

The National Strategy for the enhancement of confiscated assets in Italy

Antonio Balsamo



The international horizon: the last Conference of the Parties to the UNTOC...

Resolution 10/4, adopted on 16 October 2020

Celebrating the twentieth anniversary of the adoption of the United Nations Convention against Transnational Organized Crime and promoting its effective implementation

OP 9

Encourages States parties to consider, at the domestic level, and bearing in mind article 14 of the Convention, various possible models of disposal of confiscated proceeds of crimes covered by the Convention and the Protocols thereto, in accordance with their domestic law and administrative procedures, including but not limited to returning the proceeds of crime or property to their legitimate owners, allocating such proceeds to the national revenue fund or the State treasury and giving compensation to the victims of the crime, including through the social reuse of assets for the benefit of communities

...and the last Conference of the States Parties to the UNCAC

Resolution 8/1 adopted on 20 December 2019

Strengthening of international cooperation on asset recovery and of the administration of frozen, seized and confiscated assets

OP 9

Encourages the States parties to consider, with due regard to article 4 of the Convention, within their domestic legal framework or administrative arrangements, the various possible models of disposal and administration of confiscated proceeds of offences established in accordance with the Convention, including, but not limited to, allocating such proceeds to the national revenue fund or the State treasury, reinvesting funds for special purposes and compensating victims of the underlying crime, including through the social reuse of assets for the benefit of communities, including with a view to returning such proceeds of crime in accordance with chapter V of the Convention

The Italian experience: the National strategy for the enhancement of confiscated assets through cohesion policies



Decision No. 53/2018 adopted
by the Interministerial
Committee for Economic
Planning (CIPE), chaired by the
Prime Minister of Italy

STRATEGIA NAZIONALE PER LA
VALORIZZAZIONE DEI BENI
CONFISCATI ATTRAVERSO LE
POLITICHE DI COESIONE

Febbraio 2018

Il documento è stato realizzato in collaborazione con l'Agenzia per la Coesione Territoriale e il Ministero dell'Economia e delle Finanze, Ragioneria Generale dello Stato, Ispettorato generale per i rapporti con l'Unione Europea



Overall objective of the National Strategy: effectively and efficiently using real estate and corporate assets confiscated from organized crime, through enhancement interventions supported by cohesion policies.

Specific objectives:

- 1) Strengthening capacity and cooperation of institutional actors responsible for seizure, management, confiscation of illicitly accumulated assets, as well as for their return to community;
- 2) Enhancement of confiscated real estate;
- 3) Reintegration into the legal economy of companies confiscated from organized crime and of the assets related to them.

A significant support to the National Strategy is provided by **cohesion policies**.

- The **mission** of cohesion policies is to promote balanced and harmonious development, in particular by **reducing social and economic disparities** between regions;
- Confiscated assets can play a relevant role in territorial development supported by such policies with the common goal of reducing territorial disparities and **promoting social inclusion**;
- The governance of the National Strategy is coordinated by a **Steering Committee**, composed of representatives of the National Agency for the management and disposal of seized and confiscated assets (ANBSC), the Ministries of the Interior and the Economy, the Department for the cohesion of the Presidency of the Council of Ministers.

The legal framework: the Antimafia Code

Pursuant to Article 48 of the Antimafia Code, confiscated **real estate** may:

- a) be kept as State property for justice, law enforcement or civil protection purposes, or other public uses connected to the performance of institutional activities of State offices, tax agencies, universities or cultural institutions, unless their sale is to be carried out in order to compensate the victims of mafia-type crimes;
- b) be kept as State property and be used by the Agency for economic purposes;
- c) be transferred to the municipality, the province, the metropolitan city or the region where the property is located, for institutional, social or economic purposes;
- d) be assigned, free of charge, to communities, youth groups, volunteer organizations, cooperatives, therapeutic and rehabilitation centers for drug-addicted people, environmental protection associations, on the basis of specific agreements in compliance with the principles of transparency, adequate publicity and equal treatment, whereby their social use is clearly established according to criteria set out by the Agency.

Until 2019, 15,633 confiscated real estate assets had been disposed.

