



Agenzia Nazionale
per l'amministrazione
e la destinazione
dei beni sequestrati
e confiscati
alla criminalità
organizzata



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"Mafiosi fear confiscation. A mafioso without wealth is like a king without his scepter."

Parliamentary Anti-mafia Commission - 1994

"It is necessary to break the link between the owned asset and mafia organizations, affecting their economic power and marking the boundary between the legal and illegal economy."

Pio La Torre

ANBSC

The National Agency for the Administration and Destination of Assets Seized and Confiscated from Organized Crime (abbreviated as ANBSC) manages, in cooperation with the judicial authority, the entire process aimed at the destination of real estate, movable properties and business assets seized and then definitively confiscated, so that they are returned to communities and territories through their use for social or institutional purposes.

Established in 2010 by decree-law n. 4 of February 4, 2010, converted into law n.50 of March 31, 2010, ANBSC is an entity with legal personality by public law, supervised by the Minister of the Interior. It is headquartered in Rome, with secondary offices in Reggio Calabria, Palermo, Naples and Milan.

Through its activity, the Agency facilitates the collection and the exchange of information about the assets and the overcoming of any critical issues related to their destination from the seizure stage, providing aid and support to the Judicial Authority, directly managing the assets, after confiscation, until their destination.

History

The birth of the ANBSC is strictly related to the events that affected our country in the early 1980s, characterized by the spread of the organized crime phenomenon.

It is precisely in this historical period that awareness emerged of the need, in order to make the fight against the mafia phenomenon effective, to prepare a repressive strategy that gives a decisive role to the aggression against the assets with which the criminal associations are strengthened and funded.

During the evolutionary-normative path that led to the birth of the Agency, an important first stage is represented by the Rognoni-La Torre Law (Law 646/82). The legislative text originated from a bill presented to the Chamber of Deputies on March 31, 1980, which had as its first signatory Hon. Pio La Torre, killed at the hands of the mafia in 1982, and in whose technical formulation had collaborated two magistrates of the Palermo Public Prosecutor's Office, Giovanni Falcone and Paolo Borsellino.

Rognoni-La Torre Law was approved by Parliament on September 13, 1982, ten days after the murder of General Carlo Alberto Dalla Chiesa. As a result of that tragic event, strong popular dissent against organized crime had strengthened, creating a further incentive for the legislative text to be passed

For the first time in our legal system, the principle has found space according to which, in order to effectively counter mafia-type criminal organizations, it is necessary to attack their assets, preventing criminals, through the investment of

huge capitals obtained illicitly in new economic, commercial and financial activities can continue to corrupt and distort entire market sectors.

With respect to confiscated assets, the main innovations of the Rognoni-La Torre law can be summarized as follows:

- introduction into the Italian Penal Code of Article 416-bis (*Mafia-type Association*), which, regardless of the commission of specific crimes, prohibits and punishes the mafia phenomenon per se, as an associative crime, making it possible to directly target even mere participation in a mafia organization (inclusion of the crime of mafia-type association);
- provision of mandatory confiscation of properties for those who belong to mafia associations. In fact, art.1 paragraph 7 provides that “against the convicted person it is always mandatory to confiscate the things that served or were intended to commit the crime and the things that are the price, the product, the profit or that constitute its use”;
- possibility of ordering the seizure of assets belonging to the person subject to a prevention procedure, accused of belonging to the mafia-type association, if the value of such assets is disproportionate to the declared income or economic activity carried out, or if there is reason to believe, on the basis of indications, that the assets he or she has, directly or indirectly, are the proceeds of illegal activities or constitute their reuse.

In the years after its enactment, the Rognoni-La Torre law, perhaps due to its emergency origin, has highlighted some critical issues in relation to the management of confiscated assets. With the enactment of Decree Law 230/1989, converted into Law 282/1989, first of all it was established that the judicial administrator, appointed by the delegate judge, to take care of the assets, from seizure to confiscation, continues to exercise his functions until the asset destination, for which various uses were provided.

