



# **PROPOSAL FOR A GOVERNANCE MODEL FOR THE VALORISATION OF ASSETS AND BUSINESSES CONFISCATED FROM ORGANISED CRIME GROUPS**

FINAL REPORT



Project "SOS LEGALITY"

SEIZED BUSINESSES AND ASSETS FROM THE MAFIA: TO STRATEGICALLY PREVENT CRIMES  
AND PROMOTE LEGALITY THROUGH SOCIO-ECONOMIC DEVELOPMENT

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# INTRODUCTION

Assets and companies seized from organised crime are important holdings that must be restituted to the community. Restitution means the safeguarding of jobs and allowing the region and the people to regain possession of what has been stolen from them; it also means giving a concrete example that legality is possible and that it constitutes a developmental element of the economy. It also means pursuing the principle of the market's free action just as it is protected by the Italian Constitution; a business controlled by crime acts by altering the rules of the market, including through corruption and other intimidating or coercive mechanisms.

It is a complex objective to achieve. The company is devoid of market value at the time of seizure. Restoring the company to legality and the seizure period are only some of the reasons that cause production systems and other corporate resources to lose operability. Added to this is the difficulty of access to credit, the region's distrust, and the need for a thorough review of the company's internal structures to make it really capable of operating on the market.

It is a complex objective that requires the coordinated participation of more institutional and associative parties, where each brings its institutional competence into play. The coordination of these parties also requires an idea, a vision and tools that are based on the knowledge of entrepreneurial and business dynamics that are, however, re-read in the light of difficulties for the re-placement of the seized company on the market.

It is with this objective that Project SOS Legality has been proposed to the European Commission. A project that focuses on the role and function of the Chambers of Commerce as stakeholders that stand alongside companies for development; a project that has enabled the operational testing of a governance model that encompasses the involvement of national and regional institutional parties, and social partnership together with the identification of solid tools through which to analyse the company's actual state of health, and to then be able to propose actions to support its development.

A model of social justice and economic development which we are ready to support and replicate as a Chamber of Commerce system.

*Ivanohe Lo Bello*  
**Chairman Unioncamere**



# 1. THE PROJECT, THE AIMS OF THE REPORT AND METHODS

## 1.1 The strategic reasons behind the “SOS” Legality project

The project *Sos Legality – Seized businesses and assets from the Mafia: to strategically prevent crimes and promote legality through socio-economic development*” was promoted by Unioncamere and Universitas Mercatorum and realised in partnership with Associazione Libera and the Chambers of Commerce of Reggio Emilia, Caserta and Siracusa. The initiative, which is funded by the European Commission (Directorate-General Home Affairs) as part of its *Prevention of and Fight against Crime Programme*, was selected by the EU as a pilot project with a view to examining Italy’s experience in managing businesses and assets confiscated from organised crime groups and sharing it at the European level. The project was implemented between 2012-2015.

Since the initial proposal phase, the project has been underpinned by an awareness that strategic prevention of Mafia crime must be based on strengthening tools and methods to safeguard the local economy, the right to freely exercise an economic activity, employment and participation of the population who were formerly Mafia victims or who are at risk of involvement in criminal activities. In this area, in addition to the appropriate legislative instruments, it is necessary to take effective action to allocate and manage confiscated businesses. Such measures require: (i) **local models of governance based on public/private partnerships** (judicial authorities, administrations responsible for the actions, local authorities, the business community and civil society associations) that are capable of steering and governing the process of reutilisation of confiscated assets, and the development and sustainability of the confiscated businesses; (ii) **models and tools geared towards governance and development of businesses confiscated** or established as a result of the allocation of confiscated assets; (iii) **effective information systems regarding confiscated businesses** (incorporating qualitative and quantitative data). At the European and worldwide level, Italy is widely seen as a model for action in this context, having introduced measures (such as Law no. 109 of 7 March 1996) into its legal system aimed at permanently taking assets and businesses out of the hands of organised crime permanently and preventing them from becoming

available to criminal organisations once again. In some regions of Italy, at the initiative of the Italian system of Chambers of Commerce and thanks to the commitment of Associazione Libera, significant trials of intervention and governance models have been conducted. These constituted the project's inevitable starting point, and it was decided to systematise and implement them further, as well as capitalise upon them at the European level, through the *SOS Legality* project.

The approach adopted in the project sets out by assuming that only integrated action with measures in support of confiscated businesses which is managed by an inter-institutional network of actors can guarantee lasting "rebirth" of those businesses. And it is only businesses that meet the necessary conditions and requirements to remain in the market concerned, entrepreneurial skills and a business vision and plan, which can truly be "revived", and which can reasonably be considered to have a chance of developing in a competitive market.

This approach reflects the commitment of Italy's network of Chambers of Commerce to supporting local socio-economic development and is based on the network's established services for promoting enterprise, business culture and start-ups. It also lends value to the commitment and actions of Italy's Chambers of Commerce in terms of fostering the rule of law in the economic sphere in its various forms (protecting competition and the market, fighting corruption, combating usury and rackets, and improving administrative transparency).

## **1.2 Aims of the report**

This report has two aims:

- ➔ to present the results of the project systematically, starting from the activities carried out and the business and local governance model that has been trialled;
- ➔ to describe and propose the governance model, which has its origins in the Chambers of Commerce network, taking into account its distinguishing characteristics, key actors and operational mechanisms, so that it can be subsequently implemented, developed and extended to other regions.

As the following chapters show, in order to be fully implemented, the governance model that has been tried and tested assumes the following:

- enhanced cooperation, i.e. cooperation which is fostered, guided and accompanied by pro-active action at the national and not merely regional/local level, ideally by a single "steering committee";

- an effective partnership of players concerned with managing confiscated businesses;
- an action plan drawn up specifically for the context and characteristics of the businesses concerned;
- transparency, with accessible data and information and civic monitoring of projects;
- constant monitoring of indicators of the risk of infiltration.

In order to ensure that the results and actions implemented are as widely available as possible, the appendix brings together the main working tools drawn up on an *ad hoc* basis by the work team so that they can be reused and implemented in future actions.

### 1.3 Methodology, activities completed, results and critical aspects

The strategic aim of the project, *Sos Legality – Seized businesses and assets from the Mafia: to strategically prevent crimes and promote legality through socio-economic development* was to recover the value of local assets and businesses confiscated from organised crime groups and prevent the crime from infiltrating and taking root.

Specifically, the *Sos Legality* project was implemented in three pilot areas selected for the experiment (Reggio Emilia, Caserta and Siracusa) with activities for raising awareness and providing institutional cooperation, training and support for confiscated businesses and budding entrepreneurs, with a dual aim:

- (1) **to support the development of a select group of confiscated businesses** or businesses which manage an allocated asset;
- (2) **to generate action models** which can be developed further in the areas already involved or in other local contexts.

The operational aims of the project were:

1. to draw up and strengthen local multi-stakeholder governance models and tools based on public-private partnerships (PPPs) for the purpose of monitoring, allocating, administering and redeveloping assets and businesses confiscated from criminal organisations.
2. to develop and test management tools for the governance, consolidation and sustainability of confiscated businesses.
3. to verify the models and pilot tests and share them with other Member States so that they can be applied at the European level.

The project consisted of three components:

→ **Component 1 – “Local governance models and tools”**

For each of the three pilot areas (Reggio Emilia, Caserta and Siracusa):

- 1.1. an “area workshop” (consisting of a select group of institutional stakeholders in order to draw up guidelines and operational protocols);
- 1.2. design and implementation of an information system concerning businesses confiscated from the Mafia;
- 1.3. an “awareness workshop” for civil society on the subject of assets confiscated from the Mafia.

→ **Component 2 – “Business governance models and tools for confiscated businesses”**

- 2.1. a national working group for drawing up the governance model and tools and business consolidation;
- 2.2. testing of the model and tools in businesses selected in each of the 3 areas (with the involvement of partners/managers/staff);
- 2.3. training programmes for would-be entrepreneurs and unemployed youth.

→ **Component 3 “Capitalisation and transferability at the EU level”**

- 3.1. a transnational pilot panel to assess the models and tools drawn up by the project and their transferability (European-level standards and guidelines)
- 3.2. a transnational workshop for sharing experiences and capitalising on the outputs of the project
- 3.3. A final conference dedicated to presenting and discussing the final results of the project.

The methodology used by the *SOS Legality* project is based on a bottom-up approach, in the firm belief that all methodological tools and documents are a purely formal exercise unless they are backed by a thorough action in the field to verify their usefulness and effectiveness involving beneficiaries and local players right from the initial planning stage.

This is why the broad outline of the project implementation plan focused on the testing and business check-up phases, with the selection of a representative sample of confiscated businesses on which the various project tools could be tested.

Specifically, testing conducted in confiscated businesses was based among the various project tools on:

- 22 check-ups carried out on 22 businesses confiscated from criminal organisations in different life stages. These check-ups were designed to identify the characteristics of the businesses in production, financial and economic terms for the purpose of drawing up action and feasibility plans or development plans;
- 3 area workshops in the three Italian regions concerned in order to draw up protocols and lines of intervention with stakeholders;
- 1 support programme for the creation of a concrete sector in Sicily.

The figure below shows the distribution of the businesses participating in the test by industry sector:



Of the various tools developed and used in the 22 businesses spread across Italy (3 in the centre-North, 6 in the Centre-South and in 13 in the South), particularly

noteworthy are the business check-ups based on a comprehensive working plan and method of analysis (which is presented in its entirety in the documents contained in the Appendix), as they involved detailed surveys of participating businesses in order to assess the situation of said businesses and starting conditions as they impacted on decisions concerning reutilisation.

In this regard, the business check-ups and action learning programmes implemented with staff and judicial administrators made it possible:

- **to carry out an analysis of the state of health of the business** in order to assess its potential to develop and return it to a virtuous circle of enterprise;
- **to highlight any critical aspects of a management nature** caused by confiscation of the asset and to pinpoint potential solutions;
- **to identify and share actions aimed at removing any critical aspects encountered** and consolidating any observed strengths, through sectoral projects and network agreements.

It was precisely these field surveys which enabled the creation of a synergy between the project and the local actions provided for by the project and, specifically, a more fully developed, structured project involving Sicilian businesses in the concrete sector and which is still underway, with the aim of accompanying participating businesses towards the creation of an integrated sectoral project entitled “**La filiera del Calcestruzzi nell’area siciliana**” (**The Concrete Sector in the Sicily Area**) which, with the coordination of the Trapani Prefecture and Associazione Libera and thanks to the inter-institutional contribution of the parties concerned (judicial administrators, the Chambers of Commerce network, courts, businesses, the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets) is seeking to establish a consortium of businesses in the sector.

Reflecting upon actions undertaken and concluded as a whole, it is important to highlight the complexity and difficulties encountered, especially with a view to improvement, including for the benefit of those who by reading this report may embark upon similar programmes or use the tools developed. Selecting the participating businesses and implementing the test represented the most critical and challenging – not to mention difficult – moment of the project for the work team, as it brought to light all of the main limitations of the Italian model for managing confiscated businesses: the bureaucratic and financial burdens weighing upon assets, maintaining seized and confiscated assets in good order, the difficulty of reconciling the public administrations concerned, uncertainty and limits for judicial administrators in managing assets mainly within a framework of “extraordinary administration”, timescales for allocating assets between confiscation and

reutilisation, and the working climate and socio-psychological context within the business and perception of hostility in the local area.

In conclusion, the experimental value of the work nonetheless stands, despite the fact that it was carried out on a qualitatively limited sample of confiscated businesses (compared with the total official numbers resulting from surveys conducted by the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets), as it constitutes an experimental action structured upon local areas and businesses, and its results a practical contribution and a “pilot” experiment to add to the various positive best practices in the reutilisation of confiscated businesses in Italy.



## **2. MANAGEMENT OF CONFISCATED ASSETS: FRAMING THE ISSUE**

### **2.1 Investments by criminal organisations**

#### *2.1.1 Investments by criminal organisations in Europe*

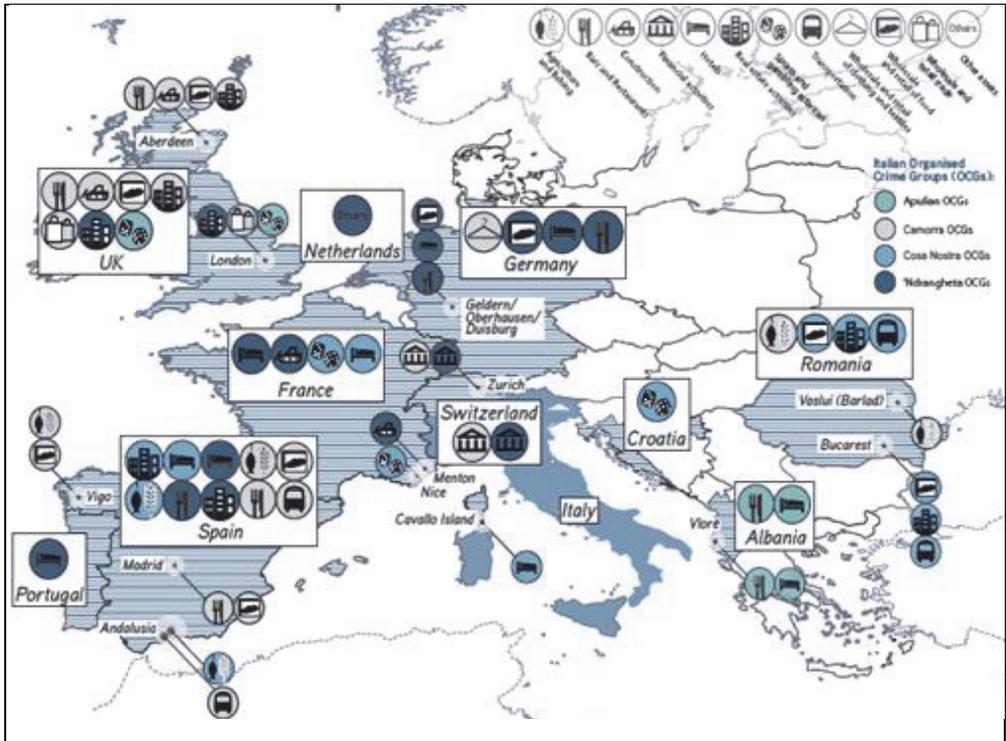
The Organised Crime Portfolio (OCP), a recent research project funded by the European Commission's Directorate-General for Home Affairs involving seven partners working alongside the project coordinator, Transcrime, in seven different European countries – Italy, Spain, France, Finland, Holland, the United Kingdom and Ireland – set out to provide an initial map of investments and infiltrations by criminal organisations in Europe.

The most significant conclusions to be drawn were the following:

- investments in the legal economy play a crucial role in organised crime activities and serve various purposes (money laundering, profiteering, local control and social consensus);
- many European countries are affected by the phenomenon of investments by organised crime groups: among them, Italy, Spain, Germany and the UK play a major role;
- a large number of assets (property, businesses, vehicles and other movable assets) and economic sectors are involved;
- the same criminal groups operate simultaneously on several different illegal markets (e.g. tobacco, arms or drug trafficking) using the same channels;
- new activities are emerging: fraud, cybercrime, organised theft (e.g. theft of pharmaceutical products);
- the sectors which mainly attract infiltration have the following characteristics:
  - they are labour-intensive (e.g. construction), low-tech (e.g. bars and restaurants) and area-specific (e.g. real estate);
  - they involve public administrations to a high degree (e.g. public procurement);

- they are subject to little regulation or are undergoing rapid growth (e.g. renewable energy, gambling);
  - they involve a high level of criminal know-how (e.g. commerce of food products for Italian Mafias, vehicle maintenance for motorcycle gangs);
  - sectors which aid illegal activity (e.g. import/export of stolen goods);
- real estate and the catering sector are common elements among several groups; however, it is also possible to observe differences in investment strategies as a result of differences in the aims of the investment itself, in cultural peculiarities, in skills, in the degree to which they are functional to the various illegal activities and in the degree of vulnerability of some economic sectors and some socio-cultural contexts;
- Italian criminal organisations are active in several sectors: in Italy these include construction and emerging sectors (e.g. logistics, renewable energy and VLTs/slot machines), while abroad they are mainly active in catering and the wholesale food trade;
- the geographical distribution of business shows criminal activity expanding into Western Europe; in particular:
- Spain and Portugal constitute rich hunting grounds for Cosa Nostra (real estate, agriculture and fishing, hotels), the ‘Ndrangheta (catering, hotels and the real estate sector) and the Camorra (transport, agriculture, catering and the food trade), in particular Tenerife, Vigo and the area of Andalusia;
  - in France, in contrast, it is Cosa Nostra and the ‘Ndrangheta that hold sway, sharing the gambling and construction sectors, especially in the Nice and Menton areas, while in Switzerland it is financial operations that excite the Mafia’s interest;
  - in Germany the ‘Ndrangheta and Camorra’s interest is manifest in the same area of Duisburg, Oberhausen and Geldern;
  - all four Italian criminal organisations, including Sacra Corona Unita from Apulia, find rich pickings in the United Kingdom: while the Camorra and the ‘Ndrangheta boss it in the catering, real estate, hotel and construction sectors, with Aberdeen one of the Camorra’s favourite destinations, part of the gambling sector is in the hands of the Apulia clans, particularly in the London area;
  - to the East the Mafia’s appetite is whetted in particular by gambling in Croatia, the hotel and catering businesses in Albania, into which the tentacles of the Apulian Mafia reach easily, and in Romania, where the Camorra and Cosa Nostra do business between Bucharest and Vaslui;

