

Libera: “Light and shadow on anti-mafia law reform and management of assets and companies confiscated from mafia”

On June 3, 2013, the President of the Chamber, Laura Boldrini, received the text of the draft law of popular initiative to reactivate work “to foster the emergence of legality and protect workers of companies seized and confiscated from organized crime.” After two years of discussions and hearings, the original text of Bill No. 1138, also thanks to the contribution of the Antimafia Commission, has been enriched with many additional provisions to revisit Leg. Dec. 159 of 2011 (anti-mafia code), in which we immediately reported limitations, inconsistencies and difficulties in application.

The text adopted after careful work of the Justice Committee of the Chamber, improved by some amendments adopted by this House, gathers most of the proposals contained in the Bill and by those who work daily in the fight against crime, in particular organized crime. These include those who perform asset investigations, working to avoid wasting resources for legality and democracy constituted by the confiscated property. Such assets have increased exponentially across the country in recent years.

A first "pillar" of the reform is the strategic choice of appointing the Presidency of the Council of Ministers to supervise the National Agency for management and destination of assets seized and confiscated from organised crime. The President of the Council will assume direct responsibility for this delicate area, allowing better coordination of the professionalism and competence of different ministries, the department for the politics of cohesion and the cohesion agency.

As anticipated in the stability law, a fund for guarantee and support for seized and confiscated companies was introduced to facilitate business continuity, safeguarding jobs and company value in order to overcome the first delicate stages after seizure in which credit lines are restricted. There is also a Government delegation to introduce further rules aimed at identifying undocumented work, tax regularization, and “legalization” of the company. These interventions have been needed for some time, and will prevent, as happens today, only a few companies remaining in operation as a result of the complex path to relocation in the market.

To facilitate business continuity, rules were introduced intended to ensure the continuation of relationships with suppliers to avoid closing down.

For seized property in general, and especially for real estate, best practices were incorporated aimed at a quick but temporary assignment, pending the establishment of the proceedings, to associations and cooperatives to enable the preservation of assets and then the acceleration of final destination.

Numerous provisions are directed at quick and effective release of goods in order to prevent, as still happens today, waiting until years after the final confiscation to release goods from those from which they were confiscated.

Provisions have also been introduced to accelerate the use of confiscated assets, eliminating serious inconsistencies in the anti-mafia code that facilitate sales indiscriminately, with better and more rigorous discipline of recognition of claims by banks that, if not granted “regularly” will be reported to the Bank of Italy.

An important role in better management and destination of goods is given to permanent tables established at prefectures, aiming to involve all stakeholders.

As we have often requested, the total extension to the “corrupt” should be regarded with great favor

(and those who commit crimes against the public administration) rules on seizures and confiscations planned for the members of the mafia.

It is also essential to introduce stricter rules on the appointment of Directors, to ensure transparency and rotation.

The need is recognized to “ensure priority treatment” in confiscation proceedings, even with the increasing number and specialization of judges in the field of prevention measures and the involvement of the heads of judicial offices.

Among the many positive regulations, it must also be reported that enhancement of the criminal seizure is permitted even in case of the statute of limitations (after a conviction at first instance) and where the accused cannot justify the legitimate origin of the asset with the proceeds of tax evasion as case law sometimes allows.

Approval has not been granted, however, for the Government delegation for the establishment of a Fund, which we consider essential for better preservation and safety of real estate by the local authorities, and that would allow assignees to cope with the most urgent needs of reuse for social purposes.

The Sole Justice Fund remains untouchable for these purposes, despite the substantial resources arising from liquidity and bank accounts seized and confiscated in Italy.

Serious concern derives from legal provisions allowing the possibility of conferring the administration of seized "strategic" companies to employees of Invitalia SPA, although the decision on the appointment was attributed to the Tribunal.

Finally, the Agency's enhancement was postponed, although it should have been assured, due to unexpected adverse effects that may occur in the management and destination of the goods.