In particular, for the first time, the possibility of keeping the confiscated real estate from the state property is being considered allowing their use, or of transferring them free of charge to another public body to be used for the pursuit of institutional purposes. For company assets, on the other hand, provision is made for the transfer, even free of charge, to companies and enterprises with public participation for the continuity of production and employment, in addition to the sale or liquidation. The destination is decided by the Minister of Finance upon the proposal of the Prefect.

Another decisive step, of high symbolic value, in the journey of destination of confiscated asset is the approval of Law 109 of 1996.

Starting from the assumption that, in order to fight organized crime and restore legality, it was essential to involve public opinion and that a strong message, in this sense, was represented by the restitution of property to the population itself, which was damaged by the criminal phenomenon, the 1996 Law had the merit of providing that the confiscated property, transferred to territorial entities, could be used, not only for institutional purposes, but also for social ones, with the consequence of

preventing the re-appropriation of the same by criminal organizations, making effective and evident the restoration of legality and social dignity.

Subsequent regulatory interventions were mostly aimed at solving critical procedural issues. In particular, the administration of assets has shifted from the Ministry of Finance to the State Property Agency, while the competence for their destination, once entrusted to the Minister of Finance, was given to the Director of the State Property Agency and ultimately to the Prefects.

In any case, the increase in confiscated properties and the increasingly complex activities to be defined within the scope of their management and destination have highlighted the need to establish a single structure that would ensure their more effective administration and enable a faster destination.

This led to Decree Law No. 4 of February 4, 2010, converted into Law No. 50 of March 31, 2010, later merged into the Anti-Mafia Code Legislative Decree 109/2011 (hereafter CAM), which provided for the establishment of the National Agency for the administration and destination of assets seized and confiscated from organized crime, with the objective of satisfy the need to establish a national control room to ensure the unified and coordinated management of seized and confiscated assets.

The mission

The fundamental objective of the Agency is the destination of assets definitively confiscated from the mafias, to ensure the return of the property to the community damaged by organized crime. In accordance with this purpose, the Agency's tasks extend on the so-called "judicial" phase, from seizure to final confiscation, during which the Administration plays a supporting role to the Judicial Authority in the administration of the goods, also to facilitate their provisional assignment, and then continue in the so-called "administrative" phase, from the confiscation measure to the destination of the assets, performing the functions necessary for their administration. Moreover, even in the phase following the destination, the Agency carries out, together with the Support Units established at the Prefectures, an important monitoring action on the proper use of the assets assigned, to ensure the effective reintegration of the confiscated assets into the social and legal context. In case of failure or deviant use, the ANBSC may order the revocation of the decree of allocation.

The Agency's action, in synergy with that of all the other actors in the process, is therefore fundamental to establish a real perception of the presence of the Institutions guarantors of legality in the territory, through the promotion and enhancement of confiscated properties for the benefit of citizens.

ANBSC's tasks

The tasks of the National Agency for the administration and destination of properties seized and confiscated from organized crime are listed in Article 110 of the Anti-Mafia Code and consist mainly of:

- acquisition of information flows necessary for the performance of its institutional tasks, including the adoption of a two-way exchange with the Ministry of Justice's information system;
- assistance to the judicial authority in the administration and custody of seized asset in the course of prevention and criminal proceedings (exclusively for the crimes referred to in article 51, paragraph 3-*bis*, of the code of criminal procedure and 12-*sexies* of decree-law no. 306 of June 8, 1992, converted, with amendments, by law no. 356 of August 7, 1992), with the aim of making it possible, from the seizure stage, to temporarily assign real estate and firms for institutional or social purposes;
- administration and destination of confiscated property, from the confiscation order issued by the Court of Appeals as a result of prevention and criminal proceedings (exclusively for the crimes referred to in article 51, paragraph 3-*bis*, of the code of criminal procedure and 12-*sexies* of decree-law no. 306 of June 8, 1992, converted, with amendments, by law no. 356 of August 7, 1992);
- adoption of initiatives and measures necessary for the timely allocation and destination of confiscated property.