The legal framework: the Antimafia Code

Pursuant to Article 48 of the Antimafia Code, confiscated **company assets** may:

- a) be rented, upon payment of a fee, to public or private companies, or free of charge to employee cooperatives of the confiscated company;
- b) be sold to any applicant if there is a greater benefit for the public interest or the sale is aimed at compensating the victims of Mafia-type offences;
- c) be liquidated if there is a greater benefit for the public interest or the liquidation is aimed at compensating the victims of Mafia-type offences.

Furthermore, confiscated companies may be transferred for institutional purposes to municipalities, provinces, metropolitan cities, regions, or communities, youth groups, volunteer organizations, cooperatives, therapeutic and rehabilitation centers for drug-addicted people, environmental protection associations, if there is an overriding public interest, also with reference to the usefulness of the continuation of the economic activity.

The legal framework: the Antimafia Code

Pursuant to Article 48 of the Antimafia Code, confiscated **movable assets** (including **vehicles**) may

- a) be used by the Agency for institutional activities;
- b) be transferred to other State bodies, municipalities, provinces, regions, communities, or assigned to youth groups, volunteer organizations, cooperatives, therapeutic and rehabilitation centers for drug-addicted people, environmental protection associations;
- c) be sold;
- d) be destined to demolition.

Trucks, work vehicles, operating machines, forklifts and any other means for special use, functional to the needs of public rescue, are destined as a priority to the National Fire Department.

Until 2019, 3829 confiscated vehicles had been disposed.

Interinstitutional cooperation and multistakeholder approach

The complex issue of enhancing the value of confiscated assets cannot be addressed by a single agency or institution alone. The interdisciplinary nature of the issue at stake and the convergence of a plurality of authorities and institutions require all actors to actively cooperate to deprive criminal organizations of illicitly accumulated assets, for the purpose of returning them to local communities.

It is therefore vital that all stakeholders are engaged in a constant cooperation supporting the outstanding activity of the law enforcement agencies, the judicial authority and the Agency.

Local communities play a key role. The strengthening of their operational capacity is a crucial issue.

BEST PRACTICES



Real estate

Rome- Park of legality

A real estate property, located in Rome, was confiscated in a trial against the Casamonica clan.

Following the disposal, in agreement with the local community, a public park of 2500 square meters was created, with a volleyball/basketball court, a skating rink, a wooden gazebo for events, socializing and a library.

