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The investigation of illegal waste trafficking and The Environmental Network of Prosecutors General in Italy

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In this brief speech I would like to inform you about the recent establishment of the Environmental Network of Prosecutors General in Italy and explain the reasons why it can represent a valuable support system to the investigation of illegal waste trafficking.

The Italian Code of Criminal Procedure establishes:

- the cooperation between Prosecution Offices must take place in cases where investigations are linked (this rule has been established for all crimes);
- the information about the investigation of the most serious environmental crimes introduced in 2015 (for example environmental pollution and disaster) must be shared with the Prosecutors General at the Courts of Appeal (they are organized in districts usually corresponding to the regional territories) and with the Anti-Mafia Prosecutor General;
- the Anti-Mafia Prosecutor General also needs to be notified about investigations concerning the crime of organized activities relating to illegal waste trafficking (Article 260 of the Environmental Code) because this crime is considered as a warning sign of a possible connection with organized crime.

Further, the Prosecutors General at the Courts of Appeal perform the functions here below for all crimes, and consequently also for environmental crimes:

“With a view to verifying the correct and uniform prosecution and the respect for the rules on fair trial, as well as the timely exercise of the Public Prosecutors’ powers to lead, control and organize the Offices they are responsible for, they shall collect data and information from the Prosecution Offices of their Districts, and send a report, at least once a year, to the Prosecutor General at the Italian Supreme Court” (Article 6 of the Legislative Decree No. 109/2006).

However, the Constitutional principle establishing the autonomy and independence of Public Prosecutors implies that:

- the information on the conduct of investigations for the most serious environmental crimes is not intended to let the Prosecutors General at the Courts of Appeal or the Anti-Mafia National Prosecutor lead the investigations, but just to enable them to support the coordination among different offices, if necessary;
- the exercise of the power of surveillance on the uniform prosecution performed by the Prosecutors General at the Courts of Appeal and the Prosecutor General at the Supreme Court does not enable them to issue binding and mandatory guidelines for each Prosecutor. Instead, it leads to a general monitoring by performing a “*warning*” function, i.e. by identifying and indicating the detected discrepancies and a “*compliance*” function, i.e. by encouraging the adoption of uniform practices and shared protocols.

With reference to this general monitoring, since 2016 a special Office has been established at the Prosecutor General Office at the Italian Supreme Court, for which I am responsible.

This Office is charged with a steady monitoring of investigations in environmental crimes by the establishment of a Network to which the Offices of the Prosecutors General at the Courts of Appeal belong.

The functioning of the Network is ruled by a Protocol approved in May 2017.

Under this Protocol, the Network is designed to:

- a) Ensure the shared implementation of the activities relating to the identification and dissemination of the good practices in the assessment of environmental crimes;
- b) Promote the sharing of common models of organization;
- c) Encourage the exchange of information, good practices and locally adopted protocols to disseminate and eventually share them with other district Prosecution Offices.

With a view to the realization of their goals, the Prosecutors Generals, directly or through their delegates:

- encourage regular training and information sessions among several districts on the subject matters relating to the Network’s activities;
- receive the indications of good practices and operational and organizational issues from the individuals who are responsible for the Environment in the Prosecution Offices;
- carry out adequate initiatives to ensure the uniform prosecution of environmental crime matters;
- ensure that district records are kept of organizational protocols and instructions given to the police relating to the Environment;

- inform the Network - through the delegated Prosecutor of the Prosecutor General at the Italian Supreme Court - of the contents of these records, as well as of the experiences and best practices.

The Network, in all its components, encourages the signature of agreements and protocols with the High Council of the Judiciary, the Ministry of Justice, the Ministry for the Environment and the Prosecutor General Offices of the Italian Court of Auditors, as well as other public institutions. Amongst these institutions there are, in particular:

1. the “*National Network System for the protection of the Environment*” which is tasked with ensuring homogeneity and effectiveness in administrative controls. This network was created by the law No. 132/2016 and includes ISPRA (Italian Environmental Protection and Research Institute) and the local environmental agencies;
2. the police division specialized in environmental investigations as well as the *Carabinieri-Forestali* or the *Carabinieri NOE*.

Finally, the Environmental Network of Prosecutors General in Italy is a new organizational model that is trying to cater to various institutional needs such as:

1. the need to create a uniformed structure of protocols when conducting investigations;
2. the time and costs involved in the formation and specialization of prosecutors and police task forces;
3. the possibility to immediately locate within the network system the technical competences necessary for taking of samples, for following up analysis, for capital assessment, and for the study of documents and contracts;
4. the need for real time responses, in a coherent and homogeneous national context, from the office which is situated in the location where the crime is committed. In these cases, we can apply the famous environmental slogan “*think global and act local*” to environmental investigation too.

The ability of the Network to respond to the above needs makes it particularly suitable to support the investigation of waste trafficking.

In fact, waste trafficking investigations have two major requirements to achieve useful results in the following trial stage:

1. The close cooperation and exchange of information between various police forces and Prosecutors;
2. The adoption of shared protocols of investigation.

Therefore, in the field of illegal waste trafficking, the circulation of information among all people concerned within the system of controls can be particularly useful. Not only is this true for investigation purposes but also:

1. to identify the "*best practices*" in the classification of hazardous waste. This is a complex issue and the Italian Supreme Court has recently referred a question concerning this matter to the European Court of Justice for a preliminary ruling;
2. to determine the best liaisons to form with fiscal assessments which involve companies operating in illegal waste trafficking;
3. to establish a permanent connection with administrative health care authorities. In creating such a relationship, the results of investigations into illegal waste trafficking and environmental pollution may be used as part of a risk prevention campaign for the health of the population.