The National Strategy for the enhancement of seized and confiscated assets through cohesion policies

The National Strategy for the valorization of seized and confiscated assets through cohesion policies was approved by the Inter-ministerial Committee for Economic Planning (CIPE) with resolution no. 53 of October 25, 2018.

The overall Objective of the Strategy is to facilitate the effective and efficient use of real estate and business assets confiscated from organized crime, through the promotion of valorization interventions supported, also financially, by cohesion policies.

This general purpose is declined through the following three specific Objectives:

1. strengthening of the capacity and cooperation of the institutional actors responsible for the process of removal, valorization and restitution to society of illegally accumulated assets;

2. policies for the valorization of confiscated real estate;
3. re-introduction into the circuit of the legal economy of companies confiscated from organized crime or assets pertaining to them.

For each of these objectives, result indicators are punctually defined, and primary actions are planned, tending as a whole to the dissemination of best practices and the experimentation and development of innovative project models.

In the context of the initiatives aimed at the reuse of confiscated assets, particular importance assumes those assets that, due to their peculiar criminal history, can be considered "exemplary", being symbolic and representative - even in popular feeling - of the prevalence of legality and Institutions over the more pervasive and bloody forms of organized crime.

They are addressed by the National Strategy for the valorization of confiscated assets through cohesion policies, entrusted to the ANBSC in collaboration with the Department for Cohesion Policies of the Presidency of the Council of Ministers, which, through the Table of guidance and verification, prioritizes their identification and ensures their subsequent valorization, through the use of Structural Funds as well as the National Development and Cohesion Fund, destined to the gradual implementation of the Plan for the valorization of exemplary confiscated assets, today reserved for the Regions of Southern Italy.

The identification of these assets takes place through a bottom-up process, with the active involvement of the Regions, which are invited to "nominate" assets considered exemplary within their respective territories, through their own Enhancement Strategy, to be approved on the basis of the principles set by the National Strategy.

The bodies of ANBSC

The Agency's main bodies are:

- **The Director:** chosen from among Prefects, executives of the State Property Agency or magistrates who have attained at least the fifth professional evaluation or from the higher magistracies; is appointed by decree of the President of the Republic upon the proposal of the Minister of the Interior, after deliberation by the Council of Ministers. Among other activities, he assumes the legal representation of the Agency; he convenes the Governing Council and the Steering Advisory Committee and sets the agenda for their meetings; he reports periodically to the Minister of the Interior and Justice; he submits a semi-annual report about the Agency's activity.
- **The Governing Council:** is chaired by the Director of the Agency. It consists of two magistrates, one of whom is designated by the Minister of Justice and the other by the National Anti-Mafia Prosecutor, a representative of the Ministry of the Interior, two qualified experts in business and asset management, designated jointly by the Minister of the Interior and the Minister of Economy and Finance, a qualified

expert in European and national funding projects, designated by the Prime Minister's Office or the Minister delegated for cohesion policy. Among other tasks, the main one is the allocation of confiscated assets, revoking their allocation in case of non- or uneven use; it approves the Agency's budget; it issues internal guidelines; and it indicates, in relation to corporate assets, the necessary actions to safeguard the maintenance of asset value and employment levels.

- **The Steering Advisory Committee:** is chaired by the Director of the Agency, is composed by an expert on territorial cohesion policy, a representative of the Ministry of Economic Development, the Ministry of Labor and Social Policy and the Ministry of Education, a person in charge of the funds of the National Operational Program «security», a representative of the regions, a representative of the municipalities, a representative of trade unions, and a representative of associations receiving seized/confiscated property. This body expresses opinions on specific issues concerning the destination and use of seized and confiscated property as well as on any other matter that is submitted to it by the Director of the Agency, the Governing Board or the Judicial Authority.
- **The Board of Auditors:** consists of three actual members and two deputies and is appointed by decree of the Minister of the Interior from among those on the register of auditors. It provides for the review of management acts, verification of the budget and final accounts, and cash audits on a quarterly basis.