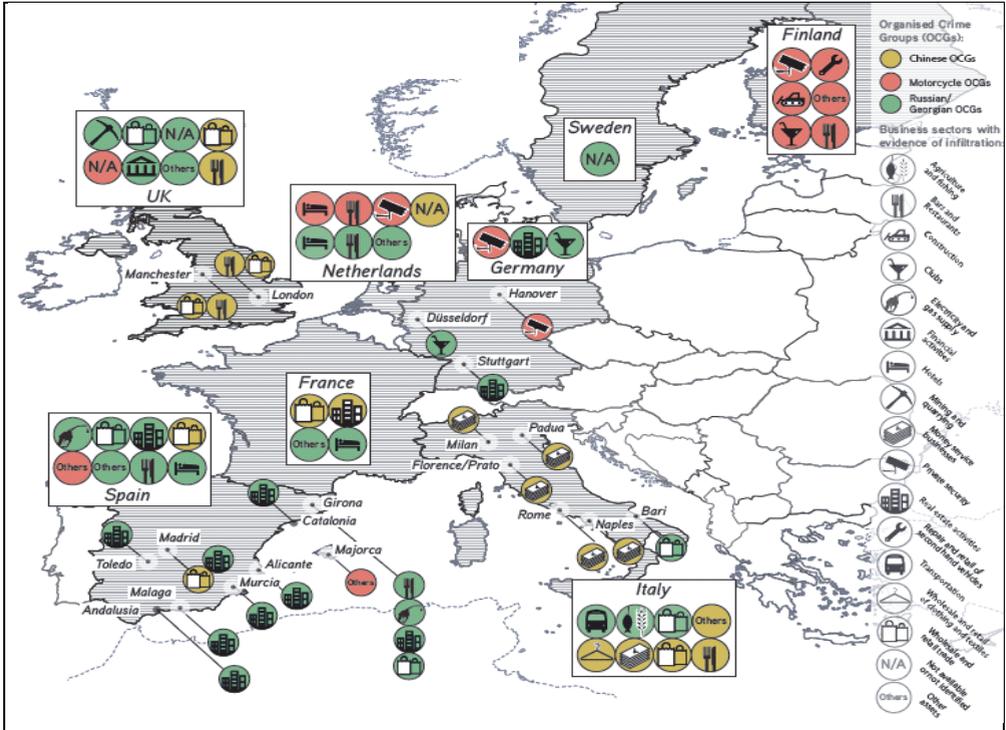
**Fig. 1 – Investments by Italian Mafia organisations abroad**



Source: OCP project

- the investment strategies of the Chinese organisations (e.g. textiles and the wholesale trade), the Russian/Georgian organisations (e.g. import/export) and motorcycle gangs (e.g. private security) are different:
  - Germany, France, the UK, Italy, Spain, Holland and Finland are stomping grounds for the Russian and Chinese Mafias, as well as the “motorcycle gangs”, a phenomenon which is more widespread in Northern Europe, who make their fortunes in the private security sector;
  - for Italy, it is significant how, unlike in the rest of Europe, the Chinese Mafia in particular does a roaring trade with so-called “money service” businesses, places for money laundering. However, this is not the only sector to attract the attention of foreign criminal organisations in Italy, which also share the spoils in the catering, transport and textile sectors and operate businesses which to a greater or lesser degree serve as a front;
- in other European Union countries, the Chinese Mafia features in the catering and commerce sectors, while the Russian Mafia does a roaring trade in the real estate sector, in the entertainment sector with its venues and clubs, and in the hotel sector, particularly in Spain, France and Holland.

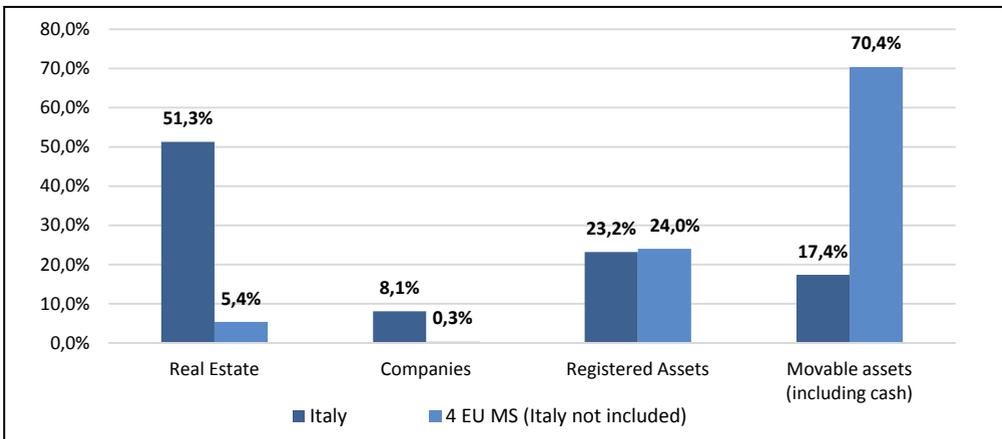
**Fig. 2 – Investments by other criminal organisations in Europe**



Source: OCP project

Some surprising information to emerge from the study regards a European comparison concerning confiscated assets: primarily cash and vehicles, while the number of properties confiscated is small, and businesses even smaller.

**Fig. 3 – Differences between types of asset confiscated**



Source: OCP project

This is due mainly to 3 different reasons:

- **the difficulty of tracing** infiltrations into businesses and who benefits from them;
- **weak** national substantive and procedural **legislation** concerning measures to target assets, leading to difficulty in applying the confiscation procedure;
- **problems in managing confiscated assets** leading the various agencies concerned to choose not to seize them (above all in the case of businesses).

### 2.1.2 Investments by criminal organisations in Italy

Based on the report *Gli Investimenti delle Mafie (Mafia Investments)* produced by Università Cattolica del Sacro Cuore of Milan and Transcrime Centre as part of a study project on investments by criminal organisations in the globalised economy, conceived and funded under the “National Operational Programme for Security for Development – Convergence Objective 2007-2013”, it is possible to establish a general picture of investments by Mafia organisations in the legal economy in Italy. This picture was reconstructed using data on confiscated assets provided by the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets (ANBSC) for 1983-2012.

In numerical terms, the lion’s share of these investments was in property purchases (52.3% of all confiscated assets). This was followed by registered movable assets (20.6%), other movable assets (18.4%) and businesses and company shares (8.7%). Property is therefore the most popular investment but also the one which is most exposed to the risk of being identified and confiscated.

**Fig. 4** – Portfolio of investments by organised crime. Main types of investment as percentage of total confiscated assets, 1983-2012

Main asset category	1983-1989	1990-1999	2000-2009	2010-2012
Immovable assets	66,0%	63,3%	49,9%	37,3%
Businesses and company shares	10,0%	9,0%	8,3%	10,5%
Registered movable assets	10,0%	18,8%	20,0%	33,5%
Other movable assets	14,0%	8,9%	21,9%	18,7%

Source: Transcrime

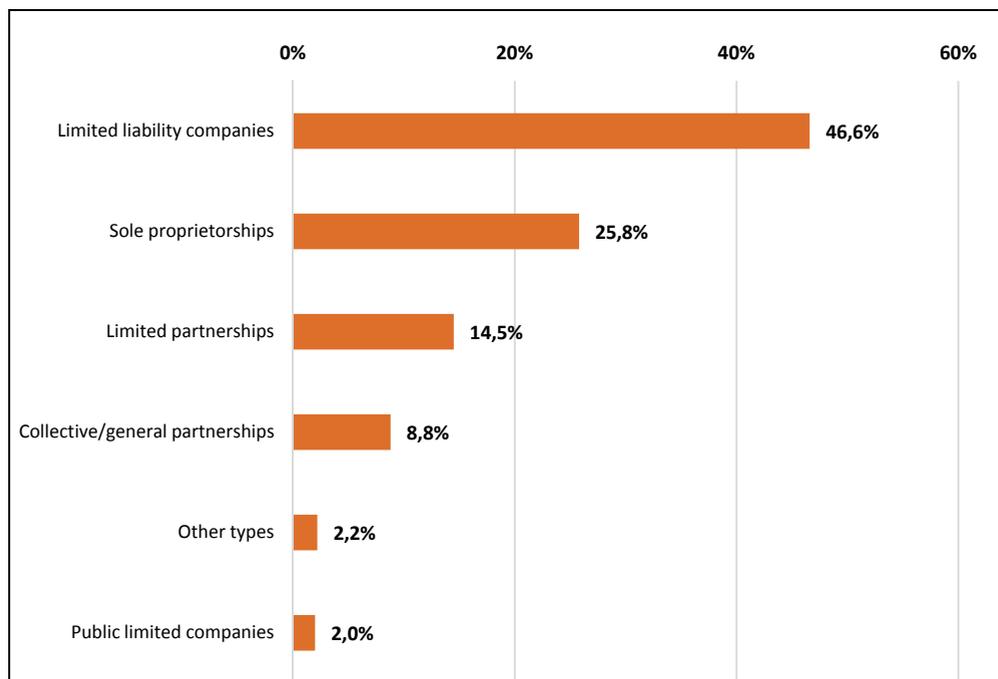
Of the types of immovable property in which Mafia-type organisations have invested, housing (42.4%) stands out, followed by land (25.6%). The largest investments in housing are in apartments (33.8%), which clearly outstrip other types

of dwelling (detached houses and villas), while the land in question is above all agricultural, and is concentrated almost exclusively in regions with a traditional Mafia presence (Sicily, Campania and Calabria).

In the regions of the South (with the exception of Apulia) there is a greater propensity to invest in property. In this sector, the region of Piedmont has a much lower share than the other regions (less than 20%) while the figure for Lombardy and Lazio is around 50%. The percentage accounted for by investments in businesses tends to be higher in Campania, Lombardy and Lazio (at around 10%).

With regard to business investments, limited liability companies are by far the most popular (46.6%), followed by sole proprietorships (25.8%), limited partnerships (14.5%) and general/collective partnerships (8.8%). Public limited companies, in contrast, make up a small percentage of the total (2%). Limited liability companies are preferred above all because they are easy to set up (requiring share capital of €10,000) and have the advantage of limited financial liability. In contrast, public limited companies, despite sharing the same advantage, have higher costs in both economic (with a minimum of €120,000 of share capital) and organisational terms.

**Fig. 5** – Distribution of portfolio of investments of criminal organisations in businesses



Source: *Transcrime*

The most popular sectors of economic activity are lower technology segments: particularly the wholesale and retail sector (29.4%) and construction (28.8%). Hotels and restaurants (10.5%) and real estate (8.9%) follow some way behind.

Over the years there has also been a greater propensity to purchase company shares. Although the numbers are small, it may be observed that in more recent times the increased propensity to purchase them is mainly inspired by a logic of investment.

With regard to property investments, the economic motive appears to be a secondary factor, while the purchase of property for personal use is of greater importance. This is probably linked more to symbolic and status-related motives of individual members of criminal organisations or to a question of opportunity than to any kind of economic logic.

Property, whether for personal use or investment, tends to be concentrated in areas where Mafia organisations have the strongest local roots. This appears to underscore how the possibility of controlling and guaranteeing one's own investment is central to steering the choices of Mafia organisations in the purchase of property.

Investment in businesses occurs for a multitude of reasons:

- **to conceal criminal activities:** laundering of illicit proceeds or using businesses to cover up criminal activities or assets;
- **economic profit:** minimising costs while maximising profit and economic return on investment;
- **social consensus:** maximising consensus, support and legitimation among populations in areas of influence of Mafia organisations;
- **local control:** maximising physical control of the area and strategic control of the main centres of power in areas of influence (e.g. public administrations, local politics, unions and the third sector);
- **cultural/personal reasons:** social prestige or symbolic visibility, investments in family businesses.

Criminal organisations thus choose to invest in the businesses which best meet the aforementioned interests. Depending on the situation, certain factors may be preferred over others. In general, strategies of investment in businesses are influenced by the motivations listed above in three different ways:

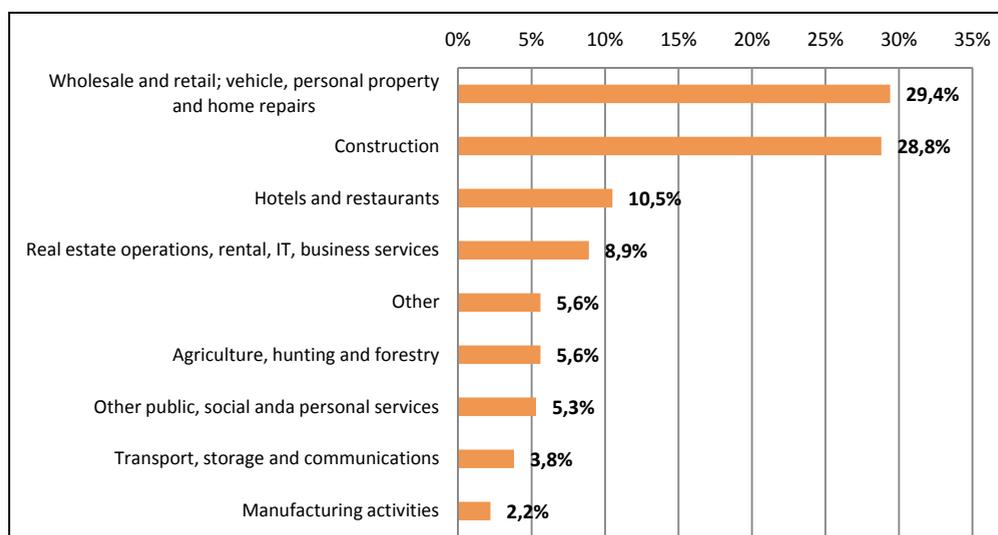
- **in the choice of geographical areas and economic sectors of activity:** for instance, profit motives may increase the propensity to invest in sectors with low entry costs;
- **in the choice of methods of economic and financial management** of the business: for example, in the case of money laundering, the use of capital of illicit origin may become a more popular form of funding than bank loans;

- **in the choice of means of control and ownership of the business:** for example, forms of franchising or an extensive, close-knit network of branches respond better to the need for local control than others.

With regard to where to invest, criminal organisations invest in the geographical areas and economic sectors that best serve their need to control the area and maximise social consensus, while the sector’s profitability has less influence.

Specifically, the businesses of Mafia organisations are concentrated in sectors which have a low degree of openness towards overseas markets, are low-tech and highly labour intensive. They typically consist of small and medium-sized enterprises, are heavily deregulated and highly local and involve public resources and public administrations to a large degree. The sectors which best satisfy these characteristics are the traditional ones: construction, mining and quarrying, hotels and restaurants. Commercial enterprises, although strongly represented in numerical terms, do not exhibit a higher concentration of investments on the part of Mafia organisations than the equivalent “legal” enterprises.

**Fig. 6 – Businesses confiscated from criminal organisations by economic activity**



Source: Transcrime

## 2.2 The phenomenon of seizure and confiscation of assets in Europe

It is well known and established at many levels that in order to combat organised crime activities it is essential to cut off the flow of proceeds from criminal activities.

The previous sections of this report emphasised how criminal organisations have come to constitute international networks on a vast scale and accumulate significant proceeds from various illegal activities which are then recycled and ploughed back into the legal economy to be laundered.

In the light of this strong propensity towards profiteering, seizure and confiscation of criminal or illicit assets constitute an extremely effective way of countering organised crime: by seizing the proceeds, it is in fact possible to thwart the activities of criminal organisations, discourage illegal activities and recover funds to be reinvested in monitoring activities or crime prevention initiatives.

In specific terms, it may be stated that the confiscation of assets obtained from illegal activities is a tool with a dual value, both punitive and preventive. It punishes the people who are responsible for crimes or suspected of illegal activities by depriving them of the proceeds from the crimes, while it is also preventive in nature, not only because confiscation may be a precautionary measure but also because the reutilisation of assets for social purposes, if well implemented, may have a high value as a model and in educational terms for the whole community.

Seizure and confiscation of assets have long been at the centre of the European Union's attention. However, it is only since 2001 that any true genuine progress has been recorded. In view of the cross-border nature of the phenomenon, the European Union ultimately decided to formulate a response to the problem at the Community level.

With the adoption of the Stockholm Programme in April 2010, the European Council set out the priorities of the EU for 2010-2014 within the framework of protection from serious forms of organised crime. This was followed, in November 2010, by the EU's Internal Security Strategy in action, drawn up by the European Commission's Directorate-General for Home Affairs, which sets out five objectives, including dismantling international criminal networks. Specifically, in this context, the strategy considers the confiscation of proceeds from criminal activities to be a strategic priority as it is an effective instrument in the fight against organised crime in the EU.

In order to combat crime, the established principle is that it is essential to dismantle criminal networks and eliminate the financial attractiveness that fuels them by strengthening cooperation between the authorities responsible for countering them and overcoming the obstacles created by divergent national approaches.

To this end, the European Union should implement initiatives to:

- develop systems for the exchange of information;
- make better use of the possibilities offered by the its agencies and European investigative instruments;

- develop shared and preventive techniques;
- step up cooperation with third countries.

With regard to the confiscation of assets obtained from illegal activities, the legislation proposed by the European Commission aims to facilitate the work of the authorities of Member States tasked with recovering the proceeds of cross-border criminal activities, eliminate the economic benefits arising from them and return resources to the public authorities which provide citizens with services.

As matters currently stand, however, it must be acknowledged that although many EU Member States use confiscation of illegal assets as a specific means of countering serious crimes, progress towards the development of standards and laws which harmonise national legislative systems is difficult and slow; this is because seizure and confiscation of assets falls under criminal law, which is a sensitive area for Member States, and because individual countries' seizure and confiscation models differ greatly from one another.

These differences also affect States with functioning confiscation models.

In the modern world of transnational, globalised crime, tracing and freezing assets and the enforcement of criminal judgements will increasingly require cross-border cooperation.

Within the EU, each individual Member State decides how to combat organised crime and corruption in compliance with its own legal system. A number of issues have for some time transcended national borders and demanded intervention at supranational level in which, in addition to the harmonisation of legal provisions, shared operational solutions involving several States have been adopted.

In the field of confiscation of assets, full harmonisation has not yet been achieved. This is to a large degree the result of supranational obstacles.

Differences may also be found in the type of reutilisation of confiscated assets. From this perspective, EU Member States can be grouped into two categories:

- **institutional reutilisation**: confiscated assets are absorbed within the State budget;
- **social reutilisation**: confiscated property is used for public interest or social purposes.

Currently, there are two additional models for social reutilisation of confiscated assets in the European Union:

- **direct reutilisation**: confiscated assets are used directly for social purposes;
- **indirect reutilisation** through established specialised funds or programmes which invest the proceeds in countering drug trafficking or preventing crime, as well as in public interest or social purposes.

EU Member States which apply the direct reutilisation approach include Belgium (Flanders) and Italy. Member States which apply the indirect use approach to confiscated assets include France, Luxembourg, Spain and the UK (Scotland).