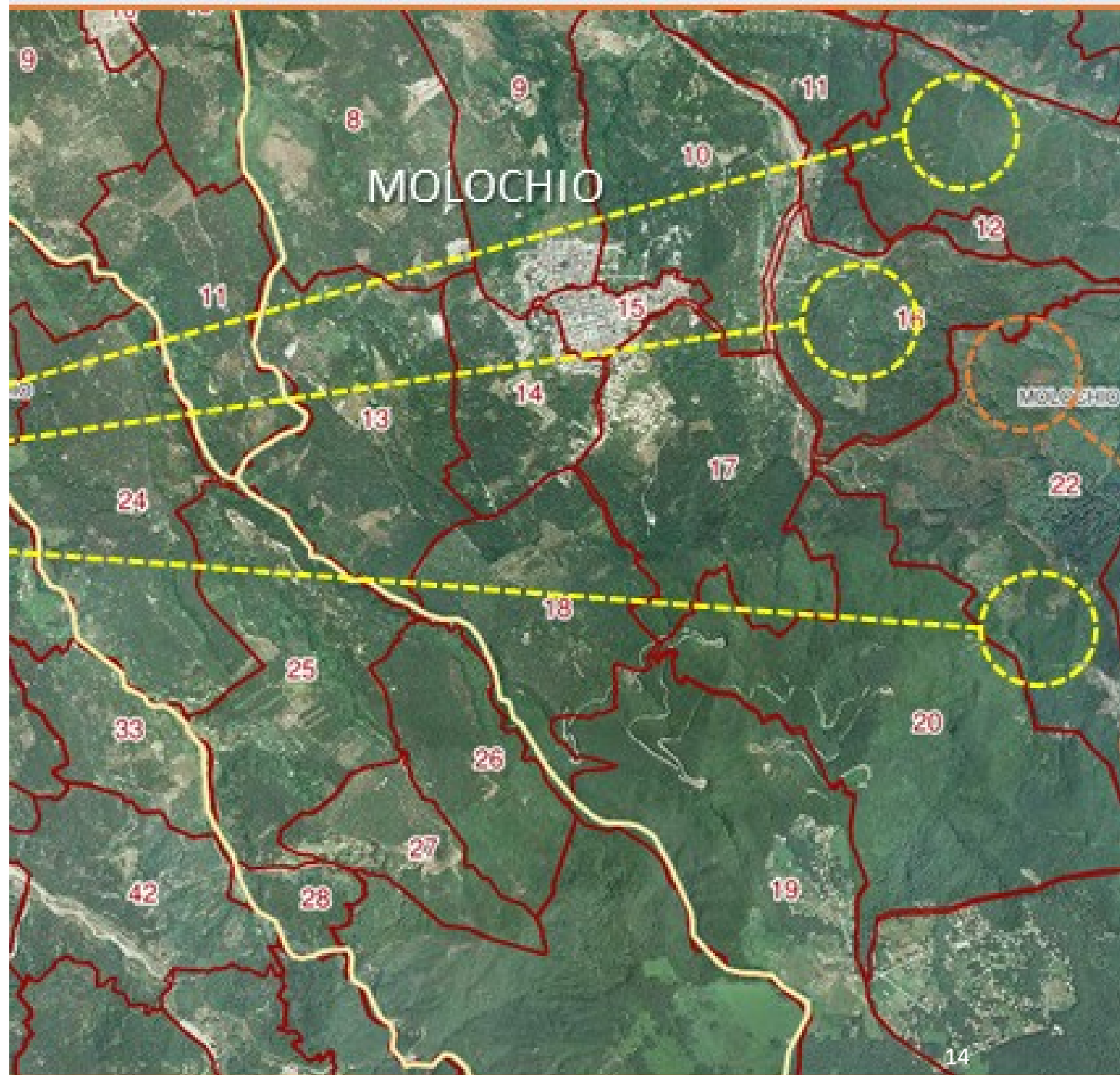
The maintenance of the park will be entrusted to a neighborhood committee based on an agreement with the Lazio Region.

A building was assigned to the Angsa Lazio Onlus Association for the establishment of a center for autism.



Aspromonte National Park

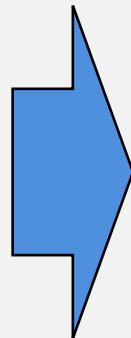
- The forest land confiscated from the boss of the 'ndrangheta Rocco Musolino (also known as "the King of the Mountain"), located in the territory of Molochio (Reggio Calabria) and included in the Aspromonte National Park, was transferred to the Calabria Region for institutional purposes in 2018.





Companies

Innovative trends in the implementation of the National Strategy



Through the networking of the seized and confiscated companies (for example with the signing of a special network contract) the efficiency of their management can be enhanced and their economic, financial and asset indicators improved. This tool will provide support particularly to those companies that operate in sectors and territories where the presence of organized crime is still strong and threatening.

Implementation of the
Company Network project

Suvignano Farm - Monteroni d'Arbia e Murlo (SIFNA)

The Suvignano Farm was confiscated from an entrepreneur who was found to be a member of the Sicilian mafia.

It covers an area of approximately 713 hectares, partly cultivated and partly used for animal breeding. It also hosts agritourism activities, a swimming pool and a chapel from the fourteenth century, recently restored.

The farm was transferred to the Tuscany Region and to the Municipalities of Monteroni D'Arbia and Murlo. This measure was considered appropriate to maintain employment levels, preserving business continuity.



Mimiani village – Caltanissetta (Sicily)



The rural village of the Mimiani fiefdom, owned by a well-known entrepreneur, had been transformed with great expenditure of money into a wonderful hunting reserve, used by some of the top leaders of "Cosa Nostra", to take refuge there during their hiding or to hold secret meetings of the criminal organization.

Mimiani village – Caltanissetta (Sicily)



Luca Cammarata: «Gestire un bene confiscato a Cosa nostra significa riscattare il territorio. Non ho paura, pensieri sicuramente sì. Se gli organismi di controllo accendono i riflettori questa paura diventa minima».