Headcount and Locations

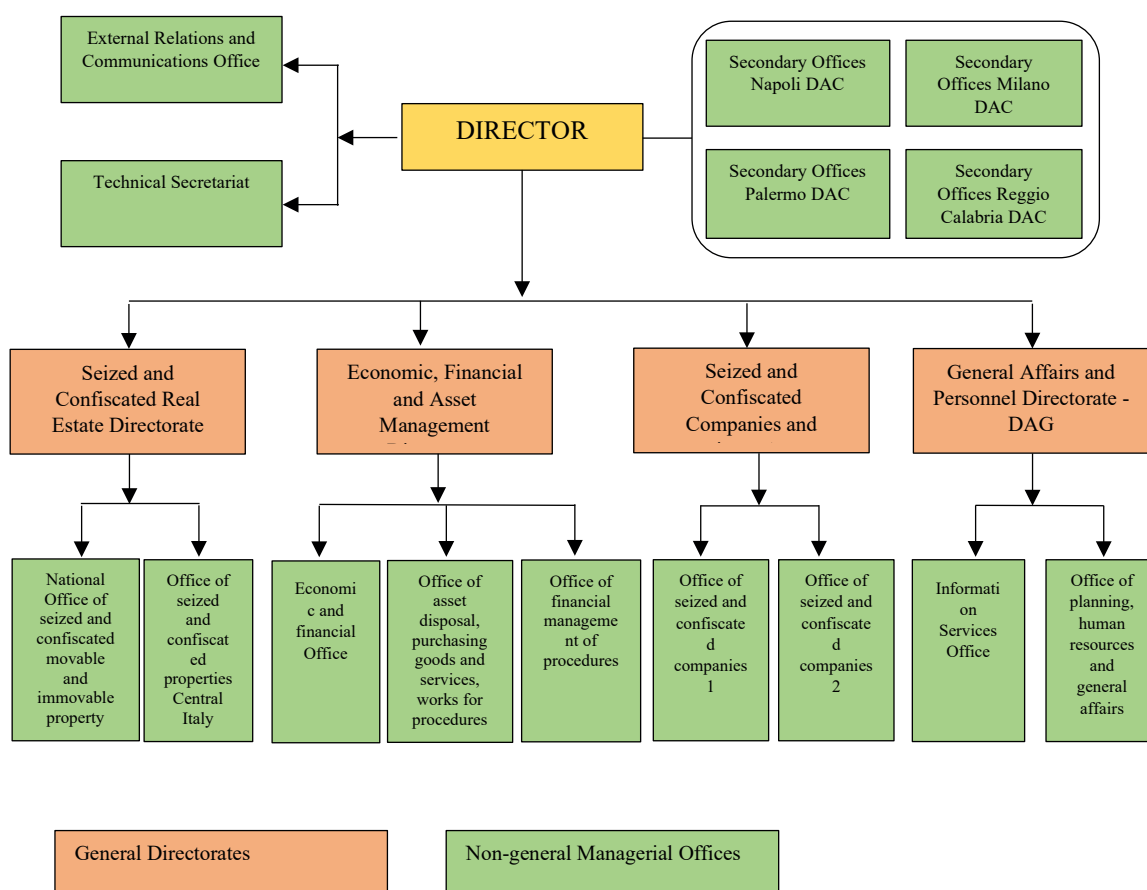
Headcount

The agency has a staff of 200 people (including 19 managers and 181 non-managers). At the time of its establishment in 2010, the Legislature predicted an endowment of only 30.