Essentially, the current EU model takes into account the peculiarities of existing models for the confiscation of proceeds from criminal activities yet almost totally ignores those models for confiscation of illegal assets which do not require a connection between the crime and the assets.

Nevertheless, this awareness that the problems encountered by Member States persist and need to be dealt with in order to allow more effective cooperation, and that EU legislation concerning confiscation of assets is still not fully developed has led to the formulation of recommendations designed to overcome some of the aforementioned shortcomings, with the aim of contributing to the future development of shared legislation at the European level and improving the process of identification, seizure and confiscation of assets subject to confiscation at the national level. This is particularly necessary with regard to European cooperation in cases of cross-border crimes and assets located outside the borders of the confiscating country.

Such recommendations, which may be adapted to the EU's Member States, irrespective of their model for seizure/confiscation of assets by placing value on the advantages of existing national models and mitigating their weaknesses, can be considered the elements that might improve the level of efficiency and effectiveness of a potentially ideal confiscation model.



### 3. CURRENT METHODS FOR THE MANAGEMENT OF CONFISCATED BUSINESSES AND ASSETS IN ITALY

Italy boasts a long tradition in the matter of confiscation of assets, which is deemed a particularly effective instrument, particularly with regard to the fight against organised crime. This focus on such a wide-ranging instrument has resulted in legislation being continually updated, leading to rules and practices being constantly reviewed over the last few years, not always with a structured, harmonious approach.

It is particularly important to underscore the fact that Italy is unique on the international scene, as it is characterised by two completely different systems: its system of asset confiscation is in fact mixed, as it is impossible to classify it under one of the two traditional categories of confiscation, i.e. the traditional system which is based on criminal law and the system which is not based on criminal judgement.

While a general procedure based on criminal convictions exists, there is also a special procedure, called *confisca precauzionale* or precautionary confiscation, which is applied above all in cases involving criminal organisations (the Mafia) with the aim of confiscating illegal profits obtained by Mafia-type crimes or other types of crime, including corruption. This second confiscation procedure was devised specifically to deal with organised crime, without needing to remain tied to the cumbersome procedures and lengthy timescales of traditional criminal proceedings.

#### 3.1 The regulatory environment

In general, the Italian legislative system concerning confiscation is fairly advanced: many modifications have been made over time in order to make the fight against organised crime more effective and efficient, although this has led in some cases to an overlapping of measures and difficulty in terms of implementation.

In 1982 the **Rognoni-La Torre Law** was the first specifically to strike at the economic profit and property of those guilty of committing crime. In the years that

followed, new measures were progressively introduced, starting from extended powers of confiscation, the definition of subjects liable to confiscation and of the crimes for which seizure and confiscation are applicable provisions, through to cases of compulsory confiscation, confiscation by equivalent and confiscation against legal persons.

In 1992 seizure and confiscation were introduced for cases of judgements or plea bargains for several serious crimes, including those linked to Mafia-type activities.

In 1996 a new law established procedures for the first time to regulate the management of assets upon seizure and subsequently during the confiscation stage. A significant new development was the introduction of social purpose in the reutilisation of the confiscated asset, which makes provision for the return of the asset to the community – the same community which suffered the consequences of the crimes and which was the original owner of the asset. This measure was introduced with a dual aim: on the one hand to weaken criminal organisations and on the other to send a strong message regarding the rule of law in the areas in which crime had taken root.

Other noteworthy innovations introduced subsequently were the extension of the spheres of application of precautionary seizure and confiscation measures (2008) and the establishment of a specific body responsible for management of assets and for the assignment stage (2010).

In 2011 the **Antimafia Code** brought together all laws against organised crime and set out measures to combat it more clearly; finally, the 2013 Stability Law amended the code and other measures concerning confiscation.

### **3.2 The parties involved**

In the Italian model, the main parties involved in the asset seizure, confiscation and management stages are:

1. the court, in particular the designated judge;
2. the judicial administrator;
3. the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets.

The **court** takes all decisions regarding the seizure or confiscation order or regarding the annulment of the seizure itself. Specifically, it is the task of the court, sitting as a unified bench, to appoint the designated judge and the judicial administrator, to decide with regard to execution of the seizure, to dialogue with the National Agency

for the Management and Use of Seized and Confiscated Organised Crime Assets, to determine the actions to be pursued on the part of the designated judge and judicial administrator, to take part in the management of the seized businesses and to decide with regard to the possible closure of its activities.

The designated judge is a judge selected from within the joint court (normally a member of the court) and represents the main institutional point of reference during the seizure/confiscation procedure: he/she has a central position as he/she coordinates the activities of the court, the judicial administrator and the National Agency. He/She also oversees the whole procedure, reports to the members of the court in the event of annulment of the provision and may also appoint experts (for example when the valuation of an asset is challenged). Within 30 days of being appointed, the designated judge must complete a detailed report of the assets (indicating the state of the individual assets/businesses, their market value based on the estimate of the judicial administrator; the rights of third parties over the assets, any accounting anomalies in the businesses and guidelines for the administration of the assets). This report constitutes a reference point for the entire confiscation proceeding.

**Judicial administrators**, on the other hand, actively manage assets during the seizure stage and take custody of, conserve and administer them, while seeking to increase the return on them, if possible. They are public officials and create a relationship of trust with the designated judge in order to administer the assets in an effective manner. They act under the direction of the designated judge, who must in turn follow the guidelines of the National Agency. In addition, it is judicial administrators who must dialogue with all parties involved in the procedure.

Judicial administrators remain in office until the annulment of the seizure order or until the first-instance confiscation; specifically, they must preserve the assets or increase their productivity.

Judicial administrators' tasks include taking possession of the seized assets (with the aid of the police authorities), producing periodic reports on the state and dimension of the assets and activities connected with their management, conducting ordinary and extraordinary administration activities (with any extraordinary activities being subject to authorisation on the part of the designated judge), verifying and settling creditors' accounts and preparing a final report at the end of their term.

In cases involving qualitatively and/or quantitatively complex procedures (e.g. in cases concerning one or more businesses/companies), the court normally appoints several judicial administrators, potentially with different professional backgrounds, and in accordance with article 40, paragraph 1, also provides "general guidelines for the management of seized assets, also taking into account the recommendations and guidelines adopted by the governing board" of the ANBSC, pursuant to article 112,

paragraph 4, letter a) of the Antimafia Code in Legislative Decree no. 159 of 6 September 2011 and subsequent amendments and additions.

In the event of irregularities or clear incompatibility, the court may terminate the appointment of the judicial administrator, upon the proposal of the designated judge.

**The National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets** was established in 2010. The reason behind its creation was the desire to assign responsibility to a single body for seizure and preventive confiscation proceedings and criminal proceedings for the crimes of counterfeiting, importing counterfeit goods, slavery, prostitution of minors, child pornography and Mafia crimes.

The Agency oversees all stages of the confiscation process, from seizure to the actual management of the asset. Three main areas of action can be distinguished:

- investigations: the Agency acquires information about seized and confiscated assets, their state, size and solidity; it also examines possible options for future assignment of the assets in the event of final confiscation;
- it provides support for the court and designated judge, in particular by evaluating the best possible use for the asset;
- preservation and administration of assets: after first-instance confiscation, the Agency takes over this role from the judicial administrator.

In order to seek to guarantee the operational effectiveness of the National Agency at the local level, support units have also been set up at the local prefectures; the Agency can also count on the support of the Agenzia del Demanio (the State property department) and the staff of other local administrations.

### **3.3 Assets subject to confiscation and stages of the proceeding**

Criminal and precautionary measures exhibit a number of differences during the stages of asset identification and implementation of procedures, owing to their different natures.

Criminal proceedings entail confiscation of the asset representing the profit from criminal activities (the economic benefit gained directly or indirectly from the crime), the product (the actual result of the crime, i.e. the assets acquired, obtained, created or modified through the crime), and the price (the payment given or promised in exchange for committing the crime). If the assets confiscated do not correspond to the actual product or profit of the crime, they are substituted with other assets of the same value.

In the preventive proceeding, on the other hand, identification of the asset is not based directly on the crime but on broader criteria (extended confiscation). Moreover, in this case too, if confiscation is not possible for various reasons (the asset has been lost or destroyed), confiscation by equivalent (of the product, profit or price) is applied.

Some of the aspects which the two procedures have in common are:

- possession or availability of money, assets or benefits, including through another (natural or legal) person;
- the disproportion between the value of the assets and the income declared or activities conducted by a person with a criminal conviction (article 12-sexies) or by an individual deemed a danger to society (preventive confiscation);
- the absence of explanations of the origin of the assets.

There are also factors which distinguish them:

- in a criminal proceeding, conviction is the necessary element for confiscation. In preventive proceedings, the danger to society posed by the individual must be ascertained;
- in preventive proceedings, assets of lawful origin may also be confiscated, while in criminal proceedings the asset which is to be confiscated must be connected to the crime.

Continuing with the analysis of the Italian model for managing confiscated assets, it should be pointed out that there are three main stages in the confiscation proceeding:

1. the first is from the seizure order to first-instance confiscation;
2. the second commences from the first-instance confiscation to the final confiscation;
3. the third is extra-judicial and concerns management and assignment of the asset after final confiscation.

**Seizure** is a preventive measurement adopted by the court at the instigation of the competent body, based on less stringent motives compared with those required for subsequent confiscation. These lesser requirements are due to the fact that it is a measure taken without examination on the part of the respondent or defendant.

When an asset is seized, it is removed from the possession of an individual and is managed by an administrator under the guidance of the court.

Seizure is decided at a preliminary stage; such a measure must be confirmed during the judicial proceeding in which the defendant can answer the charge and seek to have the seizure order lifted.

**First-instance confiscation** may be appealed. However, at this stage the parties may assume that the asset will be subject to final confiscation; second-instance

confiscation confers even greater stability upon the proceeding. Confiscation is final when the judge presiding over the third-instance stage of judgement confirms the decision established during the previous two stages.

The final stage consists of **management and assignment of the asset**.

With regard to this latter stage, it should be stressed that management of the asset effectively commences with first-instance confiscation, when the asset is assigned to the National Agency. After confiscation becomes final, the asset becomes State property but continues to be administered by the Agency, which has the task of assigning it.

Management of the asset is a crucial stage in the confiscation process and entails activities which may vary greatly from one another depending on the type of asset.

**Movable assets and property** (e.g. money, collections, objects and animals), **registered movable assets** (e.g. vehicles and intangible assets such as licences) and **financial assets** (all types of shares and financial products) are generally sold and the proceeds deposited with the Single Justice Fund.

**Immovable property** remains at the disposal of the State or are transferred to the municipal, provincial or regional administration in which they are situated. In the former case they may be used for judicial purposes, application of the law or civil protection, or for other institutional purposes of public offices, the revenue agency, universities or cultural institutions; they may also be used by the Agency for economic purposes. Local administrations (the municipalities, provinces and regions) may receive the assets for institutional and social purposes, and may decide whether to manage the asset directly or assign it to the community, such as youth groups, voluntary organisations, cooperatives, treatment and rehabilitation centres for drug addicts or environmental protection associations. They must be assigned free of charge and in keeping with the principles of transparency, adequate publicity and fair treatment.

Local authorities may use the asset for economic purposes if they are not able to reallocate it, and therefore have recourse to selling it. The proceeds must however be used in the interests of the community and the property may only be sold to associations, public bodies or foundations.

The procedure for **businesses** is different, insofar as they may be rented, sold or wound up. Specifically, in accordance with applicable legislation in force, businesses permanently confiscated from criminal organisations become part of the property of the State and must be:

- 1.a) rented, when there are “realistic prospects of business activities continuing or recommencing”, to companies or to public or private businesses;

- 1.b) assigned on a rent-free basis, “to cooperatives of employees of the confiscated business” 11. With regard to this kind of use, the regulation specifies that “in the choice of tenant, preference must nevertheless be given to solutions which guarantee the same levels of employment”;
- 2.) sold, where such a case is deemed particularly advantageous and capable of generating “greater benefit for the public interest”;
- 3.) wound up, if the business cannot realistically be rented or sold. This solution must be taken into consideration in the case of “a greater benefit for the public interest” or when it is necessary in order to compensate the victims of Mafia-type crimes.

All proceeds received go into the are placed in the Single Justice Fund.

In contrast to movable property, for which processes of reutilisation for justice or social purposes are identified, for confiscated businesses the legislator has given priority to the possibility of continuing the activities of the business, so as to safeguard employment levels too. The aim of fostering the continuity and sustainable development of the business is already provided for by the seizure proceeding, in which the judicial administrator, in addition to safeguarding and conserving the assets, has the task of administering them in such a way as to improve their profitability, wherever possible. In the assignment proceeding, this aim is even more in evidence with the introduction of the option of selling the business, renting it or allocating it on a rent-free basis, the latter case specifically to guarantee the “sustainable operation of the business” if management can be entrusted to a nascent cooperative comprised by employees of the same business. As a last resort, the business is wound up only if it is impossible to continue the activities of the business.

### **3.4 The extent of the phenomenon**

In Italy, management of frozen or confiscated assets, as already pointed out above, is entrusted to a body specially set up for the purpose, the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets, which was established by Decree Law no. 4 of 4 February 2010, converted into a law, with amendments, by Law no. 50 of 31 March 2010, and currently implemented by the aforementioned Antimafia Code (Legislative Decree no. 159 of 2011 and subsequent amendments and additions).

The Agency is a body subject to public law, enjoys organisational and accounting autonomy and operates under the supervision of the Minister of the Interior.

Even prior to this, Law no. 109 of 1996 had already introduced substantive, procedural innovations concerning the administration of seized and confiscated assets, and had also responded to the need to introduce permanent monitoring of such assets.

The need to create a database stemmed from the fact that data collection had so far been the task of the various administrations concerned, which without any kind of coordinating effort had created independent reporting systems that often lacked specific procedural criteria.

Another limitation of the reporting systems thus implemented was that they referred only to the stage of the proceeding for which the administration which created them was responsible, without taking either subsequent stages or the involvement of different administrations into account. It was therefore necessary to introduce a link between these reporting systems so that they could be compared with each other.

To this end, Law no. 109/1996 introduced significant innovations by making provision for the collection of information concerning seized or confiscated assets, the state of the seizure or confiscation procedure and the dimensions, assignment or utilisation of the aforementioned assets to be subject to a specific regulation.

Therefore, on the basis of information updated as of February 2015 and contained in Ministry of Justice report “*Consistenza, destinazione ed utilizzo dei beni sequestrati o confiscati. Stato dei procedimenti di sequestro o confisca*” (*Consistency, destination and use of seized or confiscated assets. State of the proceedings of seizure or confiscation*), it is possible to have an overview of the main quantitative aspects relating to the seizure and confiscation of assets.

In this regard, the first figure to note is that the total number of assets included in the database has reached 139,187, approximately 13,000 more than in 31 March 2014.

A comparison based on individual calendar years shows that after steady growth until 2013, during which a count of 17,739 assets was reached, there was a slight fall-off in 2014, with judicial authorities focusing their attention on 16,701 assets (around 1,400 a month).

**Fig. 7** – Database of seized and confiscated assets

Year	Assets in database	Total 2011-2015
2011	15,040	
2012	16,093	
2013	17,739	<b>68.033</b>
2014	16,701	
2015	2,460	

Source: Ministry of Justice

It should be pointed out that the assets in question are mainly seized and confiscated assets, but not exclusively. The database also contains assets which are still at the precautionary seizure proposal stage, as well as assets which have progressed to the stage of release from seizure or which, contrariwise, after having been subject to final confiscation were subsequently assigned.

Specifically, with regard to asset type, out of the 139,187 assets contained in the database, 17,973 may be classed as “seized assets” and 46,799 as “confiscated assets”.

Taken as a whole, the assets can be broken down into the following categories:

- 64,772 assets seized and confiscated in total;
- 36,628 assets released from seizure, i.e. all assets for which seizure or confiscation have been rejected and/or annulled;
- 32,547 assets for which seizure or confiscation have been proposed, i.e. those assets for which the decision of the first-instance judge is pending;
- 5,240 assigned assets, i.e. those assets that have been placed under final confiscation and subsequently become State property or assigned to local authorities.

**Fig. 8** – Breakdown of assets contained in the database

<i>Assets</i>	<i>Number</i>	<i>%</i>
Seized and confiscated	64,772	46.5
Released from seizure	36,628	26.3
Proposed seizure/confiscation	32,547	23.4
Assigned	5,240	3.8
<b>Total</b>	<b>139,187</b>	<b>100,0%</b>

*Source: Ministry of Justice*

With regard to asset types, dividing them into five categories – immovable property, movable property, registered movable property, businesses and financial assets – gives us the following breakdown.

**Fig. 9** – Types of asset contained in the database

<i>Asset type</i>	<i>Number</i>	<i>%</i>
Businesses	9,654	6.9
Financial	15,709	11.3
Immovable	64,374	46.3
Movable	21,090	15.1
Registered movable	28,360	20.4
<b>Total</b>	<b>139,187</b>	<b>100,0%</b>

*Source: Ministry of Justice*

A comparison between all of the 139,187 assets contained in the new database and the 89,466 assets for which a seizure or confiscation order has been issued in the last five years (2011-2015) shows one constant that remains unchanged over time:

- immovable assets (39,384 from 2011-2015) almost always account for close to half (44%) of the total number of assets recorded, while registered movable assets (18,257), which have seen a certain increase recently, constitute the second type in terms of numbers, reaching 20.4%;
- in second place we find movable assets (13,788), which comprise over 15% of the total, while financial assets (11,151) and businesses (6,886) continue to account for a smaller percentage.

**Fig. 10** – Types of asset contained in the database

<i>Asset category</i>	<i>Total 2011-2015</i>	<i>Overall database summary</i>
Business	6,886	9,654
Financial	11,151	15,709
Immovable	39,384	64,374
Movable	13,788	21,090
Registered movable	18,257	28,360
<b>Total</b>	<b>89,466</b>	<b>139,187</b>

*Source: Ministry of Justice*

Confiscated assets represent 37.4% of the 139,187 assets contained in the database, a percentage which, although it has remained fairly constant over time, has recorded a slight increase (35.4% as of 30 March 2014). The assets in question, as the table below shows, can be broken down as follows:

- assets subject to non-final confiscation and therefore still subject to further developments (25,229);
- assets for which the stage of final confiscation has been reached but which have not yet been assigned (21,570);
- assets still awaiting an assignment order is still pending (5,240).