Ivana Baiunco
MARIANOPOLI

... C'è una lunga e ripida strada sterrata in contrada Mimiani, quella strada porta verso la legalità. Da quattro anni in una campagna su di un'altura di Marianopoli una zona agricola in provincia di Caltanissetta, si respira aria pulita. La fatica del lavoro e la rendita di una produzione sana fatta di impegno e abnegazione. L'azienda agricola, bene confiscato alla mafia ha una storia importante per le cronache mafiose degli ultimi anni. È qui che i latitanti di mafia del calibro di Bernardo Provenzano e Giovanni Brusca te-

di tutti i ricercati di Cosa nostra, come si legge nella nota di sequestro della Dia di Caltanissetta.

Più di 300 ettari di terreno con ben 70 ettari di uliveto, alberi centenari e tre mila metri di fabbricati rurali. Fu confiscata alla famiglia Farinella originaria di Gangi ma residente a Caltanissetta a seguito dell'inchiesta Flour del 2009, condotta dalla Dia di Caltanissetta da alcune segnalazioni di operazioni bancarie sospette che hanno riguardato Paolo Farinella e la figlia Rosalba. Entrambi risultavano essere titolari o comunque cointeressati in diverse imprese di costruzioni di opere pubbliche aggiudicate da numerosi e cospicui appalti in tutto il territorio nazionale, titolari di aziende agricole e proprietari di numerosi fabbricati e vastissimi appezzamenti di terreno, Mimiani è una di queste. Forse la più grande e quella tristemente più importante per l'uso che ne veniva

MARIANPOLI. Luigi Di Maio incontra gli agricoltori nisseni e siciliani che gli illustrano i problemi della categoria



Luca Cammarata illustra al ministro del Lavoro le qualità organolettiche e il ciclo produttivo del grano biologico prodotto a Marianopoli

oggi scomparso. Un bene che rendeva moltissimo alla famiglia tanto da reinvestire i contributi dell'Agea in acquisto di beni immobili, finanziare le imprese edilizie di Farinella e sovvenzionare la vedova del cugino Cataldo secondo un «patto d'onore». Una vera e propria miniera d'oro. Quattro anni fa sono arrivati Aldina Vetri e Luca Cammarata una coppia che con la loro bel-

lissima qualità naturali e collocazione geografica era coperto da una cappa oscura. L'azienda agricola bene confiscata alla mafia è stata assegnata ai Cammarata. Da questa terra adesso nascono solo prodotti biologici. Grano duro, grano saraceno, i ceci, l'allevamento di pecore e capre dal quale producono formaggio. Da 15 anni nel mondo dell'agricoltura con un'espe-

rienza neuropsicomotricista dell'età evolutiva che si è adattata al lavoro dei campi ed ha cominciato ad amarlo. Dieci dipendenti del latifondo che ogni giorno combattono contro la burocrazia pur essendo essi stessi lo Stato. «Gestire un bene confiscato alla mafia significa lavorare per lo Stato - dice Luca Cammarata - significa cercare di riscattare una parte di territorio. Non

abbandonarlo. Non ho paura, pensieri sicuramente sì. Se ci sono i riflettori accesi dagli organismi di controllo la paura diventa minima». Hanno rappresentato le esigenze di un comparto quello agricolo, in grande difficoltà al ministro del Lavoro Luigi Di Maio accompagnato dal deputato Ars di M5S Giancarlo Cancellieri ed dal sottosegretario all'Agricoltura Alessandra

It was confiscated by the Court of Caltanissetta in 2015 and is now considered as a significant model of sustainable development. It was rented to an entrepreneur who transformed it into an organic farm.

During the visit of the then Minister of Economic Development, and current Minister of Foreign Affairs, the entrepreneur said: “Managing assets confiscated from the Mafia means trying to redeem a part of the territory. It's not like managing your own company, it's managing everyone's company”.



Movable assets

Collection of paintings in Calabria and in Milan



Paintings by Salvador Dalì, Renato Guttuso, Giorgio De Chirico, Cascella and Ligabue, were confiscated from an entrepreneur connected to the 'ndrangheta, Gioacchino Campolo.

Now they have been returned to the community. The exhibition space, located in Reggio Calabria, has been set up by the Superintendency of the "Ministry of Cultural Heritage and Activities", to which the collection has been transferred.