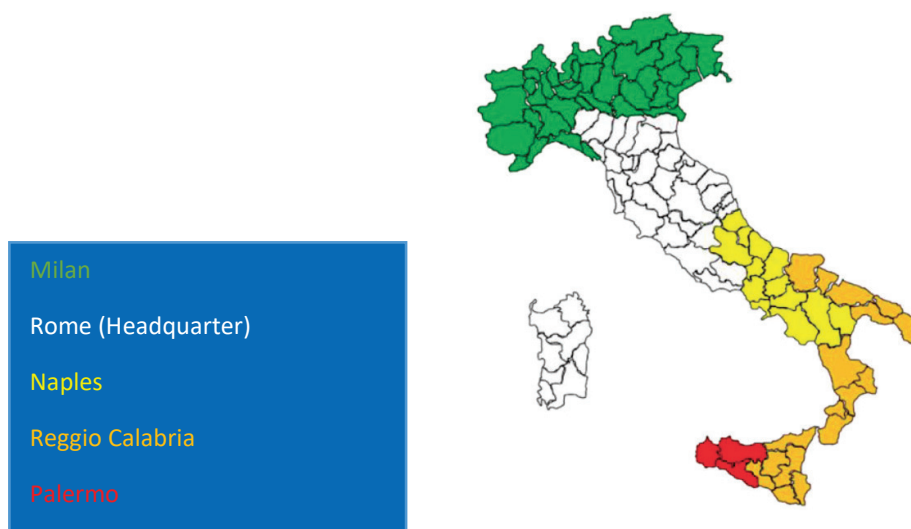
In addition, the Agency may use, in a command/detachment position, no more than 100 non-executive staff members belonging to public administrations, as well as an additional 10 staff members with managerial or equivalent qualifications (special assignments).

Locations

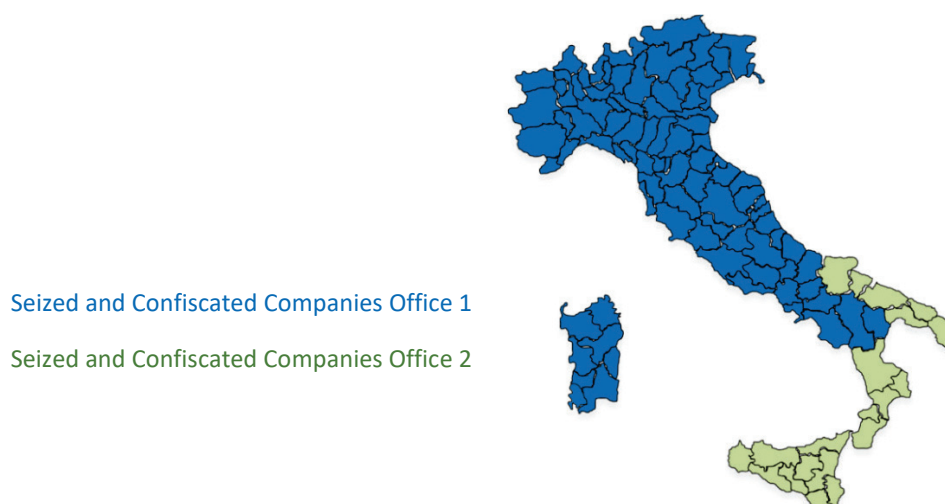
The National Agency is now divided into four Directorates General and fifteen executive offices. The main office is in Rome to which are added four secondary offices: Milan, Naples, Reggio Calabria and Palermo.



The spatial distribution of jurisdiction for movable and immovable property



The spatial distribution of responsibilities for companies and corporate assets



The auxiliary structures

To carry out its institutional tasks, the ANBSC makes use of auxiliary structures provided for in the Anti-Mafia Code: the Support Units established at the Prefectures, governed by article 112 of the CAM, and the Permanent Provincial Tables, governed by article 41-*ter* of the CAM.

The **Support Units** assist the Agency in the preliminary activities aimed at the allocation and actual transfer of assets, with particular regard to the dissemination, to potential recipients, of any useful information about the condition of the assets and their possible use, as well as monitoring the use of the assets once they have been allocated.