**Fig. 11** – Confiscated assets

<i>Confiscations</i>	<i>Number of assets</i>	<i>% of total database assets</i>
1. Non-final confiscations	25,229	18.1
2. Final confiscations	21,570	15.5
3. Confiscations with assignment	5,240	3.8
Total confiscated assets	52,039	37.4
<b>Total assets in database</b>	<b>139,187</b>	<b>100,0%</b>

*Source: Ministry of Justice*

Of these asset types, assets with a final confiscation order (21,570, or 15.5% of the total number of assets contained in the database), as they still lie with the judicial authorities at the various offices for prevention measures.

The assets in question, specifically 8,299 properties and businesses, are likely to fall under forthcoming assignment orders, and theoretically are therefore about to reach the final stage of the whole seizure and confiscation process.

The judicial administration, by issuing a final confiscation order, has created the conditions that enable the assets to be used by the State, as they become property of the State or are assigned to individual local bodies. The National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets must then take measures to put this into effect by issuing the individual assignment order.

Taking all of the information in the database as a whole, the types of assets most commonly subject to final confiscation are registered movable assets (8,533), the number of which has grown sharply in recent years (over 5,000 assets subject to final confiscation from 1 January 2012 onwards), followed by immovable assets (7,104).

**Fig. 12** – Assets subject to final seizure measure

	Businesses	Financial assets	Immovable assets	Movable assets	Registered movable assets
Final confiscations	1,195	2,046	7,104	2,692	8,533

*Source: Ministry of Justice*

An analysis of the number of assets subject to final confiscation during the 2011-2015 period shows a large number of confiscations of registered movable assets (2,076) in 2012 (this category was the largest also in 2011 and 2014). These were mainly motor vehicles. By contrast, in 2013 immovable assets were the most frequently subject to this kind of measure on the part of the judicial authorities (1,863).

Over the course of the last five years, therefore, there have been 6,166 final confiscations of registered movable assets, as against 4,435 confiscations of immovable assets.

It is particularly interesting to note that the figure for assets which are liable to be assigned, that is, immovable assets and businesses, grew from 817 (716 properties + 101 businesses) in 2011 to 2,137 (1,863 properties + 274 businesses) in 2013, with the inevitable consequence that the number of assignment orders issued in recent years cannot be considered to correspond.

**Fig. 13 – Assets with final seizure order**

	2011	2012	2013	2014	2015	<b>TOTAL</b>
Registered movable	794	2,076	1,210	2,025	61	<b>6,166</b>
Immovable	716	1,059	1,863	671	126	<b>4,435</b>
Movable	279	250	446	162	49	<b>1,186</b>
Financial	123	160	423	192	20	<b>918</b>
Business	101	135	274	158	20	<b>688</b>
<b>Total</b>	<b>2,013</b>	<b>3,680</b>	<b>4,216</b>	<b>3,208</b>	<b>276</b>	<b>13,393</b>

*Source: Ministry of Justice*

Assets for which a final confiscation order has been issued belonging to the categories of immovable assets and businesses are subsequently assigned to the State and individual local bodies such as municipal (in the vast majority of cases), provincial and regional administrations to be used for various purposes (which we will return to later).

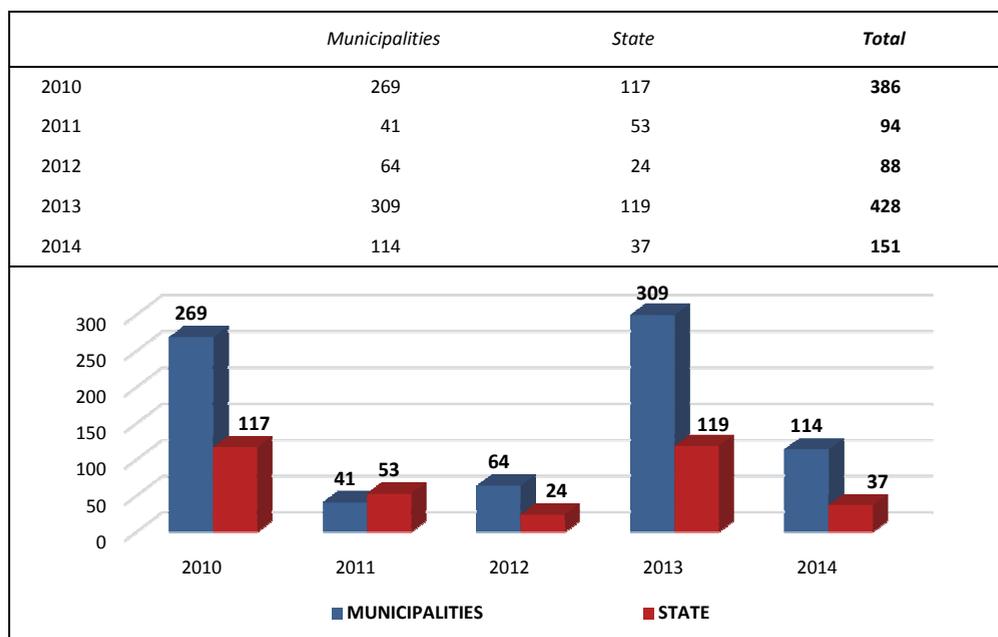
The trend over the last five years shows how assignment of assets depends on factors that are external to the judicial system. Indeed, while courts, appeal courts and supreme courts carry on their work in a diligent fashion, as shown by the rising trend in the number of confiscated assets, the next stage, which is the responsibility of the National Agency for Confiscated Assets, remains overly subject to aspects which make it unpredictable, such as understaffing or changes at the management level.

In this regard, it may be noted that in 2007-2009 the number of assigned assets consistently exceeded 500, under the responsibility of the various State property departments and more recently the prefectures. Responsibility passed to the National Agency on 31 March 2010, and despite the increase in the number of final confiscations, the number of assignments has fallen significantly.

In 2010 the number of assets assigned was still only 386. However, the following two years saw a sharp fall with a total of 90 assets or thereabouts assigned in both 2011 and 2012.

In 2013 the National Agency's productivity began to return to an acceptable level, with 428 assets assigned. Yet the figure for 2014 clearly shows a marked fall in the issuance of asset assignment orders, while a large number of assets which remain unused were placed on stand-by.

**Fig. 14 – Confiscated assets with assignment\***



Source: Ministry of Justice

\* Information updated as of 31 December 2014

### 3.5 Characteristics of the Italian model

The *SOS Legality* project has confirmed most of the strengths and weaknesses of the Italian model for managing seized and confiscated assets, which have already been highlighted both in practice and by other research.

Some of the strengths of the model include, in particular:

- **the dual system of legislation:** the option of using the preventive procedure makes it possible to strike at the activities of criminal organisations in a more effective, direct fashion, thanks to a system which is leaner than the criminal justice system and which used an extended confiscation process that goes beyond the crime itself within a broader spirit of safeguarding collective interests;
- **the vast experience of a number of the parties involved in the procedure:** the fight against organised crime, particularly by means of seizure and confiscation of assets, has a long-established tradition in Italy. This has led to the development of specific expertise, especially in relation to a number of stages of the procedure, and constant improvements in both laws and practice as a result of this wealth of experience;

- **the social value of the procedure:** assignment of confiscated assets for social purposes is a cornerstone of the procedure and is a credit to an entire procedure which often finds itself having to restrict the rights of some parties;
- **it is a key tool in the fight against organised crime:** over the years, criminal organisations have become increasingly highly structured, and, from being centres for illegal activities, have transformed themselves into fully-fledged economic players. Striking at the economic resources by means of which these organisations are able to finance themselves and increase their power represents an aspect of inestimable value in this fight;
- **it balances responsibilities and checks during the judicial stage:** co-management of the procedure by various actors involved is a positive factor which enables arbitrary or discretionary decisions to be reduced to a minimum;
- **the political independence of the civil servants** working within the confiscation process, as they do not require the authorisation of political bodies and are not controlled by them. The only offices which are not completely independent from political power are the bodies of the National Agency;
- **the low degree of vulnerability of the system to corruption** as there is little room for manoeuvre for anyone wishing to benefit illegally from the confiscation process: the procedures are quite detailed and any actions which might potentially be subject to corruption are adequately framed by statutory requirements.

The weaknesses of the model, on the other hand, include:

- **lack of clarity:** constantly updated legislation, with the introduction of new instruments and procedures, has evolved in an unstructured fashion, resulting in a degree of fragmentation which often creates uncertainty and uncertainties of interpretation;
- **excessively lengthy proceedings:** the excessive duration of proceedings, particularly criminal proceedings, causes significant difficulties in efficient management of assets and the functionality of the system as a whole. From the seizure stage to final confiscation, assets can be managed mainly in a protective mode, thus limiting the possibility of reutilisation. This is particularly critical if the assets are businesses;
- **data collection and access:** in view of the economic and social purpose of the law, awareness of the assets on the part of a broad public is desirable. Accessibility to and usability of information about the assets concerned certainly has room for improvement;

- **the state of the assets:** one of the greatest difficulties has to do with keeping assets in good condition, particularly immovable assets and businesses, which once they have come under the control of the judicial administration and the National Agency, are often encumbered by credit burdens or significant situations of illegality to rectify;
- **restrictions on the sale of assets,** which is subject to the noble aim of reutilisation for social purposes, a prerogative which can sometimes be counter to the sustainability of the asset itself;
- **administration of confiscated businesses:** management of confiscated businesses is complex, as from the seizure stage the administrator is forced to deal with a series of extraordinary situations, which often include the regularisation of the social security statuses of employees, bringing the business into line with health and safety legislation, aggression on the part of creditors, difficulty in gaining access to credit and cancellation of orders. Difficulties of this kind demand extremely advanced management experience and expertise and the cooperation of the various actors concerned, especially at the local level, who are often difficult to bring into play;
- **financial burdens on immovable assets:** seized property is often burdened with mortgage-related debts, which make it less attractive. Indeed, assignment of such assets to local bodies is often extremely complex, as they are often unable to “free” the asset;
- **the role and resources of the National Agency:** the recently-established National Agency immediately took on a role of the utmost importance in the management of confiscated assets. Nevertheless, financial and staffing shortfalls, as well as the nature of the body (which is not adequately independent) make it difficult to fulfil all of the tasks entrusted to it by law;
- **implementation of support units:** support units, which by law are supposed to constitute a form of support at the local level in order to help the National Agency wherever it is unable to operate, are often not regularly convened and in some cases have not even been established;
- **monitoring:** the National Agency’s monitoring of the asset after it is assigned to a municipality or other local authority and subsequently to an association is lacking;
- **the socio-psychological context:** hostility is often encountered in the local area in which assets belonging to criminal organisations are confiscated.

### 3.6 Confiscation of assets in practice and reutilisation for social purposes

A significant aspect to take into consideration when speaking of the model for confiscation adopted in Italy is represented by the key role played by civil society. Not only local movements, national associations, local politicians, professionals involved in confiscation procedures, journalists, but also ordinary citizens are increasingly engaged in efforts to raise awareness among the general public and politicians regarding the issue of confiscation and – more generally – the fight against organised crime, often helping to place pressure on the political institutions concerned in order to bring them up to date with current developments.

More encouraging cases of reutilisation of confiscated assets are not unusual. However, these owe their success to the legislative system less than they do to the commitment of individual actors involved in the proceedings.

In this respect, in practice, too, a number of strengths already described above can be identified. For example:

- **reutilisation of confiscated assets for social purposes:** under Italian legislation regarding confiscation, following the assignment order, the asset must be reutilised for social purposes. In line with this provision, many assets have taken on new life in the name of “benefit for society”: rest homes, shelters for victims of domestic violence or the homeless, libraries, sports facilities, etc.;
- **confiscation of illegal assets as a significant social issue:** the Italian media generally gives positive coverage to cases of confiscated assets with successful conclusions. Making these stories public enables a self-sustaining virtuous mechanism promoting awareness to be established regarding the issue of confiscation: indeed, by this means, many citizens may become aware of the social benefits deriving from the confiscation of illegal assets, debate the issue and become involved in the public and political debate surrounding confiscation.

In practice, nevertheless, there is no lack of examples of weaknesses (some of which will be expanded upon below):

- **excessive length of judicial proceedings:** a major problem of the Italian judicial system is the excessive length of proceedings. This critical aspect is not limited to the area of confiscation from criminal organisations but rather represents a general characteristic of the judicial system in Italy. It goes without saying, however, that the excessive duration of proceedings has a particularly serious effect on confiscations, as it means long periods of disuse (or inactivity in the case of confiscated businesses) which are extremely damaging for the assets placed under confiscation proceedings;

- **difficulties of the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets (ANBSC):** potentially, the idea of an institution to unify and centralise the entire asset confiscation procedure on a nationwide basis could produce excellent results in terms of efficiency. Nevertheless, the lack of adequate financial and human resources and the weak institutional architecture of the ANBSC have made this agency a State body that is not always functional;

The National Agency lacks the necessary expertise and resources to manage businesses with a history of criminal affiliation correctly. Indeed, such businesses find themselves having to face many difficulties following confiscation: loss of competitiveness, the need to comply with Italian legislation (circumvented up until that point as a result of their criminal origins) and the negative consequences that derive from this. Without the necessary resources and expertise, the majority of confiscated businesses risk closure;

- **absence of specific training for judicial administrators:** the professional profile of the judicial administrator appointed to manage the asset during the judicial stages of the proceedings corresponds by law to that of an accountant. In many cases, however, the professional profile of an accountant has proven ineffective in managing complex, multifaceted cases, such as those involving confiscated businesses and properties which risk suffering heavy losses in value as a result of remaining unused.

It should nevertheless be pointed out that in recent years a number of Italian universities have introduced courses devised to train future judicial administrators;

- **the risk that the confiscated assets find their way back into criminal hands:** in some cases the paucity of checks during the assignment stage may leave room for illegal practices. The main risks are of two kinds: sometimes the criminal from whom the asset was seized may retake possession of it through a “straw man” of his; in other cases, the assets risk being entrusted to individuals affiliated with different criminal clans from the one which previously possessed them;

- **the difficulty of acquiring information about the confiscated assets:** collecting information and material on assets confiscated from criminal organisations in Italy is often an arduous task. The fragmented system based on different institutions and individuals, together with the serious shortage of usable online material, makes research on the subject of confiscated assets a veritable obstacle course.

The positive factor connected with confiscation represented by the reutilisation of assets for social purposes and the sizeable contribution made by such assets make to Italy's industrial system and economy have been considered by cohesion policies which over the years have in fact been geared towards strengthening best practices in the social anti-Mafia initiatives that have been implemented since Law no. 109 of 1996 concerning the reutilisation of confiscated assets for institutional and social purposes came into force.

Indeed, in this area the many movable and immovable assets and businesses taken away from organised crime may be considered resources that can be put to best use in tools for welfare and social inclusion policy planning and implementation, promoting cooperatives and youth entrepreneurship, protecting employment and developing the tourism, food and agriculture, small business, commercial and industrial sectors.

Social reutilisation of confiscated assets highlights, in reality, the aspects which characterise a confiscation process:

- **the investigative and judicial aspects**, which fall under the competence of the judicial and law enforcement authorities, with the suppression of the criminal economy;
- **the political aspect**, as it restores citizens' faith in institutions and in the democratic life of the country;
- **the economic aspect**, with resources stolen by means of force or violence being put to best use locally, thus offering an opportunity for growth and tangible development;
- **the social, cultural and educational aspect**, which can show that criminal organisations are not invincible and that everyone must play their part.

For these reasons, reutilisation of confiscated assets for social purposes has become an increasingly significant issue with a view to community development in terms of employment, social inclusion, improving quality of life and democratic participation.

The promotion, dissemination and implementation of projects for putting confiscated assets to use can make a positive contribution to policies aimed at fostering social cohesion, creating youth employment and developing networks of relationships, through the private-public partnership method.

In 2014, Associazione Libera promoted an initial survey of positive experiences in the area of reutilisation of assets confiscated from the Mafia among third-sector organisations, associations and the voluntary and cooperative sector.

395 organisations active in the social sphere, representing 395 examples of good practice in the management of confiscated assets, were surveyed.

65.8% were located in South Italy, 25% in North Italy and 9% in Central Italy. The region with the greatest number of positive experiences was Sicily, with 99 examples of good practices implemented by organisations in the social field, followed by Lombardy with 75 and Campania with 64.

These three hundred and ninety-five organisations offered a snapshot of an actual country in the areas of reutilisation for social purpose, commitment and co-responsibility and send a concrete message testifying to the fact that when the State on the one hand and the actors of organised civil society – social cooperatives, voluntary associations and organisations for social advancement, charities and social enterprises – on the other work actively to produce the positive fruits of a new culture of enhancement and advancement of the common good.

An analysis of the 395 social organisations shows that 58.5% of the total are associations and 23.4% are cooperatives, while 2.3% are foundations and communities. Specifically, 22% of the 395 organisations to which confiscated assets have been assigned work with minors, 13.4% with the disabled, 13% in returning people to work, 5.8% with drug addicts, 4% with the elderly and immigrants and 2.7% provide shelters for women subjected to violence and abuse. 29.6% of the organisations operate in other sectors.

The large number of experiences surveyed thus show how it is possible to develop sound local employment and services and provide a multiplier of trust for citizens, with the great merit of focusing public attention on the opportunities which confiscated properties offer the various players involved (local bodies and private social-sector entities).

At the same time, these experiences also bring to light a number of critical aspects which merit attention and require ever more urgently both changes in legislation to be approved and new governance models to be implemented:

- **the assignment and handover of assets does not always mean that they are put to good use.** In many cases assignment and handover of a property to a local authority does not mean that it is used as a resource for local social and economic development; often assets remained unused for long periods for various reasons or are assigned on a free-of-charge loan basis to parties that are unable to exploit their potential to the full;
- **transparency, publicity and equal treatment in assignment.** When local bodies assign assets to private social-sector entities, they do not always use open public procedures, in spite of the provisions of current legislation. Yet such processes must always be based on criteria of transparency and meritocracy. Assignment of an asset is, in symbolic terms, an important moment in the assertion of a law-abiding culture. It is necessary, therefore,

to adopt procedures that are in keeping with such an approach and capable of laying the foundations for initiating a model of virtuous relations between public administrations and private social-sector entities. Specifically, assignment of a confiscated asset may also be a chance to trial forms of participatory planning that are open to all parties concerned as well as innovative, non-exclusive management models;

- **the need for planning in the assignment of confiscated assets.** Currently, confiscated assets are assigned and handed over by the National Agency mainly according to geographical criteria. In the vast majority of cases, confiscated properties are assigned to the municipality in which it is located.