In 2018, the “Arte Liberata” exhibition showed sixty-nine works of contemporary art, seized from a single person in Milan as part of an investigation for serious financial crimes. After being entrusted to the management of the Agency, the collection has been studied in depth by the Regional Secretariat for Lombardy of the Ministry for Cultural Heritage and Activities, which has requested and obtained its assignment for public use purposes. It is therefore a meaningful experience of cooperation between public institutions, thanks to which a cultural heritage acquired with the proceeds of illegal activities has been returned to the community in the form of a museum collection.

Vehicles



In 2016, fourteen trucks were assigned to the National Fire Department. These are vehicles coming from one of the most important confiscation orders adopted in Northern Italy, specifically within the AEMILIA trial, in which a significant judicial activity was carried out to combat the infiltration of the 'Ndrangheta. The trucks have been successfully used in recent civil protection emergencies.



A whole-of-society approach

- The model of social reuse is based on the consideration of the disposal of confiscated assets as a form of **compensation for communities** that have been **damaged by criminal phenomena**, i.e., that are **“collective victims”** of organized crime.
- It shows that it is possible to transform illicit proceeds into opportunities to assist victims and communities affected by organized crime.
- It activates **economic growth and social development dynamics through participation**.
- The most meaningful experiences in this field have strengthened the **involvement** of local communities, and **of civil society as a whole, in the strategies of preventing and combating organized crime**, also through the spread of the culture of lawfulness.
- The **victims** individually or collectively considered, have been given the opportunity not only to benefit from an enhanced protection capable of fully **restoring their dignity**, but also to become **protagonists of a significant change** in the historical path of their community, building trust between citizens and the government.

The proactive role of civil society

- Three Italian NGOs which participated in the last Conference of the Parties of the UNTOC – namely the «Falcone Foundation», «Libera», and the «Pio La Torre Study Centre» – are based in buildings confiscated from mafia-type organizations.
- In 1996 **Libera** presented the proposal of law by popular initiative which introduced the principle of reuse for social purposes of confiscated assets in the Italian legal system.
- The **Study Centre** named after **Pio La Torre** (a member of Parliament who promoted the most important anti-mafia law, finally approved after his killing) has been organizing an Anti-Mafia Educational Project for students from all over Italy since 2006. Last October, its Conference on the 20th Anniversary of the UNTOC saw the participation of thousands of young people from over 100 schools, including 12 schools inside prisons. During the debate, some of the most significant questions were raised by students who have committed serious crimes in the past but who now want to change their outlook on life.

The proactive role of civil society

- The **Falcone Foundation** has reached thousands of young people through an education programme on legality.
- Every year, on the anniversary of the attack on Giovanni Falcone, his wife, and the men of their escort, thousands of students from all over Italy, accompanied by the President of the Republic, embark on the “ship of legality”, which takes them to Palermo, where they are welcomed by the Prime Minister of Italy and by the President of the Falcone Foundation at the Bunker Hall in which the first maxi-trial against the Sicilian Mafia was celebrated.
- The journey represents the last step of a virtual itinerary on the topical issues that students have previously addressed inside their schools and universities.
- This year the celebrations of the Capaci massacre will focus specifically on the topic of the liberation of Europe from the mafias and on the concept of European citizenship.



As Giovanni
Falcone himself
said, people come
and go; but their
ideas remain and
continue, walking
on the legs of
others.

An example from Naples: **Villa Fernandes**

- **Villa Fernandes was built in 1905 in a neoclassical style, in the center of a large park full of ancient trees, in Portici (Naples).**
- **After a long period of neglect, the villa in 1990 was sold to members of the Camorra. After a few years it was then confiscated.**
- **Currently Villa Fernandes has become the headquarters of the Connection of Campania against the Camorra and of the local branch of Libera, which have developed a wide range of initiatives aimed at promoting social inclusion, such as:**
 - **Free Multi-specialty Medical Laboratory for children and teenagers;**
 - **Free Social Pharmacy for people affected by the crisis;**
 - **Helpdesk to fight and prevent poverty;**
 - **English and French language workshops, with mother tongue teachers for children and teenagers;**
 - **Sport for everyone;**
 - **Theater School, Music Laboratory, and a Choir that also sang in the presence of Pope Francis.**