In addition, **Provincial Permanent Tables on seized and confiscated companies** may be established at the Prefectures, pursuant to Art. 41-*ter* of the CAM, and has the task of fostering the continuation of productive activity and safeguarding employment levels during the path of reintegration into the legal economy; it gives assistance to the judicial administrator, based on the directives given by the delegated judge, and to the Agency in the phase of administration, management and destination of the companies; it fosters the collaboration of the economic operators of the territory with the seized and confiscated companies in the path of emersion to legality; it promotes the exchange of information with the judicial administrators involved in the management of seized and confiscated companies, taking into account the provisions issued by the delegated judge also in order to safeguard the

needs of the confiscation proceedings; it expresses a non-binding opinion on the proposals made by the judicial administrator and the Agency.

The area of competence of the Agency

The Agency shall administer the property (real estate, business, movable properties and financial products) subject to criminal ablatory measures (exclusively for the crimes referred to in articles 51, paragraph 3-*bis*, of the Code of Criminal Procedure and 12-*sexies* of Decree-Law 8 June 1992, n. 306, converted, with amendments, by Law 7 August 1992, n. 356) and prevention.

The ANBSC's lines of action can be framed along three directions:

- **from seizure up to second-instance confiscation**, it supports the judge and the judicial administrator in order to make possible the provisional assignment of real estate and businesses for institutional or social purposes to the entities, associations and cooperatives referred to in Article 48, paragraph 3, without prejudice to the delegated judge's assessment of the manner of assignment;
- **from second-instance confiscation to final confiscation**, it administers "on whose behalf" the confiscated property, authorizing the acts of management after acquiring, for those of an extraordinary nature, the prior clearance of the judge;
- **after the final confiscation**, administers the assets for the purpose of proceeding to their public use and it monitors, after their assignment, the proper use according to the purposes envisaged by the norm (monitoring).

The destination of real estate

The regulation of the destination of real estate is contained in Article 48, paragraph 3, of the Anti-Mafia Code.

Such assets may:

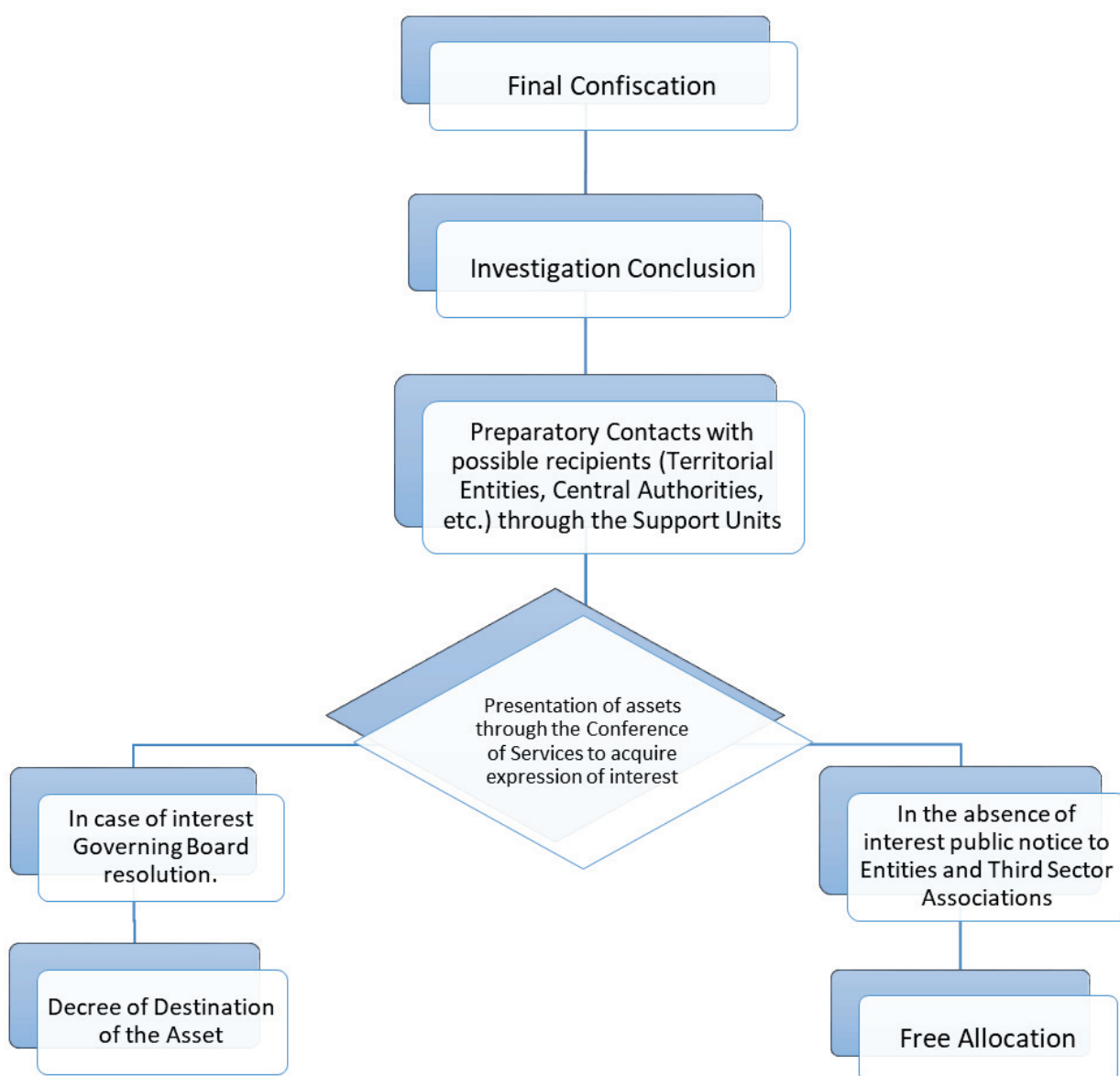
- be kept as the State assets to be used for purposes of justice, public order and civil protection or to be used by other public administrations for governmental or public uses, unless they have to be sold for the purpose of compensating victims of mafia-type crimes;
- be kept in the State patrimony and, subject to the approval of the Minister of the Interior, used by the Agency for economic purposes;
- be transferred as a priority to the non-transferable assets of the municipality where the property is located, or to the unavailable assets of the province, metropolitan city or region for institutional or social or economic purposes, but in the latter case with a restriction that the proceeds must be reused for social purposes or for the incurring of extraordinary maintenance expenses inherent in the confiscated assets

used for the same purposes. Local authorities will be able to manage the assets directly or assign them in concession, free of charge, to third sector associations;

- be assigned, free of charge, directly by the Agency to entities or third-sector associations, on the basis of a special agreement in compliance with the principles of transparency, adequate publicity and equal treatment, where their social purpose is evident according to criteria established by the Governing Board of the Agency.
- be sold, where no other destination can be made.

Sale is considered a residual option, other destinations being preferable, particularly the return of the property to the community damaged by the presence of organized crime.

Process of Destination of Real Estate Assets



The destination of registered movable property

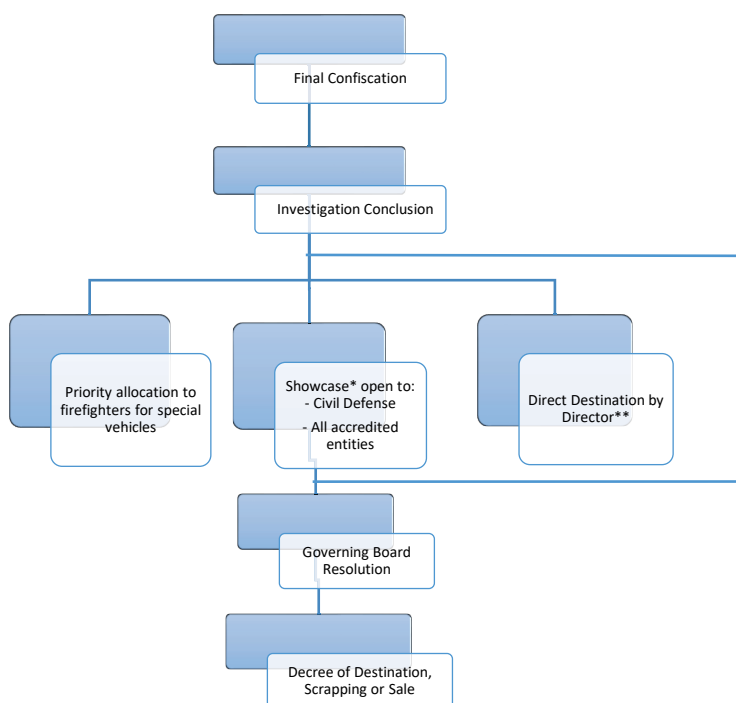
Movable assets, like securities and corporate holdings, are in most cases sold and the proceeds paid to the Single Justice Fund net of expenses and amount of money aimed at compensating victims.

