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The fight against international organised crime: theory and practice

Foreword by
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EUROJUST

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1.5. Economic crime

The huge resources derived from criminal activities, therefore, make “market”: the criminal monopoly does not limit itself to making profits, but needs to re-insert its profits in the legal economy through the procedures of “laundering” intended to generate an important distorting potential in the economic-financial field.

The spreading of criminality inside an economic system, especially if operated in an organized way by using violence and other illicit methods of pressure or persuasion and corruption, in the long run, alters the main mechanisms, distorts the normal rules of supply and demand, of competition, of work, of investments and of credit, becoming a factor of economical impoverishment, in addition to the civil decadence of society.

At any rate, various are the elements that characterise the criminal venture and that allow to distinguish it from a legal one.

In particular, under a professional profile, the criminal enterprise operates pursuing a strong logic of dominion and monopolistic expansion by any means, lawful and unlawfull, while the legal enterprise confronts itself with others only on a competitive basis.

2.1.2. The Anti-mafia code

The provisions contained in the regulation norm can be applied to those who fall into two specific categories, namely “generically dangerous”, of which art. 1 and those of “qualified dangerousness”, with reference to art. 4 of the D.Lgs. n. 159/2011.

Subjects who are considered “generically dangerous” are essentially:

- the inactive or idle and habitual vagabonds;
- those who are habitually committed to illicit trafficking or delinquency;
- those who, for conduct or life style, are to be considered as habitually living on profits, even partially, either from crimes or aiding or abetting.

Subjects considered of “qualified dangerousness”, are generally:

- *“the subjects suspected of one or more crimes specifically foreseen for the mafioso associations (article 51, comma 3-bis, of the code of criminal procedure)”*;
- *“those who carry out relevant preparatory act into execution aimed at subverting the legal system of the state as well as commissioning of crimes connected to terrorism”*;

of implementation and connection with financial (and not only) markets the world over.

In recent times, we have witnessed the affirmation of the *cryptocurrency*, or virtual money, which can also be defined as a “*form of ‘digital cash’, that has many of the advantages of physical currency: anonymous, convertible, transferable, and at low risk; as much as electronic currency: rapid and with less cost of transition*” ⁽¹⁰⁾.

The international community, over time, has been undertaking a contrasting action in a structured mode through:

- harmonisation processes of national legislations, identifying prevention and control criteria based on common *standards*;
- ever stronger forms of cooperation, above all in the exchange of information;
- supranational structures of coordination and control, jurisdictional (EPPO) ⁽¹¹⁾ and non (AMLA) ⁽¹²⁾ which

(10) “Bitcoin e riciclaggio 2.0” by L. Sturzo, “Diritto Penale Contemporaneo”, 2/2018.

(11) European Prosecutor.

(12) Authority of Anti-Money Laundering and Countering the Financing of Terrorism.

The Manual, in consideration of the characteristics of modern criminal organizations increasingly characterized by a business and transnational vocation, offers a deep examination of the most relevant criminal groups, the regulatory instruments and the operating techniques of law enforcement agencies, with particular reference to the theme of "patrimonial investigations" and the so-called Italian "anti-mafia code", as well as the rules for protecting the stability of the economic and financial system, highlighting the provisions of the anti-money laundering legislation

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