where mafias and criminal powers act, proposing an alternative social, environmental, cultural and economic model. In this context, confiscated assets are the engine of the territories' physical and social transformation. From a symbol of mafia power, they become common assets open to the community and attentive to its needs, where healthy work, respect for people and the environment, rights, solidarity and social inclusion become the coordinates of a new paradigm.

We believe that this challenge is in step with the times, in Italy as well as in Europe, indispensable in accompanying the action of the police and the judiciary with social commitment and co-responsibility. Organised crime has crossed every geographical boundary and permeated the international scene at all



The E!State Liberi! sector organizes the international camps according to the requests of the group of participants. The organization of an international camp provides for the involvement of the host group already in the project's embryonic phase to listen to the requests and to structure together the training proposal and the logistical aspects related to the experience.



*“Now that I am at home, I see how the behaviours that have allowed so much harm to be done to those lands are increasingly rooted here too. Indifference to what is public and common endangers everyone's happiness. Thus, only by talking about it and pushing those around us to reflect can we hope to reverse this trend, starting from ourselves. The volunteering camp made me realize that the individual's happiness depends on the well-being of the community. Once that is understood, commitment to the community is no longer a heavy duty or a hobby, but one of the elements that allow us to live really well with ourselves.*

Federico, Milan (CastelVolturno camp)

levels. It is therefore necessary to organise a new idea of civil and responsible society that can culturally oppose mafia violence, also at European and international level.

For this reason, Libera values the cultural and educational processes that involve countries other than Italy. In fact, more and more young people are coming from abroad, also thanks to Libera's activities in Europe and collaborations with companies operating in various countries: France, Belgium, Germany, the Balkan area, and the United States are just some of the areas of origin of the participants in E!State Liberi! summer camps. In 2019 alone, almost 100 participants from abroad chose Libera's camps in Italy. They met people and heard stories from the territories that hosted them, concretely supporting the social reuse paths of confiscated assets and learning of the potential social reuse of confiscated assets through direct testimonies. Daily training activities also include the links that connect Italian mafias to international scenarios and crime.



For groups from abroad who want to participate in E!state Liberi camps, we therefore propose the international camps, which have two main components:

- Volunteering. Participants have the opportunity to use their creativity and skills to improve the condition of confiscated assets such as buildings and land through manual work such as painting and landscaping. The activities include urban regeneration of public spaces, social animation in neighbourhoods, and solidarity activities.
- Training. Participants will be able to meet industry experts, activists and family members of victims of organised crime to hear their stories. They will also engage in workshops, seminars and interactive activities such as field visits.

## CONCLUSIONS

### **Assets confiscated from mafias: benefits and critical issues**

A reflection by Luigi Ciotti 25 years after Law No. 109/96 for the social use of confiscated property

#### **Achievements of a 25-year journey**

Pope Francis called them “Gyms of life” on 21 September 2017 in meeting with the members of the Parliamentary Anti-Mafia Committee. This was on the anniversary of the death of Judge Rosario Livatino, who was proclaimed “Blessed” a few days ago. “Assets confiscated from mafias and converted to social use represent authentic gyms of life,” Pope Francis said. Then, he added, “fighting mafias also means reclaiming, transforming, and building.”

Twenty-five years have passed since the approval of Law No. 109 of 7 March 1996, which supplemented Rognoni-La Torre Law of 1982 on returning assets removed from the Mafia to the community. This intuition and dream came true in Palermo, Sicily, and then throughout Italy, keeping alive the memory of the innocent victims of criminal and mafia violence. Mafia clans have always tried to hinder anti-mafia prevention tools, because they have hit hard their economic power and control over the territory. They have attempted elusive actions, from influencing to damaging and sometimes destroying such assets. Today, it is certainly possible to take stock of the social reuse of confiscated assets. We highlight first of all the achievements of a path and many experiences born thanks to the presence of real estate, movable and corporate assets, removed from mafias' availability, from the various forms of economic and financial crime (from money laundering to usury, from labour exploitation to “ecomafias”) and corruption. Such assets have become opportunities for a dependable engagement aiming at the common good. Today, more than 900 associations and cooperatives have been assigned confiscated real estate and business assets. They are engaged in their management for inclusion purposes, cooperative

promotion and social economy, youth aggregation and services to people, urban regeneration and environmental sustainability. Assets confiscated throughout Italy have been assigned to more than 1000 Municipalities. Final confiscations have taken place in every Italian region. During this pandemic period, many solidarity and co-responsibility actions have addressed the most fragile and neediest people. Social realities that manage assets confiscated from criminal organizations are also playing an important role.

### **Numbers and critical issues**

However, the number of seizures and confiscations has now reached such a considerable amount that it is necessary to ensure adequate organisation, planning, skills, resources and tools at all stages of seizure, confiscation, destination and assignment provided for by the new anti-mafia laws. For example, management capacity is often weak, the asset presents various issues, the connection between the judicial and administrative phases is not smooth, information is still only partially transparent, and implementing concrete sustainable planning is not easy. Among the main problems that have slowed down the effective reuse of confiscated assets is the lack or insufficiency of financial resources necessary to ensure real estate renovation and conversion, linked to the needs of the context in which the assets are located.