It would ideally be necessary to consider other parameters in addition to geographical considerations, such as: “demand” for confiscated assets from local private social-sector entities, their operational and planning capacities, the capacity of the local authority to promote transparent, participatory processes with a view to putting the assets to the best use, the presence of relevant production and economic sectors, local welfare policies, and so on.

Indeed, an analysis of these factors could potentially lead to assignment policies which are the result of an in-depth understanding of the variables indicated above and would make it possible to make the goal of planning a reality, in other words the allocation of confiscated assets in the most efficient way possible, by assigning them to the places and parties that exhibit the greatest capacity to put them to the best possible use;

- **best use of an asset as an intervention for local development.** Current instruments for putting confiscated immovable property to use give priority to an approach which is consistent mainly with the transfer of public financial resources to the municipalities. The available financial resources are earmarked mainly for renovation of the asset and focus on aspects connected with the building. This has led to contents, ideas and local actors being relegated to secondary considerations. The experience gained until now has made it possible to acquire an awareness that the mobilisation of local resources, local community involvement and the generation of ideas and content require tools and skills that are suitable for developing endogenous development processes and participatory planning. Indeed, local authorities and private social-sector entities often lack the expertise that is necessary to plan and implement operations of this kind and restrict themselves to considering funding simply an opportunity to renovate the property;

- **isolation of the municipalities.** One of the critical aspects regarding experience acquired to date is that the entire responsibility for putting the confiscated assets to good use falls upon the party which becomes the owner: in most cases the municipal authority. In the vast majority of cases these properties are situated in small municipalities which have neither the resources nor the expertise necessary to tackle such a huge undertaking. It would be necessary, therefore, to propose solutions that can offer municipal administrations ongoing, expert support in the planning stage, by implementing methods and tools for involving local players and generating business ideas.
- **The need to go beyond “micro-local mindsets”.** The issue of using putting confiscated to use is often relegated to a “micro-local”, “hyper-fragmented” dimension. It thus becomes impossible to implement far-reaching measures that can provide for the involvement of several assets of various kinds and situated in different areas as well as actors at the regional, national or international level. This is highly detrimental: we need only consider, by way of example, the potential impact of an approach aimed at creating a national network of accommodation facilities for social tourism, a social housing network, co-working spaces, research hubs and centres in partnership with universities and sponsored by major companies representing the “made in Italy” label.

In the light of the points above, it thus becomes a “priority” to open up assets to local areas in order to increase awareness of the fact that a way of improving quality of life in economic and social terms exists.

### **3.7 Management of seized and confiscated assets**

In addition to weakening criminal organisations, efforts in the area of reutilisation of assets confiscated from criminal organisations have enabled another two important results to be attained, with a strong symbolic meaning and media coverage:

- assertion of the principle of the rule of law in places where until that time criminal power had proliferated;
- compensation of the community by returning to it an asset confiscated from the Mafia.

Nevertheless, reutilisation of confiscated assets for social purposes is not the end of a complex issue, which remains far from solved, especially with regard to seized and

confiscated businesses, as demonstrated by the visits and checks carried out as part of the *SOS Legality* project.

There are two main reasons that should spur the furtherance of processes for governing the development of such assets:

1. the continual growth in the number of businesses confiscated from criminal organisations;
2. the issues that arise from governing the development of a business placed under a final confiscation order and its subsequent assignment. Under applicable legislation, when such businesses have realistic prospects of continuing, they may be sold or leased, or if such prospects do not exist, wound up. An examination of the figures showing the trends in confiscated businesses, however, highlights the clear difficulty on the part of administrators in implementing and fostering processes of sustainable development so as to ensure prospects for continuation of the business. Out of the total of confiscated businesses, only a small percentage had been sold or leased. The remaining businesses were already in the process of being wound up at the time of final confiscation, for example because of a bankruptcy ruling, or assigned to be wound up, as the possibility of the business continuing was rejected.

From a reading of these figures it may be therefore be concluded that “confiscation of a business almost always leads to its disappearance”. Nonetheless, the same phenomenon, analysed according to business principles which hold that “businesses of any kind” should be looked at with a view to their “lasting long-term economic viability” (thus focusing the attention not so much on their growth in size as on development in a qualitative sense), without losing sight of the characteristics that distinguish the “organisational context” in which decisions are formed and the “relevant environment” in which they operate makes it necessary to set out a number of cases which arise in connection with the success of processes of recovery and lasting development.

The large number of businesses that are confiscated when they are already in the winding-up or bankruptcy stage can be explained in the light of at least two factors:

1. **the long period of time between seizure and final confiscation.** Such a long period causes great uncertainty both in the expected duration of judicial administration and the effective assignment of the seized business. In such a long period, although the judicial administrator is called upon to undertake actions “to safeguard, conserve and administer seized assets, including with the aim of increasing, if possible, the profitability of those same assets”, it is difficult to implement – even if a long-term business plan is presented and

approved by the court – a plan which extends beyond the short term (e.g. 12 months). As a result, the prospects of long-term development for the business are subordinated to short-term growth targets, and on the part of the judicial administrator a static approach prevails that is geared above all to preserving the status quo of the business and is not always compatible with the dynamic nature of the business environment. In the absence of investments rendered impossible by the lack of adequate financial resources, management concerned essentially with safeguarding and conserving the business leads to a progressive weakening of the asset and its chances of survival. This has additional effects:

- a. *failure to place value on the “strategic” resources of the business* such as human resources with significant skills or important customers who tend to “leave” the business in the absence of clear prospects of the business continuing its activities;
- b. *failure to analyse the potential market opportunities* that present themselves over time and which are potentially fundamental to the sustainable growth of the business itself.

**2. the different types of businesses seized and potentially confiscated from criminal organisations.** Four different types of business can generally be identified:

- a. non-operational businesses set up with the exclusive aim of laundering illicit proceeds; in such cases only the formal aspect of the business can be verified, and not concrete operating mechanism of the business environment;
- b. operational businesses “infiltrated” by anomalous operations resulting from their links with criminal organisations; although such businesses conduct laundering operations and/or serve to conceal illegal operations, they also conduct “regular” business activities, which are often limited and in some cases managed by third parties that are apparently external to the criminal organisation (so-called “fronts”);
- c. operational businesses which conduct normal business activities; this category includes businesses in which criminal organisations have invested capital – sometimes long before the seizure or confiscation order is issued – in order to acquire ownership or control of the business. This type of business can in turn be subdivided into two additional cases: businesses in which individuals with links to organised crime operate, and businesses in which there are no such individuals. In this connection there are:

1. businesses financed with capital of illegal origin, within which – for example in key areas of the organisation (such as the commercial, manufacturing or administration departments) there are human resources with ties to criminal organisations (which does not necessarily imply a lack of professional capacity);
2. businesses financed with capital of illegal origin, within which most, if not virtually all, of the human resources are completely external to criminal organisations. In such cases, control of the business is obtained almost exclusively through the ownership of shares in the company.

In cases where the seizure or confiscation order applies to type a) above, the business is inevitably wound up and struck from the business register. The same generally applies in the case of businesses that fall under type b). It is different for businesses that fall under types c. 1) and c. 2):

- for businesses of type c. 1), the judicial administrator may be faced with a drastically reduced organisation following precautionary confiscation measures or removal of human resources directly involved in the activities of the business. In small and individual businesses, the phenomenon described above may represent an obstacle to the continuation of the enterprise, resulting in bankruptcy or winding-up of the business;
- for businesses of type c. 2), where the link with criminal organisations is wholly or almost wholly connected with the capital invested and not the organisation's human resources, in contrast with the previously mentioned cases the judicial administrator may find in both the organisation and the markets in which it operates favourable conditions for setting in motion processes of reorganisation where necessary and sustainable development of the business so that it can be subsequently assigned (sold or leased).

It is this latter case which mainly describes the businesses surveyed. Nevertheless, in addition to the difficulties connected with the abovementioned case, judicial administrators have found themselves having to deal with a number of critical contextual aspects stemming from the end of advantages gained from criminal activity as a result of a sharp reduction in competitive margin. If they are not tackled appropriately, these critical aspects could compromise prospects for sustainable development of the business in the short term too, giving rise to winding-up procedures or, in the most severe cases, bankruptcy of the business.

It therefore becomes necessary also in the case of seized and confiscated businesses to produce convincing business plans backed by concrete economic and financial assumptions. The failure of solutions driven exclusively by considerations connected with social value risks being only a boomerang.

The three type of case proceeding – seizure, first-instance confiscation and final confiscation – raise problems of a different kind, but do not reduce the need to manage businesses as such, evaluating and managing them according to market principles and economic and organisational rationality and integrity.

The evaluation carried out by the judicial administration within 30 days of seizure of the asset is not sufficient for a true understanding of its business potential and for the decisions that will need to be taken by the designated judge and – after the first-instance confiscation – by the National Agency for the Management and Use of Seized and Confiscated Organised Crime Assets.

Due consideration must be given to the fact that the operations of businesses seized from criminal organisations are often based on the principles of “unfair” competition and on a system of rules which are parallel to institutional rules: their operations generate a series of negative externalities, which greatly increase their competitive capacity and for which the community pays an extremely high price.

Evaluating the potential of the business means first and foremost evaluating its potential, excluding such externalities.

In their economic operations, businesses seized and confiscated from criminal organisations act according to illegal principles which feed their competitive power over businesses which operate legally:

- they use violence and the power of intimidation and corruption with customers, suppliers and competitors, thus distorting the rules of competition and the free market;
- they manage human resources based on principles of paternalistic affiliation, oppression and/or loyalty;
- their management processes evade any social security obligations or any principles concerning individual growth, protection of rights of developing skills and expertise;
- they obtain financial resources through money laundering or collusion with consenting members of the national or international banking system;
- they do not invest in innovation, growth or development, meaning that their technological facilities are often outdated or obsolete;
- they operate with a short-term (speculative) view which aims to maximise profit and minimise costs and investments;
- they are deeply rooted in local political systems of exchange and mutual interest and at the same time increasingly involved in shady systems that are transnational in scope;

- they can count on lower trading costs, thanks to an extensive network of relationships, which is their most significant asset and through which they establish ties of interdependence;
- their network of relationships does not end within the sphere of actors who operate illegally, but also permeates the sphere of those who operate within the law, thus generating dangerous mechanism of mutual adjustment and “mimicry”.

When it is seized, the business suffers a “trauma”: gone are all of the illegal privileges on which the business was based until now, while at the same time a plethora of problems emerge which seriously threaten its survival and may undermine any prospects for its sustainable development, giving rise to the initiation of winding-up procedures or, in the most serious cases, bankruptcy of the business itself:

- the timescales and restrictions of the proceeding are not compatible with the decision-making timescales required for sound, competitive management geared towards development;
- the overlap between the duties of the various actors involved (the judge, the administrator and custodian, the administrator and the National Agency) undermines the continuity and uniformity of compliance;
- banks drastically rein in credit: indeed, it is often the case that following the restrictive measure issued by the judicial authority, banks lose faith in the ability of the business to honour deadlines for loans already taken on and reduce or cancel any credit lines granted up until that point. This makes the administrator’s task particularly arduous, as he may find himself at any moment having to deal with an inevitable liquidity crisis which, especially in the case of businesses which are particularly in debt, may lead to insolvency, followed by bankruptcy;
- debts in practice are drastically downgraded;
- Mafia control of the network of customers and suppliers is replaced by State control, not always with the same level of efficiency;
- Contraction in the number of customers, with a resulting reduction in turnover. Another critical aspect which arises both at the beginning of the judicial proceeding and during management of the confiscated business permanently confiscated from a criminal organisation, is represented by the loss of customers and the ever greater difficulty which the business has in acquiring new orders. This phenomenon may be due both to the fact that the market principles implemented by the criminal organisations in order to favour this or that business no longer apply and to the loss of confidence on

the part of customers and suppliers in the capacity of the confiscated business to ensure the previous supply of products and services with the same level of quality;

- internal structures are exposed to principles of transparency, coordination and oversight for the first time, although the will of the individual charged continues to be guaranteed by “his” people among the organisation’s departments and workers, leading to ambiguity and difficulty in implementing the new management set-up;
- the pre-existing system of relationships tends to vanish and the business finds itself suddenly operating alone without its main asset. Trading and information costs increase;
- the judicial administrator is concerned with conservation, and is neither an entrepreneur nor a manager;
- with regard to management of human resources, several issues may arise. These may regard inadequate contracts, which has a detrimental effect on the economic viability of management compared with previous financial results, and human capital – considered in terms of staff know-how, which is essential to the pursuit of its goals – following the decision to “jump ship” taken by the most highly skilled staff members. Although the former of these cases has an immediate negative effect on the balance sheet due to the additional staffing costs which the business will have to bear (often termed “compliance costs”), the loss of qualified expertise may represent a serious obstacle to the pursuit of business activities. Furthermore, in the latter case the newly designated administrator will encounter considerable difficulty in the short term in meeting customers’ demands with the same supply of expert services, with a resulting loss of image, customers and revenue;
- the increase in costs connected with the transition to legal operations: following the proceeding, most businesses find themselves in the position of needing to bring management of the business into line with all of the parameters provided for in the legislation (e.g. appropriate employee contracts, certification of processes and products, etc.), meaning that the true costs of maintaining the business are borne, costs which previously did not exist, thus helping to maintain a strong competitive margin.

The foregoing analysis clearly shows the critical role of the judicial administrator and its characteristics are for a process of reorganisation and sustainable development to be set in motion, particularly in the case of businesses placed under a final confiscation order as described under category c.2.

Indeed, what emerges is the need for judicial administrators whose values, professionalism and experience provide credibility in terms of their personal history,

professional knowledge and concrete experience in restoring businesses in crisis to health and who are at the same time capable of conducting a thorough analysis and diagnosis of the true causes underlying the crisis and proposing appropriate solutions, motivating and guiding human resources, reviving processes to rebuild the consensus and trust of all of the stakeholders around the chosen strategy of reorganisation and development.

Specifically, in the case of businesses confiscated from criminal organisations in category c.2, the project to relaunch the business must revolve around an individual with the appropriate professional expertise and experience and one who, moreover, unambiguously marks a clean break with the principles that have characterised the organisation in its recent past. In this way, judicial administrators will be able to build a new climate of trust within the business among employees and outside it among its financial backers and customers, thus enabling them to mobilise and attract the resources required to implement the business reorganisation and development plan.

Businesses subject to seizure and confiscation orders, as the analysis in the field has confirmed, exhibit a number of problems at several levels:

- **competitiveness and access to the market**; in this area the following problems emerge:
  - the lack of a strategic plan and short-term direction;
  - the lack of structured marketing and business plans;
  - damaged relationships with suppliers;
  - waning customer portfolios;
  - inadequate, obsolete technological systems and infrastructure;
  - tired selling propositions.
- **economic and financial system**; in this regard the following problems are encountered:
  - a slow but steady erosion of the capacity to generate earnings;
  - a lack of structural and business investments;
  - unclear debt positions, the existence of prior disputes, impending debts;
  - a steadily deteriorating situation in terms of the assets of the business;
  - liquidity problems arising from late payments;
  - inadequate or non-existent reserve funds.
- **management control and internal controls in the form of**:
  - difficulty in interpreting the capital situation of the business;

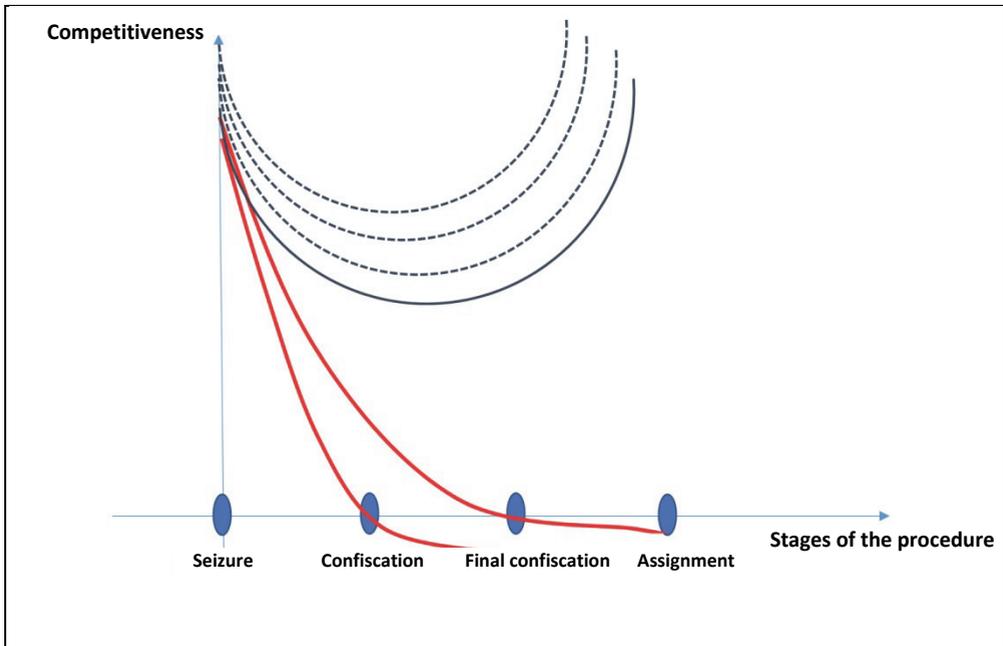
- procedural gaps and incomplete information regarding management processes;
  - the absence of a budgeting and reporting process;
  - inconsistent information collection and management systems not designed to identify better management alternatives;
  - a lack of operational oversight and internal control procedures;
  - complex, non-transparent governance processes;
  - a lack of risk management and mitigation systems.
- **organisation and management of human resources;** in this area it is possible to observe:
- high, rigid labour costs compared with standards in the sector;
  - low labour productivity (revenue per employee);
  - focus on technical skills and inadequate business and management skills;
  - staff selection based on a trust basis;
  - poor training and development processes;
  - cases bordering on exploitation;
  - concern about continuity of employment;
  - a sense of uncertainty about the future;
  - the risk of demotivation and loss of skills.
- **communication and identity:** in this area the following phenomena may be observed:
- a lack of investment in internal communication;
  - poor or no management of external communication;
  - damaged brand image;
  - traces of previous business identity; persistence of the company name and logo, the presence of exploited individuals and ties to situations of exploitation.