For certain types of registered movable property (trucks, work vehicles, operating machines, forklifts and any other means for special use, functional to the needs of public rescue) the law establishes the priority destination in favor of the National Fire Brigade.

It is, likewise, provided that movable property, including those entered in public registers, may be used by the Agency for use in institutional activities or destined for other organs of the State, territorial bodies or voluntary associations operating in the social field.

For unproductive, objectively unusable, non-destinable or non-alienable property, it is provided their destination for destruction or demolition.

Process of Destination of Registered Movable Assets



*In the showcase flow the assets inopied by the firefighters and all others, the showcase will first be opened to the entities that are part of the Civil Protection system then to the other accredited entities. **In the event that the property has already been assigned by the judge before the second-degree confiscation, the process is simplified and a direct assignment by the Director is made, if interest remains in the first assignee.

The destination of companies

The companies, according to Article 48 paragraph 8 of the CAM, can be assigned:

- a) to lease, when there are well-founded prospects for the continuation or resumption of productive activity, in return for payment, to companies and public or private enterprises, or on loan, without charge to the state, to cooperatives of employees of the confiscated enterprise;
- b) to the sale, for an amount not less than that determined by the Agency's estimate;
- c) to liquidation.

They can also be transferred, without resulting in new or increased charges on public finance, for institutional purposes to the unavailable assets of the municipality, province, metropolitan city or region if a prevailing public interest is recognized.

Outlook

The Legislation to combat organized crime is constantly evolving, with the constant aim of adapting to the dynamics of the criminal reality.

Therefore, the regulation regarding the management and destination of confiscated property also responds to the needs of concrete experience over time, leading to a search for ever better organizational arrangements.

The first goal is maximum reduction of destination times.

The time factor is certainly crucial for immediate social and institutional usability of the asset, accentuated further when dealing with companies, which by their nature must respond to market rules that require constant adjustment in order to take advantage the best opportunities.

The identification of appropriate operating methods that make it possible to achieve this goal has already led to important results in terms of increased destinations, but the commitment is to always identify better systems.

In addition, the conscious allocation of assets must be strengthened, making it possible to better understand their characteristics and possible critical issues.

In this sense, the role played by the Support Units at the Prefectures is fundamental, which, through continuous interaction with local stakeholders, and in particular with local authorities, are able to fully represent the opportunities offered by the allocation of real estate.

Moreover, noting the need to guarantee support for local authorities, especially small ones, particularly with regard to project activities to find the necessary

resources for the valorization of confiscated assets, which have been acquired to their unavailable properties, the ANBSC has established on its website a specific page called "The Agency supports municipalities", which is constantly updated, in which useful indications are provided and best practices are represented that can help in the management of assets and their use.

International attention to the Italian legal model in the field of confiscated properties is constantly growing, in the consideration that it is unique in terms of size and complexity, especially with regard to their social and institutional destination.

Several states represent to the Agency the need for in-depth analysis of regulations and management systems, some of them with a view to transposition into their own legal systems.

In conclusion, a worthwhile management of confiscated property is a fundamental testimony of national efficiency, in the awareness that it can only be achieved through constant attention and cooperation of institutions and civil society.

Website

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