### **Confiscated real estate**

Since 1982, more than 35,000 real estate properties (land registry plots) have been permanently confiscated. About 16,500 have been assigned and delivered by the National Agency for Institutional and Social Purposes. Of the almost 19,000 real estate units the Agency manages (data updated to date), 11,000 are definitively confiscated (data as of 31 December 2020) and remain to be allocated because they often present various forms of criticality (undivided quotas, urban irregularities, illegal employment and shabby structural conditions). A substantial part, 4,868 according to data on 31 December 2020, however, were frozen pending completion of the procedures for verifying third parties' bona fide credits. Finally, 3,100 real estate properties received no expressions of

interest from state administrations and local authorities, which therefore did not give a positive opinion on their inclusion in their real estate assets. Finally, from a survey the National Agency launched in 2019, on a sample of about 6,000 real estate units allocated to municipal administrations, from the findings received on 2,600 assets, it appears that just over half of the assets were then actually reused. In this respect, the new call by the National Agency for Direct Allocation of Real Estate to Third Sector Entities can be an important opportunity. However, the surveys performed revealed several problems on the state of the properties (Giovani Siciliani and Arci Sicilia have highlighted and publicly denounced some of these situations in the province of Catania and Sicily).

### **Confiscated companies**

Most of the confiscated business are entrusted to the Authorities without a real operational capacity. They are often headed towards liquidation and closure, unless effective action is taken in the previous phases. However, many are empty boxes, shell or front companies without any potential to emerge and regenerate. Of a total of approximately 4,200 companies confiscated since 1982, almost all of those assigned have been liquidated, while a further 2,860 remain under the Agency's management. Of these latter, however, according to data from a year ago, 1,931 companies were under permanent confiscation and only 481 were active. This is confirmed by the assignment balance for 2019: out of 441 companies assigned, as many as 439 were liquidated and 2 put up for sale. Very few companies are therefore assigned to workers' cooperatives, a path to be followed, when possible, with more strength and support and accompaniment tools. More emphasis should also be put on youth entrepreneurship, cooperation and social economy projects. It will also be important to promote solidarity chains among companies seized and confiscated in some geographical and/or production areas. These can represent a positive stimulus to the search for further solutions for companies and to create real partnerships useful for their survival and production continuity. The 2017 reform of the anti-mafia code introduced a positive change, providing for the start of corporate reorganization already from the seizure phase, after the programme

proposed by the official receiver is authorized by the chief justice. Still, more needs to be invested in skills and professionalism for a change in this direction.

### **Proposals for improvement**

From the perspective of the reuse of confiscated assets, mafias have become a social issue with roots in corruption, indifference and individualism. That is an evil that can only be overcome through a collective commitment to reducing inequalities and promoting paths of social justice. The ever-increasing heritage of movable, immovable and corporate assets seized and confiscated from mafias, economic crime and corruption could make a great contribution to efforts to ensure Italy's recovery after the pandemic. More so, if all assets were quickly returned to the community, and if social policies became a political priority in support of housing rights, public health, environmental sustainability, decent work and educational and cultural pathways. From this point of view, including the public and social enhancement of confiscated property in the main economic planning and territorial cohesion documents is a step in the right direction (National Strategy approved in 2018, Plan for the South 2030, Partnership Agreement for the use of national and European cohesion funds, and draft of the Next Generation EU National Recovery and Resilience Plan).

At the same time, the following actions are urgent:

- Implement the extension of the rules on seizures and confiscations envisaged for mafia members to “corruption,” and ensure full equality of the confiscation and reuse of the assets seized from corruption and economic and financial crime.
- Ensure adequate tools and resources to the judiciary dealing with asset management in the phases of seizure and first degree confiscation;
- Promote greater dissemination of experiences of early reuse of assets before the final confiscation with provisional assignments. However, a smooth connection with the final assignment phase is required to avoid diluting the continuity of good practices; provide for special protocols to be entered into by and between the Agency and the

- courts to ensure connection between the court's provisional assignment and the final allocation of the asset;
- Assign competences and human resources to the National Agency to enable it to fully and promptly fulfil all the functions and tasks of management, assignment, verification and monitoring of reuse, while supporting the Judicial Authority, the Prefectures and local administrations, primarily Municipalities;
  - Full transparency and access to all information on confiscated assets, to ensure the widest participation of citizens and associations;
  - Allocation of a share of the cash and capital confiscated from mafia and corruption to make all movable and immovable property usable and to support the continuity of business activities, providing access to credit and safeguarding jobs. In the last eleven years, the resources transferred from the Single Fund for Justice to the State reached almost €2 billion. Moreover, youth entrepreneurship and social economy projects should be supported along with support for victims and prosecution witnesses.