Faced with such situations, there are two opposing solutions:

- a. **immediate winding-up:** the business is wound up and its assets sold and broken up, thus avoiding any waste of energy and resources or, in the worst case, the return of the person charged or his associates through various potential channels. Such a decision may be taken at the cost of losing wealth and jobs; at the same time, however, there is the risk that action against the Mafia is delegitimised, community consensus lost and the belief that “without the Mafia there is no work” spread;

- b. **virtuous development:** the business is placed on a footing that allows it to operate to its full potential by identifying realistic development options and rectifying any imbalances stemming from its initial profile, with the aim of maintaining and increasing levels of wealth and employment, thus spreading the idea that “the rule of law increases welfare”. In this case, the risk is that the business is kept alive by the State and with it the system of relationships on which it draws. As a consequence, criminal organisations have an interest in regaining control of it, which means that the State must ensure high levels of control and guarantees.

**Fig. 15** – The effects of virtuous development



The idea of initiating a process of virtuous development in the case of businesses which exhibit real, concrete development potential is achievable in practice. However, it can only be achieved by restoring the rule of law and consensual operation at several levels.

In this regard, a process of organisational and cultural change within the business and its external system needs to be implemented. Such change requires first and foremost the total cessation of all of the practices on which management has hitherto been based; essentially, it becomes necessary to affirm and concretely demonstrate to employees and the community the principle that the rule of law increases welfare.

## 4. A PROPOSAL TO CHANGE THE GOVERNANCE MODEL FOR BUSINESSES AND CONFISCATED ASSETS

### 4.1 An experimental governance model

The foregoing analyses and available information show that the issue of management and reutilisation of confiscated assets needs to be tackled in a structured manner and cannot be relegated to mere evidence.

Such assets constitute nationwide resources that can act as drivers of systematic, structured measures for development and local cohesion.

All of the players involved (courts, prefectures, the National Agency, local bodies, investigative departments and law enforcement bodies, lawyers, judicial administrators, unions, business associations, charity organisations, the financial system and the media) must acquire the necessary skills, methods and resources to ensure that confiscated assets become genuine tools for new employment and increasing social and economic well-being.

It is therefore necessary to provide systematic, ongoing responses to the issue of the best use of assets. Indeed, the complexity of the phenomenon is such that it cannot be tackled by means of sporadic, insufficiently structured interventions.

To this end, the *SOS Legality* project has developed and tested an intervention model based on the “*Italian network of Chambers of Commerce*” and on an integrated approach providing SUPPORT and ASSISTANCE for the various actors involved in the management of confiscated assets and businesses. It is structured along two different lines of action:

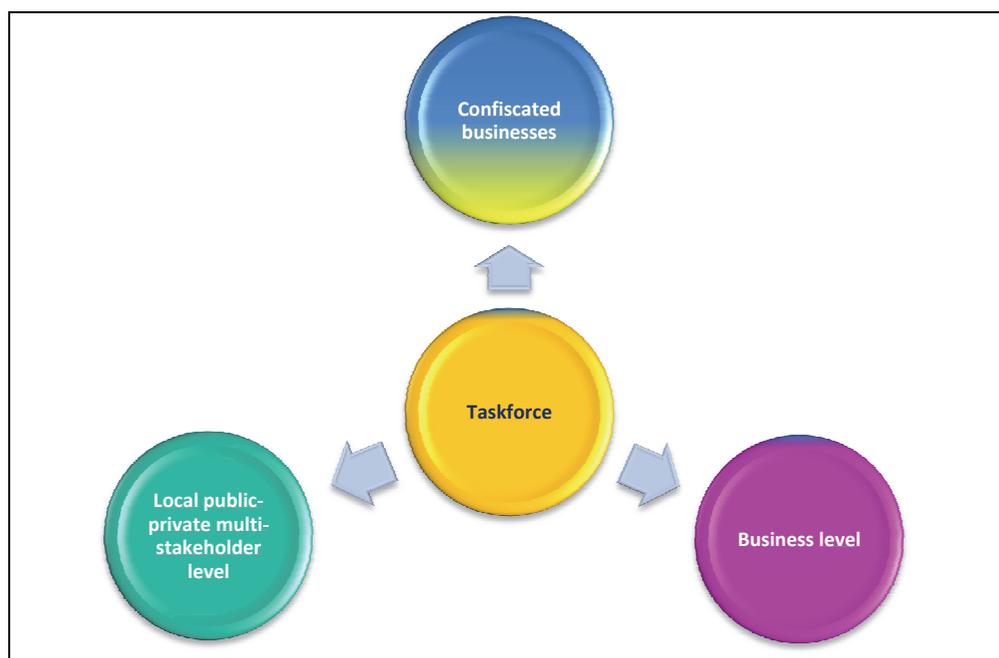
- **local governance**, to strengthen and enhance the capacity to manage assets confiscated from criminal organisations among the designated parties (such as the National Agency, local authorities, and economic and social partner organisations) by adopting the most effective and coherent instruments, while also developing their skills;

- **business governance**, to guide and provide rapid support in the transition of confiscated businesses from illegal to legal operations, thereby safeguarding the competitiveness of the business and the jobs of its workers.

It is a model based on the following principles:

- **focus** on issues of national strategic interest connected with the rule of law;
- **strengthened cooperation**, that is to say fostered, led and guided by dynamic action at the national and not merely local level, ideally by a single “steering committee”;
- **expected results** to be monitored, in terms of increased effectiveness of instruments adopted to put confiscated assets and businesses to their best possible use;
- **partnership**, with the substantial involvement of institutions and labour, business and civil organisations in the planning and implementation process;
- **transparency**, with fully available data and information (concerning assets, parties involved, financial resources and human capital) and monitoring of measures implemented.
- **specificity**, with action plans tailored to the relevant context and the peculiar characteristics of each business.

**Fig. 16** – Structure of the governance model



## 4.2 The local governance model

At the local level, the governance model aims to create and place value on a stable network of public and private institutions and enterprise that work in a proactive, convergent and coordinated manner in order to return assets and businesses confiscated from criminal organisations to operating on the free market.

This will contribute to the achievement of specific objectives, such as:

- increasing convergence in the socio-institutional system in an integrated, synergistic manner towards a single aim: that of asserting the principle of the rule of law as a priority for healthy economic development;
- supporting the economic system (banks, customers and suppliers) in identifying solutions which foster the development of businesses confiscated from organised crime groups;
- making information about seized and confiscated businesses more widely available and accessible to economic operators in order to encourage potential partnerships with “healthy” parts of the system;
- obtaining the support of unions for continuation of the business;
- streamlining and speeding up procedures and timescales in criminal justice and administrative procedures as far as possible, making them more compatible with free-market and competition timescales;
- verifying the feasibility of networks of seized businesses, and networks of seized businesses and large domestic and/or international businesses, thus ensuring the interconnectedness of the business concerned with its context, albeit with new and different degrees of lawfulness and transparency;
- helping the seized business to gain access to credit and guarantee its debts;
- helping the seized business to gain access to sources of financing for training (funds) and innovation;
- ensuring the necessary levels of safety required to assert competitive principles at the local level which are radically different from those that preceded them;
- providing visibility for “success stories” through the media;
- supporting bodies established to identify and implement actions designed to reduce the percentage of confiscated businesses that are closed by reversing the current trend and safeguarding employment.

Based on the trial implemented through the *SOS Legality* project, this local governance model should be characterised by a public-private partnership, the

content and rules of which must foster consultation with and the involvement of stakeholders in order to give the model itself more “teeth”.

Efficient mobilisation of the partnership will in fact make it possible to:

- expand the database available to administrations and all participating parties;
- achieve agreement between organised interests regarding the direction of the actions to be put into practice;
- improve the quality of actions;
- improve integration and synergies with other instruments connected with the issue of the reutilisation of confiscated assets;
- avoid, or at least reduce, the risk of duplicating project ideas and similar actions;
- develop networks of cooperation between the various parties involved (both within and outside the sphere of the governance model).

In order to reconcile the aims of broad participation and effectiveness, the model is based on the following principles:

- **inclusion:** involvement of various parties must ensure that local bodies are fully represented in order that the best use is made of their knowledge assets;
- **transparency:** procedures and information must be adequately publicised. A crucial aspect of transparency consists in informing partners concerning choices made;
- **integration:** involvement must include participants in all of the planning, implementation, monitoring and evaluation stages. It is necessary to integrate the local partnership and the activities of the same participants conducted at the national level;
- **information:** involvement is based on a constant flow of information which enables a timely, informed contributions to the choices that are to be implemented. This information flow must be circular, that is, stakeholders’ contributions must be timely and technically relevant.
- **effectiveness:** the guiding value of partnership activities is that of effective representation. The partnership is called upon to discuss concrete problems and operate within effective timescales. In order to do so it must be capable of dealing with technical issues.

#### *4.2.1 Introduction to the area workshops*

Experience gained in the field through the *SOS Legality* project suggests that the concrete implementation of the local governance model on the basis of the principles

set out above must not restrict itself to the drawing up of memoranda of understanding or the creation of consultation forums but should also make provision for the establishment of fully-fledged “technical facilities” constituted by the area workshops.

Specifically, the area workshops will be tasked with coordinating and steering the planning process for actions at the local level, spotting ideas and assessing the coherence and feasibility of the operations proposed, their compatibility with plans already made or being made, and their consistency with any guidelines laid down at the regional and/or national level.

Essentially, the area workshops should operate within a general framework to ensure the consistency, integration and rationalisation of the various proposals for action.

#### *4.2.2 Establishment and composition of area workshops*

The area workshops at the provincial level will be made up of various organisations interested in the reutilisation of confiscated assets for social and business purposes (e.g. the National Agency, prefectures, courts, regional and local authorities and economic and social partnership organisations) at the instigation of the local Chamber of Commerce and should possess a high level of operational capacity.

Within each workshop, thematic groups may be created in connection with the need to analyse specific sectors or supply chains.

The composition of the workshops may change or be added to in the course of its activities.

In some areas more than one local workshop may be instituted as required by objective needs, for example in connection with the need to operate across local areas of comparable and not excessive dimensions.

Each area workshop may include specific roles (for example provision may be made for an institutional coordinator with the task of coordinating the workshop’s activities in keeping with any national strategic and programming framework and a technical coordinator with the task of organising and coordinating the workshop’s activities) and who will have access to a technical staff whose professional expertise will be selected and drawn from the human resources of local authorities, universities and research centres, development agencies, Chambers of Commerce and other public organisations, and economic and social partnerships.

The area workshops will operate in line with the general strategic guidelines drawn up at the regional and state levels and on the technical level will contribute to the

development of the aforementioned strategies, based among other things upon context analyses with the support of local representation instruments.

#### *4.2.3 Tasks and activities of the area workshops*

The area workshops will perform the following specific functions:

- performing and/or acquiring all of the analyses (local, socio-economic, financial, environmental, etc.) of the local area concerned and the information required to prioritise actions (e.g. “supply and demand” for confiscated assets), in order to map out the opportunities and potential for social business and to assess the feasibility of project ideas selected for their potential benefit to the local area and community concerned;
- holding forums, focus groups and other events designed to foster dialogue between the parties involved in the planning of actions;
- drawing up reports on the area monitored;
- drawing up proposals for action based on the findings of the area report and according to the methodology set out in the Logical Framework established at the European level;
- contributing to the drawing up of proposals for action at the regional/national level;
- supporting project partnerships during the drawing up and implementation stages of proposals for action;
- providing the parties concerned with information regarding the drawing up of proposals to be submitted when competition notices are published under regional/national operational programming frameworks;
- sharing experiences already gained in order to foster the emergence of best practices at the local level;
- fostering the exchange of practices and the search for partners for implementing actions;
- training representatives of external projects/organisations by sharing experiences with them.

The workshops will operate in close collaboration with local administrations, central administrations which have development programmes underway for the area concerned and with businesses and will report the results of their activities on an ongoing basis.

#### 4.2.4 Operation of area workshops

The launch and operation of area workshops will generally consist of two stages.

The first stage, which will be cross-cutting in nature and involve all participating parties, will aim to harmonise the skills and expertise required by the methodological tools and the content of proposals for action and will include the following activities:

- training/awareness-raising;
- preparation of methodological tools.

The second stage, on the other hand, will regard the workshop in its fully operational stage and will entail:

- analysis of and consultation with the local area;
- drawing up of area reports;
- defining proposals for action using the Logical Framework tool;
- supporting project partnerships during the drawing up and implementation stages of proposals for action.

With regard to the first stage, once the workshops have been set up they will be accompanied by a modular **training/awareness-raising programme** which will incorporate technical, thematic and methodological insights. Training and awareness-raising may be organised both at the regional level, with a shared programme for all workshops, and at the individual level, with on-the-job mentoring within individual workshops. Content will focus on such themes as local development and integrated planning, analysis of the phases of the process and of workshop activities, available knowledge tools (databases, studies and research, etc.), stakeholder analysis methods, participatory programming methods and techniques, and means of issuing reports.

This stage is necessary, as some of the problems encountered during the process of disposal and assignment of confiscated assets often stemmed in previous years from an unsystematic approach to the complex process leading to the effective use of assets.

Integrated training concerning issues pertaining to the use of confiscated assets will specifically have a threefold aim:

- to share the knowledge and issues that each party involved will face in the process of development of the asset from their own specific vantage point;
- to disseminate the overall aims of the project among the local community;

- to gain the support of the local community for the proposed activity pertaining to the use of assets.

In parallel to the training programme, **the “kit” of methodological tools will be developed and validated**. The requirement is to develop easy-to-use tools which enable available information to be interpreted while facilitating the definition and achievement of the expected outputs. The tools used will be designed to map existing projects, establish standard models for action and identify the basic types of operation types which they will need to contain, draw up a model for self-assessment (on internal and strategic coherence) of actions and develop a guide format for drawing up proposals for action.

With regard to the second stage, **analysis of and consultation with the local area** have the general aim of involving local players, communicating the integrated planning process and generating participation in the activities of the workshops.

Specific objectives include an analysis of the local context, both by collecting and studying already-existing planning documents and consulting with local stakeholders, as well as establishing a group of key ideas to form the basis of potential proposals for action.

The consultation stage will make use of a series of tools: primarily interviews, focus groups and local forums. It will conclude with a desk analysis of the material gathered using the various tools.

Concerning **the drawing up of area reports and the establishment of proposals for action using the tools of the Logical Framework**, these will enable a detailed analysis of the strengths, critical aspects, opportunities and risks of local systems and sectors of intervention by verifying the directions of strategies already underway and fostering the emergence of development needs on the part of local players. These activities will enable the aims, strategies and priority (local and sectoral) actions to be precisely established for each provincial area and for each sector concerned.

Finally, **support for project partnerships** will include intensive local capacity-building aimed at expanding the level of communication and awareness of the process and extending as far as possible the number of players to involve in the process while supporting the establishment of project partnerships in drawing up and evaluating plans for action.

Successively, as highlighted above, once the workshops are up and running, they will carry out the task of ascertaining the compatibility of the proposals for action with regional/national programming guidelines.

#### *4.2.5 Publicity*

The establishment of each workshop will have an adequate web presence both via the websites of the parties involved and via dedicated sites. Similarly, both the intermediate and final outcomes and products obtained through workshop activities will be publicised.

In addition, each workshop will also promote the participation of local communities in drawing up and sharing new project ideas on the technical and organisational level, particularly via Internet, public events and other standard planning tools.

#### *4.2.6 Monitoring and reporting of results*

The local governance model proposed attaches particular importance to the operation and functioning of the area workshops described above as, if they become operational according to structured, shared procedures, they can be an innovative component of the process of reutilisation of confiscated assets. With reference to these assets, the model requires ongoing monitoring of the effectiveness with which the workshops succeed in mobilising the technical skills available at the local level and making them productive by developing contexts that are conducive to the circulation of information, to the exchange of knowledge, to learning and to increasing the quality of actions.

In this context, therefore, in order that the workshops' activities can provide the chance for all participants to learn and expand their knowledge, the model makes provision for monitoring activities, which will be implemented by collecting information on how actions were effectively structured in their individual implementation contexts.

This will be achieved through conversations and interviews with the representatives of the economic and/or social partnership who actually took part in the process. The information obtained will be used to reconstruct the process as it was actually implemented, ascertaining whether there were any deviations from or adaptations of the initial plan, first in terms of objectives and methods and subsequently with regard to the structure of tasks (abstractly speaking, the activities to be carried out) and the social structure (in concrete terms, how these activities are distributed among the various parties involved), to examine the suitability of the structure of the tasks to the objectives being pursued and to gather feedback from participants on the capacity of the structure in which they participated to produce the output and performance for which it was created.

Results will be reported periodically, indicating any improvements that can be made to increase the suitability of the set of actions implemented to reutilise confiscated assets for social and enterprise purposes.

Specifically, and in keeping with the overall governance model, two different types of assessment will be implemented: intermediate and final.

Intermediate assessments will check, monitor and provide information about the process, accompanying the implementation of the project and gathering information that can help in making changes and improvements. It will be based on indicators such as:

- the degree of community involvement in selecting the best ideas for utilisation of the asset in relation to local needs;
- the number of projects submitted;
- the number of assets involved in the project proposals;
- the state of progress of projects in relation to the schedule;
- the number of actions implemented;

Final assessment will focus on results and impact, with reference to indicators such as:

- increased services for the local community;
- the degree to which needs identified during the context analysis have been met;
- creation of employment for disadvantaged individuals, the long-term unemployed and young first-time job seekers, equal opportunities.

All of the assessment tools will enable analyses and comparisons of aggregate data. Suitable reporting will also help to promote and build consensus around the project.