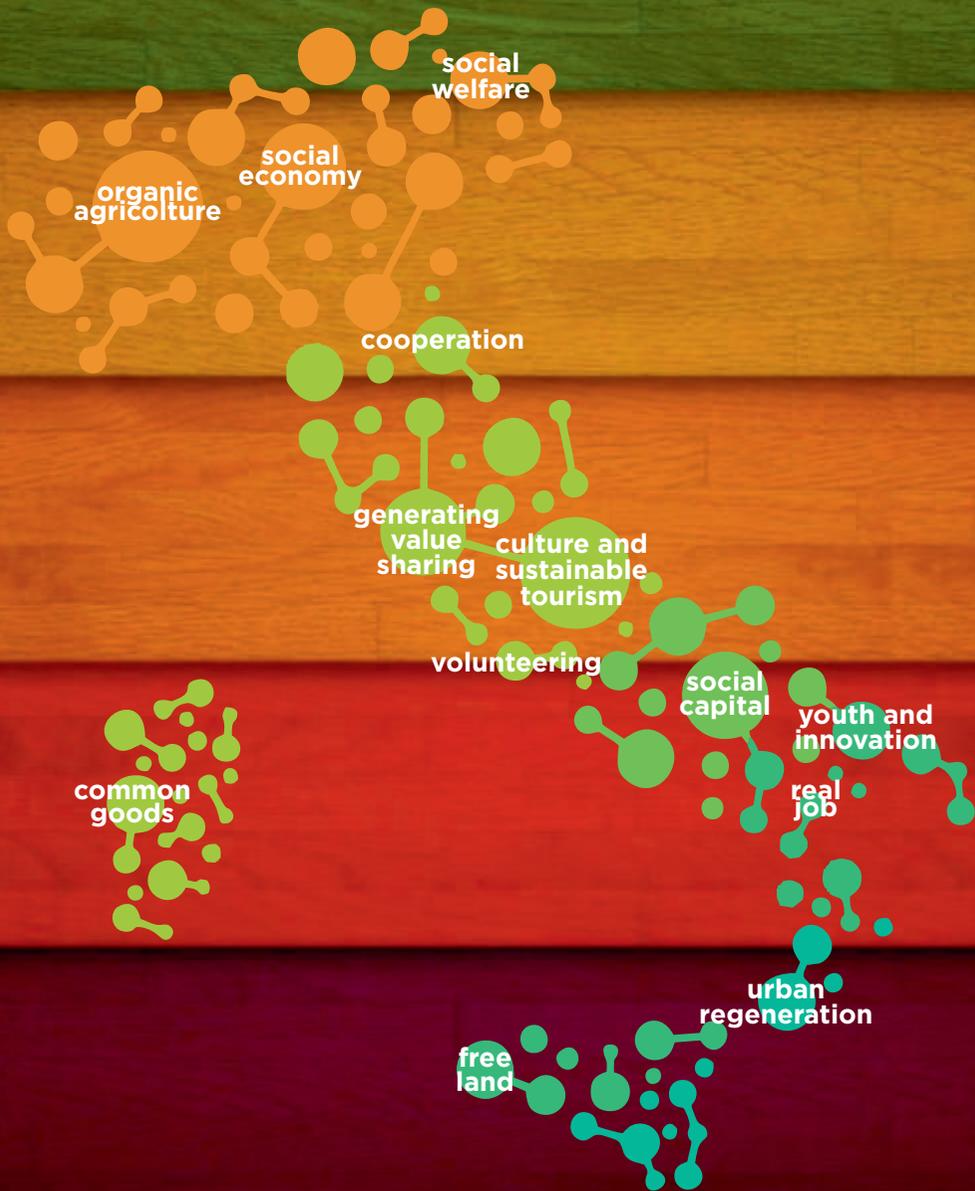
### **Public and social re-use of confiscated property in Europe and internationally**

Many countries in Europe and Latin America take Italian legislation as a reference to find new solutions to deal with these issues. This is why Libera, through the European association network CHANCE and Latin American ALAS, called for the extension of confiscation and public and social reuse experiences of confiscated property as contributions to this target. Against this background, European Directive No. 42 of 2014 was approved six years ago. It recommends that "Member States consider taking measures allowing confiscated property to be used for public interest or social purposes." The Eighth Conference of the States Parties to the United Nations Convention against Corruption concluded, on 20 December 2019, with the adoption of a Resolution explicitly mentioning the reuse for social purposes of confiscated assets as a model that States Parties are encouraged to take into account. Additionally, last October, during the Conference of the Parties to the United Nations Convention against

Transnational Organised Crime on its twentieth anniversary, a resolution was adopted to strengthen the fight against the economic dimension of crime, for cooperation for the purpose of confiscation, with explicit mention of the social reuse of confiscated assets.







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