### **4.3. The business governance model**

The trial implemented through the *SOS Legality* project has confirmed that optimising the use of confiscated assets and business requires an action strategy for each individual business which must be:

- based on an analysis approach that considers the state of health of the business;
- linked to a consultancy-based approach (for example mentoring) founded upon the transfer of skills that will enable the business to set out on an independent recovery path;

- geared towards criteria of effectiveness and efficiency.

In keeping with the need to overcome critical aspects connected with the competitiveness of seized and confiscated assets, the business governance model will make it possible to:

- analyse the various options available and develop a detailed business plan based on sound business suppositions with regard to investment and return on investment, and not merely in terms of social benefits;
- create the necessary organisational and professional conditions for the plan to be implemented with a rigorous approach to establishing and assigning objectives and to management control;
- act upon human resources by reformulating management processes (such as selection, internal communication, assessment, training, etc.) and basic values (such as transparency, respect for workers' rights, social security contributions, respect for and growth of the individual)
- embark on a process of radical change in the business culture, goals, operational practices, and oversight mechanisms and criteria;
- support for bodies tasked with deciding the best form of assignment for businesses confiscated from criminal organisations;
- support for the management and/or employees of the business in acquiring the necessary know-how and resources to ensure the survival, profitability and development of the business (if it has been decided to sell or wind up the business).

From the operational point of view, the model will be implemented through several actions, which will include:

- an analysis of businesses in the main production sectors, of the relevant market, of the model of operation and of the social and economic value produced, in addition to deciding whether there are concrete prospects for continuation and revival of the business;
- the implementation of business auditing and check-up procedures;
- drawing up business development plans and programmes;
- support in the creation of enterprise partnerships in the areas of administration, acquisition of key resources, marketing and expansion into new markets, including international markets;
- an analysis of the basic skills necessary to increase the employability of workers and the training requirements, leading to the creation and development of training, information and careers guidance services for both management and specialised staff;

- mentoring actions for employees wishing to create workers' cooperative or for young cooperative members and/or entrepreneurs whose services they intend to hire;
- planning and implementation of tools designed to transform undeclared work into formal employment as well as safeguard the health and safety of workers.

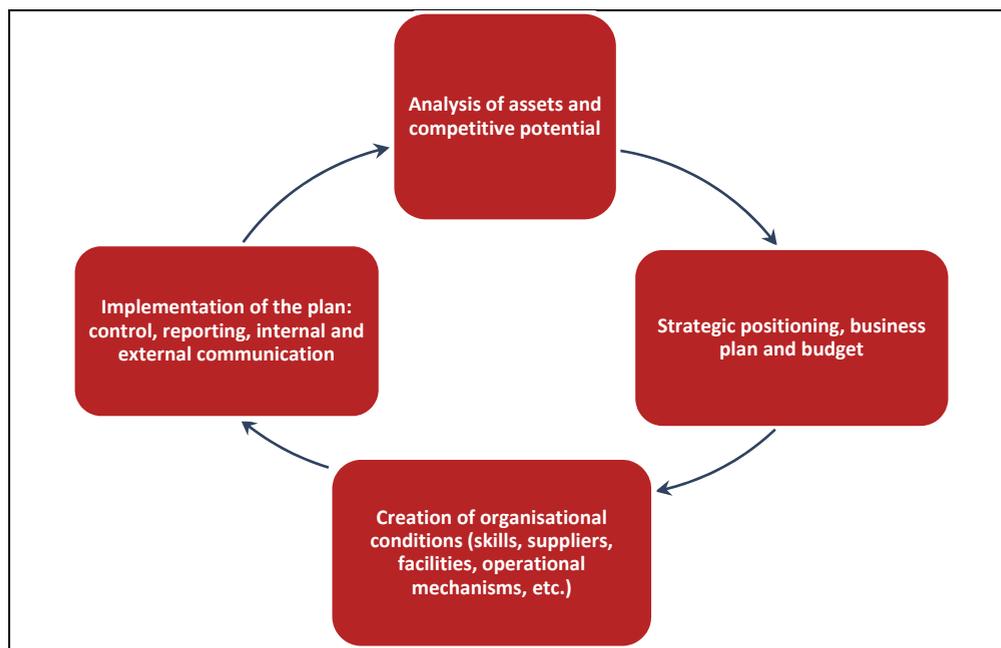
#### 4.3.1 The turnaround process

The activities implemented through the *SOS Legality* project have shown that:

- a hyper-selective approach from the outset of the judicial proceeding would reduce the risk of resource dispersion;
- a managerial approach adopted in time would often be able to help to deliver change and start rebuilding;
- proactive action geared towards development would reduce the risk of bankruptcy currently faced by many seized and confiscated businesses.

Therefore the business governance model will be based – for certain, selected businesses – on the creation of a genuine turnaround process, which will comprise the following phases:

**Fig. 17** – The turnaround process



Specific actions may be undertaken during this process, such as:

**a) business check-ups** to ascertain the true “state of health” of the business, the results of which would give three options: reorganisation and/or development, sale, or commencement of winding-up procedures.

Business check-ups will need to be performed rapidly and conclude with a report on the true state of health of the business and its strengths and weaknesses, market prospects, the situation of the confiscated business in organisational, technical, productivity, asset and financial terms, and its chances of survival and development.

If the business check-up suggests reorganisation and/or development of the business, the model makes provision for the following action:

**b) identification of a credible ownership structure** with the minimum requirements in terms of skills and experience. The aim is not to identify a structure which is already capable of managing the business independently, but rather a group of people that is sufficiently cohesive, motivated and in possession of the necessary skills to profit from the subsequent guidance and mentoring stage. This step will include the following activities, which are alternative to each other:

- determining the willingness and capacity of employees to form a cooperative in order to take over the management and development of the business;
- if such conditions exist, the following will be ascertained:
  - whether any public- or private-sector companies or enterprises are willing to proceed with leasing the business;
  - whether the new management is willing and able to form a company in order to lease the confiscated business. In this regard it may also be possible to devise an open public selection procedure leading to the creation of cooperatives of young people with the capacity to take over the management of the confiscated business.

**c) evaluation of the ownership structure:** if a credible ownership structure is identified, it will be assessed in order to highlight possible managerial skills deficits and plan any training and mentoring that may be necessary to bridge the gap. When this assessment phase has been completed it will be possible to assign the asset directly if the ownership/business in question is deemed to guarantee effective management of the business; otherwise, the procedure will move on to the activities set out in the following point below.

**d) advice and training support and assistance** in drawing up guidelines for the reorganisation and development of the business. Guidance activities, which

will be tailored to the specific needs of the ownership structures identified, will specifically consist in: guidance in drawing up a business plan, expert advice and transfer of know-how in matters of business organisation, marketing, manufacturing production technologies, management control, etc.; support in identifying partners; advice concerning the most appropriate sources of (public and/or private) funding which is necessary to implement the business development plan.

If the guidance and training activities produce a positive outcome, the business will be assigned as provided for by law. If in contrast the outcome is not successful, a new ownership structure may be selected or the business wound up or sold. Assignment of the asset will be decided on the basis of an evaluation report.

- e) **guidance after assignment of the asset:** mentoring may not be limited to the phase prior to assignment of the asset but may continue during the start-up phase by means of a consultancy-based guidance which aims to make the ownership structure completely autonomous in the management of the business in as short a time as possible.

#### *4.3.2 Aggregations of businesses*

As trialled in the *SOS Legality* project, the business governance model will also give priority to actions geared towards stimulating growth of the entrepreneurial system in favour of sectors with high growth potential and supply chains and industrial districts in particularly vulnerable geographical areas, using the opportunities offered in terms of business networks.

In this area, the aims are to integrate and open up confiscated businesses within entrepreneurial systems and business networks that operate legally on the market while increasing the competitiveness of confiscated businesses by integrating their production and market with other businesses.

The establishment of a business network or of a consortium structure would have bring many advantages which could bring about the following, by way of example, in concrete terms:

- reduced costs through joint management of suppliers;
- shared of facilities and functions;
- integration and expansion of goods supplied to the market;
- implementation of a brand and acquisition of quality certification;
- improved relations between businesses;
- the establishment of outsourcing agreements;

- increased levels of innovation;
- improved interaction with large or complex organisations.

With regard to this latter aspect, the partnership structure that will be pursued will also have the purpose of creating and cultivating relationships between businesses with national reach and businesses transitioning towards operating within the rule of law which operate in the same or related sectors. Specifically, the action of businesses which provide forms of “mentoring” for seized and confiscated businesses will receive support.

#### *4.3.3 The action of managerial personnel*

The seizure and confiscation process, as evidenced in previous sections, highlights the key role of administrators and of the soundness and farsightedness of their choices. In the light of this pilot project, too, it may be asserted that some businesses may be able to continue their activities when administrators are capable of setting in motion sustainable processes of development which are shared with the main stakeholders who constitute the “international organisational structure” and the “external reference environment” in which the confiscated business operates.

This notion, thus formulated, does not appear to significantly differentiate the conditions required for the reorganisation and development of a confiscated business from those which apply to one which has not been confiscated. Nevertheless, considering the means by which the process of judicial administration is instituted, that is to say, the sudden removal of the business from the ownership and control of a criminal organisation, the seeking of “consensus” between the various players – first and foremost institutional and social – takes on a fundamental role in the project to revive the business and ensure its sustainable development. This is further evidenced by the need to incorporate a local dimension into the governance model. Of course, such consensus is not sufficient in itself if the project is underpinned by an “ephemeral” development strategy designed to exploit temporary, short-term opportunities. On the contrary: the project to revive the business must be founded on the distinctive skills which it possesses or which may be developed and sustained in order to foster lasting development.

In order for this process to succeed, a “rigorous, coherent and tenacious” approach must be adopted by administrators. This may in any case not be sufficient to allow the business to survive and grow in the long terms. To this end the action of judicial administrators needs to be supported by other roles characterised by an entrepreneurial/managerial vocation and which are sensitive to the issue of the continuation of the business in terms of the self-sufficiency of its finances and assets, cost-efficient management and efficiency.

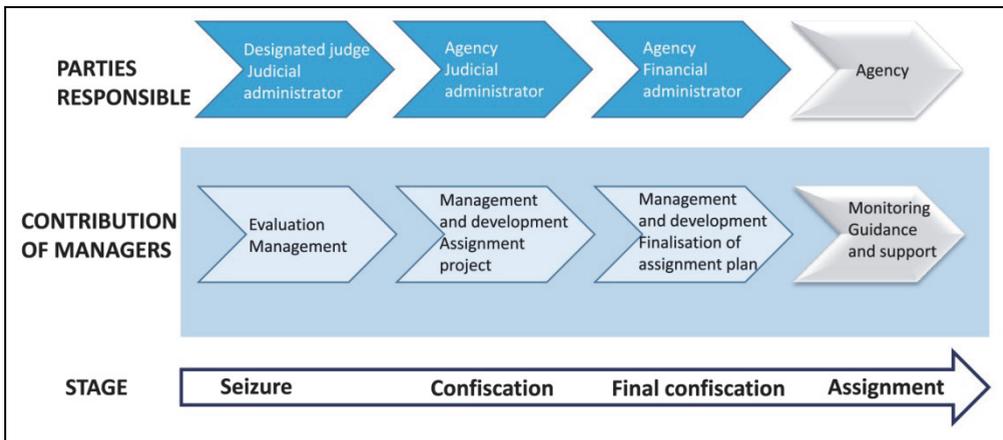
Where this does not occur, the only outcome – as the project itself has shown – is management of the business conducted in a “mediocre” manner by the administrator, inevitably leading to its demise.

In contrast, where management methods geared towards the long-term development of the business have been adopted from the outset, with the involvement of people who are made responsible for its financial and commercial success, greater potential for future economic development and employment prospects is seen.

In this area, the governance model will therefore include action on two different levels:

- implementation of more rigorous selection and training procedures for judicial administrators, based on their values, professional qualities and successful track record in implementing strategies for reorganising and developing confiscated businesses;
- supporting judicial administrators in a structural manner by having them work alongside managers from the beginning of the preventive proceeding, during the stages of evaluation, management and determination of the options for assignment of businesses, in order to make a decisive contribution to their survival and development.

**Fig. 18 – Importance of the contribution from management**



## 5. MONITORING IN THE GOVERNANCE MODEL

Both the *SOS Legality* project and practice show that some businesses have reached such a critical phase that it is no longer appropriate or even impossible to lease or sell them, except at the cost of a significant loss in value.

In other businesses, by contrast, a situation is seen in which rapid, decisive reorganisation actions – including vital investment decisions – may save the business and thus place it on the market in a condition that makes it more attractive for potential investors.

In all cases it is nevertheless essential to implement action to monitor the business after it has been assigned.

The analysis conducted confirms that it is essential to apply a hyper-selective, timely approach which from the time of seizure can separate businesses to be wound up from those to be redeveloped.

Such redevelopment may take place in several ways. However, it will always require:

- a. an evaluation process which focuses on the assets of the business and options for strategic development;
- b. a decision on the part of the State and all of the institutions involved in steering the business through the entire turnaround phase, in terms of speeding up the necessary legal and bureaucratic procedures, guarantees (access to credit, receivables and payables, funding for innovation and training, etc.) and access to the market (partnerships with large-scale healthy businesses, access to tenders, creation of networks, etc.);
- c. the launch of a radical process of organisational and cultural change that affirms and confirms the new governance and management set-up;
- d. a performance monitoring process with a view to a system that is consistent with the goals of the business and the National Agency.

In the light of the considerations set out above, therefore, it is clear that, at both the system and individual business level, adequate checks regarding planned and implemented actions must be established so as to ensure that they do not deviate from the attainment of the objectives set and expected results.

To this end, the governance model proposed makes provision for monitoring based on continuous, systematic collection, analysis and use of information to assess the performance of the project and take decisions with regard to it.

As has already been seen in the case of the area workshops, these monitoring actions will form an integral part of ordinary management processes. Their purpose is to provide managers with information that allows them to identify and solve problems of implementation and monitor the progress of actions in relation to the original plan.

The basis for the monitoring system will be a set of objectively verifiable indicators which will measure the attainment of the objectives of the action and provide the basis for measuring the performance of the action itself.

With the specific requirements that enable more efficient monitoring, the indicators provided for by the governance model will be defined at both the system and individual business level.

At the **system level** reference will be made to quantitative aspects such as:

- the number of assets used and returned to the community;
- the number of social cooperatives created for the management of the assets;
- the number of businesses kept in operation;
- the number of workers in confiscated businesses who keep their jobs;
- the number of young people who find their first employment;
- the number of mentoring, advisory, promotion and support initiatives provided for seized and confiscated businesses;
- the number of young people engaged in the social sphere and in promoting the rule of law.

Other aspects of a qualitative nature will also be taken into consideration in this area, such as:

- the improvement of organisational and management processes with respect to confiscated assets;
- reductions in information gaps and the lack of transparency and in monitoring procedures;
- the improvement of democratic participation processes in support of the rule of law and national economic and social cohesion.

At the **individual business level**, in contrast, attention will be focused on those indicators which traditionally enable the economic and financial progress of a

business to be examined, evaluating its profitability and financial position for a given period. Specifically, the following will be considered:

- liquidity indicators (current assets to current liabilities ratio, liquidity ratio);
- financial flexibility indicators (debt ratio, fixed assets coverage ratio);
- indicators of operating efficiency (working capital turnover ratio, current asset turnover ratio, average payment term for receivables and payables);
- profitability indicators (ROI, ROE, ROS).

The results collected will be used to periodically monitor the performance of the governance model according to criteria of relevancy, efficiency, effectiveness, impact, economic and financial feasibility, and sustainability with respect to the predetermined objectives.

The purpose of periodic monitoring is to examine the targets reached in comparison with planned expectations, and to use the experience gained to improve the design of future projects.

In this regard, and in line with provision adopted at the European level, there will be two different evaluation phases:

- **intermediate**, that is, when the action is still ongoing. During this phase, the progress achieved will be assessed and any modifications to the project underway recommended;
- **final**, i.e. when the action has been concluded, to document resources used, results and progress in achieving the predetermined objectives. The purpose of this phase is to learn “lessons” that can be used to improve future actions.



## 6. RECOMMENDATIONS AND REFLECTIONS

The proposed model for the management of assets and businesses subject to seizure may be supplemented by specific recommendations made in the course of other research conducted to improve the system of asset confiscation at both the national and European level.

The recommendations in question tend to centre around the development of an ideal confiscation model and represent the necessary premise for strengthening the effectiveness of the governance model proposed.

Specifically, the following recommendations emerge:

- **Institutionally strengthened national authorities (autonomous, independent, specialised and competent) with the power to trace, identify, seize and confiscate illegal assets:** the authorities concerned must also be highly motivated to achieve the specific objectives of confiscation, that is, depriving criminals of economic gains from their illegal activity.
- **Legislative measures to guarantee the transparency, integrity, efficiency and responsibility of authorities and confiscation procedures:**
  - transparency requires access to information with respect to procedures, documents and confiscated assets, as well as their management and subsequent use. The implementation of transparency policies is also instrumental in raising public awareness with regard to the management of assets and strengthening the preventive effect of the law;
  - integrity requires appropriate management of conflicts of interest, declaration of assets by authorities responsible for seizure/confiscation and high ethical standards in the personal and professional lives of the individuals responsible;
  - efficiency relates to the achievement of the key aim of confiscation: depriving criminals of assets gained through criminal activities or confiscating assets where it is impossible to prove that they were gained legally. In this regard it is particularly important that rapid procedures are in place, both in the investigative stage and criminal proceedings.

- **Oversight mechanisms pertaining to the work of confiscation bodies:** national authorities should be subject both to institutional and public oversight. This requires public information and communication regarding seized and confiscated assets, as well as their maintenance and reutilisation.
- **Seizure/confiscation of assets based on criminal or civil court judgements, if there is a significant difference between the assets acquired and an individual's legitimate or legally proven income:** such an approach would facilitate the reciprocal recognition of seizure and confiscation orders between Member States that have incorporated such procedures into their national laws.
- **Rules to guarantee the safeguarding of human rights in asset seizure/confiscation procedures by means of judicial oversight and adequate, effective legal remedies for judicial oversight:** such rules must be established, particularly in view of the risk of violation of human rights during seizure/confiscation procedures.
- **Adequate mechanisms for the management of assets that are seized and subsequently confiscated for the purpose of reutilising them in the public interest:** Member States should regularly collect complete statistics, ideally at the central level, on the number of confiscations carried out and the estimated value of the assets at the time of seizure and confiscation. They should also supply information on the number of requests for seizures and confiscations to be carried out in another Member State, as well as the value or estimated value of assets recovered following the execution of a seizure or confiscation order in another Member State. Such measures would facilitate the future confiscation of seized assets as they would largely prevent them from being destroyed or dispersed, while reducing the risk (in the event of the asset being sold) that it may be reutilised for criminal purposes.
- **Increasing the visibility of the supremacy of the State over criminal organisations and introducing compulsory transparency measures:** in order to draw public attention to measures adopted by Member States for the management of confiscated assets, the measures themselves must become visible to the public. One instrument to achieve this aim might be linked to the creation of a public online register of confiscated assets in each Member State. Additionally, as a deterrent effect it is necessary to make clear the supremacy of the State over those who break the law. To this end, confiscated assets should be marked in such a way as to publicise their confiscation (e.g. posters or identification plates for assets, white lists for businesses, etc.);

- **Shared parameters of inter-institutional and interstate cooperation at the EU level:** cooperation between institutions may be implemented through access to various databases with information about assets as well as rapid exchange of information.

Regarding the critical aspects highlighted in Chapter 2 relating to the various assets confiscated in the European setting, as the investigation conducted by Transcrime, the traceability of infiltrated businesses and their beneficiaries could be improved:

- by further developing understanding of the drivers behind the investments of the various criminal organisations and, within the same organisation, understanding the reasons for different investment strategies from country to country;
- identifying the vulnerabilities and related opportunities produced by certain sectors, which differ from country to country. In this respect, the development of models for analysing the risk of laundering and infiltration may be of use in steering investigations and increasing the recognisability of infiltrated businesses, thus facilitating confiscation;
- improving the availability of information about business owners at a transnational level;
- linking countries' business registers;
- developing instruments for more effective financial investigations;
- developing more useful instruments for private intermediaries (for example banks) subject to anti-money-laundering obligations.

With regard to legislation concerning confiscation and its application, action should be taken in the following areas:

- differences between countries in terms of substantive and procedural law measures concerning assets. These include the impossibility of using or underuse of extended powers of confiscation and administrative confiscation in a number of EU countries;
- technical and cultural difficulties which hinder international cooperation in carrying out confiscation procedures on a transnational basis.

In this area, an initial step forward has been made in the recent European directive to harmonise and strengthen the instruments available to the various Member States and to facilitate cooperation between law enforcement agencies and judiciaries in conducting confiscation procedures in the various countries.

With regard to the management of confiscated assets, there is awareness of the fact that, irrespective of the country, if the issue of the efficient management of

confiscated assets (in particular businesses) is not solved, the effectiveness of confiscation measures is reduced. Therefore, it would be desirable in general, and not just in Italy:

- to reduce the time between seizure and final confiscation;
- to explore all of the possible options for confiscated assets and therefore of businesses, including the sale thereof;
- to involve professionals with management skills to prevent the dispersal of businesses following seizure;
- to explore instruments that offer a flexible alternative to confiscation (e.g. “judicial oversight” of businesses, article 34 Law no. 159 of 2011).

Finally, it would be advisable to consolidate the distinguishing hypotheses already formulated on indicators and related ranges of values designed to demonstrate, through the analysis of financial statements over several years, the existence of specific dynamics – accounting-based or otherwise – in the management of businesses; such indicators could in fact be used in models to assess the risk of or to prevent criminal infiltrations.

The *SOS Legality* project has been able to confirm what has already been conjectured in this connection through check-ups performed on businesses belonging to the sample analysed. Indeed, by focusing on **3 areas** (sources of financing/utilisation of assets/profitability and cost structure) of the economic and financial management of criminal enterprises, the following facts have emerged.

The financial structure of such enterprises is influenced by the aims of money laundering and concealing criminal activities.

The businesses analysed provide confirmation of the following scenarios:

- a high proportion of debt in relation to the total value of liabilities, especially if compared with the value for businesses operating legally within the same sector, and contrariwise, a lower ratio of net equity in relation to total assets, the purpose being to conceal the injection of liquidity of illegal origin into the business;
- high levels of outstanding debt payable to suppliers of assets and services, which may be considered the result of the high degree of control and consensus enjoyed in the area of influence of the business, which are also revealed in pressure on and late payment of suppliers;
- high levels of debt with banks, confirming the consensus enjoyed by criminal organisations also at the local administrative and financial level.

The structure of capital is likewise influenced by the money-laundering and concealment goals of criminal activities.

The businesses analysed are (or were) all businesses actually operating on the market. As a result, they all conduct (or conducted) business activities and, as such, a part of their capital can be seen to be invested in assets, especially tangible assets (such as buildings, factories, machinery and other means of production).

These businesses are not mere “screens” where no production takes place with the consequence that assets are principally kept in cash (e.g. liquid assets, bank and postal accounts, purchased receivables, etc.) and only to a small degree in tangible assets.

The analysis also confirmed the existence of an indicator concerning anomalous levels of non-financial and non-taxable receivables: criminal organisations in fact conceal outgoings to other affiliates or colluding businesses in the form of trade receivables, receivables from connected/controlled/controlling companies and receivables from other businesses.

Finally, with regard to profitability and cost structure, as the businesses in the sample were engaged in productive activity, their accounts were structured in a similar way to those of “normal” businesses with costs, revenues, and ultimately an income that needs to be maximised.

At the same time, it was possible to observe a number of aspects which bear witness to the potential for collusion, intimidation and violence, which can be used to increase profits of these businesses. Specifically:

- lower purchase costs of goods and services as the result of pressure placed on suppliers in order to obtain goods and services at advantageous conditions;
- lower personnel costs, with a higher proportion of undeclared labour and non-payment of social security and pension contributions and overtime than the average for the sector;
- lower production costs from the use of raw and semi-finished materials and low-cost or poor-quality services;
- a significant proportion of the total value of production in the sector in the specific area attained through pressure on competing businesses and on public administrations during public procurement procedures.



## 7. CONCLUSIONS

The *SOS Legality* project, through a concrete, tested action model and an integrated approach to providing support and assistance to the various actors involved in the management of confiscated assets and businesses structured along two different lines of action (at the local and business level) has made it possible to develop a complete, systematic, high-quality analysis.

Although part of a major line of analysis and research carried forward for several years by various organisations – one which is thus rather more stimulating – the project has nevertheless developed a highly structured action model geared towards the management of seized and confiscated assets, resulting in the identification of a series of factors and elements for evaluation which can contribute to innovations in the field of management of confiscated assets and businesses.

The area workshops, despite the relatively small number of businesses involved – albeit characterised by specific local aspects and sectoral specialisations – the local business check-ups conducted and the focus on the concrete sector, constitute operational actions that allow them to be compared with actions already developed in other projects and have specific characteristics in terms of structure and operation that ensure that they can be concretely used in a timely, appropriate manner.

The governance model identified clearly shows the need – which has emerged several times and at different levels – to provide structured, clearly defined operational instruments which serve as a means of recovering, safeguarding and placing value on businesses seized and confiscated from criminal organisations, to the benefit of economic development, the rule of law and employment protection, with the identification of those instruments which are most effective and most compatible with the various contexts concerned.

The steering committee and the involvement of business and institutions in the public and private sectors, through rules and measures of effective, structured involvement which does not limit itself to mere participation or offering symbolic testimony –no doubt useful, but lacking in real impact or concrete results – can bring about the necessary step from the national or local level involved to the business level through the guidance methods illustrated, which constitute an action model based on the network of Chambers of Commerce and which if adequately

implemented may offer an effective nationwide response, thanks to the pervasive presence of bodies that constitute the network.

Indeed, the system of Chambers of Commerce, in representing local business interests at the provincial, regional and national level and a point of contact between them and the institutions that operate within it, can fulfil the function of providing a connection with higher and/or national levels in accordance with the principle of subsidiarity. At the same time, it can involve all players through an approach based on the public-private partnership model, thus implementing the principles that the project has strongly featured (inclusion, transparency, integration, information and effectiveness).

A non-negotiable aspect of the *SOS Legality* project consists in the idea that the goal of recovering and restoring value to businesses and confiscated assets requires an action strategy to be drawn up at the business level, which is a crucial moment in the concrete implementation of the strategy, but which has different repercussions depending on the state of health and the context (both internal and external) of the business.

The project has focused on the level of the business, which is the physical place in which the model takes concrete shape, in order to ascertain and actualise the goal of restoring value to the individual asset or business.

It is at the business level that the organisational and professional conditions that can lead to the revival and redevelopment of the seized or confiscated business are analysed and, if possible, created.

The development of an action plan with objectives in terms of impact determined in accordance with the actions described and already tested above, and the turnaround process, which includes guidance and monitoring after assignment of the business, are a concrete way of structuring the tools applied in a coherent manner and are geared towards supporting the rapid transition of confiscated businesses towards a state of legal operation, so that the competitiveness of the business in the relevant market and the jobs of its workers are safeguarded.

Finally, in terms of expected results, the introduction of the tried and tested model may bring many benefits, which can be summarised as positive values of the monitoring indicators described above:

- an increase in the number of assets used and social cooperatives established to manage the assets;
- an increase in the number of seized and confiscated businesses kept in operation;
- an increase in the number of employees of the businesses who keep their jobs;

- an increase in the number of young people who find their first employment;
- an increase in mentoring, advisory, promotion and support actions and services for seized and confiscated businesses;
- improvements in the organisational and management processes with respect to confiscated assets and a reduction in the information gap and lack of transparency in monitoring procedures;
- improvements in democratic participation processes in support of the rule of law and national economic and social cohesion.

These results, together with the final recommendations and reflections set out in the previous paragraphs, with a view to legal enactment, may reinforce the conviction that it is possible to render relevant and concrete business values such as ethics and social responsibility, according to which, in conclusion, “*business = the common good*”.



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# TECHNICAL ANNEX

## Regional Workshops

### *Introduction: Project SOS Legality*

Project SOS Legality is promoted by Unioncamere and Universitas Mercatorum and is implemented in collaboration with the *Associazione Libera* and the Chamber of Commerce, Industry, Crafts and Agriculture (CCIAA) of Caserta, Reggio Emilia and Syracuse.

*The initiative, which is funded by the European Commission (DG Home Affairs) under the Programme for the Prevention of and Fight Against Crime, has been selected by the EU as a **pilot project to further analyse and share, at the European level, Italy's experience on the management of seized businesses and assets from organised crime.***

Great attention is currently being given to the issue in Europe, with a proposal for a Directive on the freezing and seizing of Mafia assets which has just been positively screened by the European Parliament last May, and where it was recommended to all Member States that seized assets are to be used for the compensation of victims, social reuse and/or to reinforce the law.

**Progetto SOS Legality will be implemented in three pilot regions** (Reggio Emilia, Caserta and Syracuse) through activities to raise awareness and institutional cooperation, and training and coaching for seized businesses and aspiring entrepreneurs, with a two-fold objective: (1) **to support the development of a select group of seized companies** or of recipients who manage seized assets<sup>1</sup>; (2) **to generate intervention models** that can be further developed over the project's term in the regions that are already involved, or in other regional contexts.

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<sup>1</sup> Companies are being selected on the basis of field research starting from information held by the National Agency Responsible for the Administration and Allocation of Assets Seized from Organised Crime (ANBSC) and through direct verification with cooperatives which already manage seized assets. These are different types of companies: recently seized companies (seizure by a judgment at first instance) or definitively seized (judgment at final instance), seized companies allocated to worker cooperatives, or designated social cooperatives of a seized immovable property.

### *The basis of SOS legality 'Regional Workshops'*

This specific line of project activity was conceived in order to start up **regional work groups** with the aim of proposing guidelines and areas of cooperation to support the development of seized assets and companies.

The starting point is the awareness that seized companies and assets can convey high potential for economic and social wealth. It is a 'common heritage' that requires shared responsibility between public and private stakeholders: a **co-responsibility which means the governance of a chain process that begins at the phase of the asset or company seizure, continues in the allocation phase and then in sound and socially-responsible economic management.**

The 3 regional workshops (1 for each of the regions involved) will be composed of a select group of institutions, local authorities, economic and social partnerships, representatives of non-for-profit organisations, credit agencies and professionals.

The workshops will be called to identify proposals for clear intervention and cooperation recommendations by answering some key questions:

***Which real services (technical assistance, training, mentoring, information, etc.) and which financial services may be activated or enhanced in specific support of seized companies (or arising from the allocation of a seized asset)? With what type of partnerships between public and private parties can these services be provided in an effective and profitable manner, not only for the benefit of the seized beneficiary companies but also to bring economic and social value to the regions?***

The results of the three regional workshops (Reggio Emilia, Caserta and Syracuse) will be summarised in a final report that will be brought to the **attention of the European Commission** and the institutions of other Member States, **including through presentation and discussion during dedicated transnational events.**

### *The characteristics of the Syracuse Regional Workshop*

Today, the region of Syracuse is an important testing ground in which to carry out work of shared reflection and the preparation of tools and methods for future actions 'in the field', given the high presence and penetration indicators of organised crime in the regional economic and financial system.

However, the consolidated experience of the province's success in the reuse of seized assets, through the presence of a number of cooperatives that are already managing seized assets, represents very useful terrain for the project by providing, in

particular, a useful example to other Italian regions where this situation is already explicit.

The network of stakeholders already set up by the Chamber of Commerce of Syracuse for the success of the 'Legality Information Office' that was established recently is also a network that is capable of expressing ideas and sound projects that can offer, at the onset, collaboration with other regions (the other two pilot provinces - Reggio Emilia and Caserta) where seized assets and companies are to be found.

The spirit of the workshop lies in the knowledge that only 'long networks' of collaboration (inter-regional, national and European level) between institutions and companies (whether seized or otherwise) can effectively prevent and combat the presence and the progressive penetration of organised crime in the economic and social fabric.

#### *The characteristics of the Reggio Emilia Regional Workshop*

The region of Reggio Emilia, although not yet affected by the presence of seized assets/companies, is today an important testing ground in which to carry out preventive work of shared reflection and the preparation of tools and methods for future actions 'in the field', probably soon given the presence and the risk of penetration of organised crime in the regional economic and financial system.

The consolidated experience of the province's success in the design and planning of responsible socio-economic development represents very useful terrain for the project by providing, in particular, a useful example to other European regions with similar characteristics (currently, an absence of seized companies/assets but there is an interest and a need to collaborate with other regions where this situation is already explicit).

The network of stakeholders already set up by the Chamber of Commerce of Reggio Emilia for the success of the 'Legality Information Office' that was established recently is also a network that is capable of expressing ideas and sound projects that can offer, at the onset, collaboration with other regions (the other two pilot provinces - Syracuse and Caserta, or other provinces in the Emilia Romagna region or other regions) where seized assets and goods are to be found.

The spirit of the workshop lies in the knowledge that only 'long networks' of collaboration (inter-regional, national and European level) between institutions and companies (whether seized or otherwise) can effectively prevent and combat the presence and the progressive penetration of organised crime in the economic and social fabric.

### *The characteristics of the Caserta Regional Workshops*

Today, the region of Caserta is an important testing ground in which to carry out work of shared reflection and the preparation of tools and methods for future actions 'in the field', given the high presence and penetration indicators of organised crime in the regional economic and financial system.

However, the consolidated experience of the province's success in the reuse of seized assets, through the presence of a number of cooperatives that are already managing seized assets, represents very useful terrain for the project by providing, in particular, a useful example to other Italian regions where this situation is already explicit.

The network of stakeholders already set up by the Chamber of Commerce of Caserta for the success of the 'Legality Information Office' that was established recently is also a network that is capable of expressing ideas and sound projects that can offer, at the onset, collaboration with other regions (the other two pilot provinces - Reggio Emilia and Syracuse) where seized assets and companies are to be found.

The spirit of the workshop lies in the knowledge that only 'long networks' of collaboration (inter-regional, national and European level) between institutions and companies (whether seized or otherwise) can effectively prevent and combat the presence and the progressive penetration of organised crime in the economic and social fabric.

### *The organisation of Regional Workshops*

The regional workshop programme envisages 4 meetings that are to be held at the premises of the Chamber of Commerce, Industry, Crafts and Agriculture (CCIAA). The work will be coordinated by CCIAA representatives with the support of the SOS Legality Project team (*Unioncamere, Universitas Mercatorum*).

It is opportune for the Chamber of Commerce to carry out a survey of the institutions (associations, professional bodies and entrepreneurs) that are to be invited, also on the basis of their availability ascertained during the initiative's launch workshop, in order to identify the professionals who are available to participate in the project - free of charge for the Chamber of Commerce and for the project itself - and hopefully, with a variety of professional backgrounds on the topics of business management and the start-up of business.

In the Workshop, It would be useful to have representatives present from professional bodies (accountants, lawyers, employment consultants), associations representing the category of seized companies (*Confcommercio, CNA, Legacoop*

etc.), a representative for seized cooperatives that have already confirmed their commitment to the project, and a Chamber of Commerce representative for the coordination of operational and organisational activities that follow with particular regard to maintaining contact with Workshop participants, the agenda of meetings and the necessary requirements, and the minutes of meetings and reports.

Technical staff who will lead the Workshop include a University professor and a representative of the *Associazione Libera*.

### **Possible Workshop Agenda**

<i>Meetings</i>	<i>Topic</i>
First Meeting	Instatement of participants: Roles/activities/commitments Aim of the Workshop and scope of work, State-of-the-art Analysis on seized assets and companies, and current experiences in the province
Second meeting	Analysis of the seized companies' list in the Centre-South area - Services/tools definition
Third meeting	Data analysis and fact-checking at the companies Set-up and testing of activities and tools to support companies
Fourth meeting	Analysis of results and formalisation of testing

This is a macro-structure that is to be re-adjusted and re-modelled on the basis of participants' contributions to the discussion and on the ideas/operational proposals that emerge during the meetings and, in particular, on the basis of integrated actions and initiatives relating to the culture of legality which each Chamber of Commerce is committed to.

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