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From:	Italian Delegation
To:	Delegations
Subject:	8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime' Follow-up to the Report on Italia

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As a follow-up to each Round of Mutual evaluations, each Member-State is requested to inform the General Secretariat of the Council of the actions it has taken on the recommendations given to it.

A follow-up report should be submitted within 18 months from the adoption of the report concerned.

Delegations will find in the Annex the follow-up report of Italy regarding the recommendations that were made in the report 9815/1/18 REV 1 for the Eighth Round of Mutual Evaluations.

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**EIGHTH ROUND OF MUTUAL EVALUATIONS ON 'THE PRACTICAL  
IMPLEMENTATION AND OPERATION OF EUROPEAN POLICIES ON  
PREVENTING AND COMBATING ENVIRONMENTAL CRIME'**

**- FOLLOW-UP TO REPORT ON ITALY**

In the context of the eighth round of Mutual Evaluations on 'the practical implementation and operation of the European policies on preventing and combating environmental crime'

The evaluation report on **ITALY** as set out in doc. ST 9815/1/18 REV1, was adopted by the LEWP/COPEN WP on 21 June 2018.

We hereby submit, according to the procedures set out in doc. 15538/4/15, our report on the follow-up to the recommendations made to **ITALY** in the above evaluation report.

**Recommendation n. 1**

*The establishment of a mechanism for cooperation of the main actors involved in the fight against environmental crimes at strategic level should be encouraged (involving the Ministry of Justice, the Ministry of the Interior and the Ministry of the Environment and all main actors involved in enforcement, inspections, etc.).*

Several tools and mechanisms are in place in Italy to promote coordination and cooperation of the main actors involved in the protection of the environment and in the prevention of and fight against environmental crimes.

As far as LEAs are concerned, it should be noted that in all districts of the Italian Courts of Appeal, under the guidance of the Prosecutor General at each Court of Appeal, Prosecution offices have signed protocols with local ARPAs and other LEAs (Carabinieri and other specialized units of judicial police) in order to facilitate communication and exchange of information and ensure the smooth and uniform investigation and prosecution of environmental crimes and homogenous application of the provisions of Law no. 68/2015.

Coordination among the Prosecutors General at the Courts of Appeal is ensured by the role played by the Network of the Prosecutors General in the environmental sector under the supervision of the Chief Prosecutor's Office at the Court of Cassation, which guarantees uniformity of procedures whilst respecting the autonomy of all prosecutors. The main objectives of the Network are the following: (i) collection, analysis and dissemination of good practices in the investigation and prosecution of environmental crimes; (ii) promoting adoption of common investigative and organisational standards; (iii) facilitating exchange of experiences, good practices and investigative protocols adopted at local level with a view of disseminating and sharing them (further information available at: <https://www.procuracassazione.it/procura-generale/it/par.page>). Therefore, the Network ensures coordination and promotes the adoption of common approaches on the side of prosecution offices at national level.

On the other side, the National System for Environmental Protection (SNPA), through the role and the action of ISPRA, ensures coordination and uniform policies of the regional ARPAs (see below considerations under recommendation n. 2).

Therefore, there is a structured flow of information, practices, investigative protocols and interpretative approaches that are elaborated at local level (taking into account the different territorial needs and situations), shared at higher level, to finally find a further elaboration and dissemination through the actions of the Network.

It is worth recalling that the very Evaluation Report on Italy on the Eight Round of Mutual Evaluation acknowledges that *“intensive and comprehensive cooperation takes place between the local, regional and national judicial authorities through protocols, audits, reports etc. aiming at the homogeneous implementation of the law”* and that *“the powerful and innovative set of laws, as well as the strict definition of administrative and criminal offences and the clear definition through strict legal separation of administrative and criminal sanctions and fines allows for cooperation in the fight against environmental crime whilst avoiding any overlap between criminal and administrative jurisdictions. In the evaluators' opinion this is an example of best practice”*.

Italy is willing and ready to adjust and further improve the coordination and cooperation mechanisms already in place when the Draft Directive on the Protection of Environment will be approved. Indeed, Articles 19 and 20 of the Draft Directive provide for mechanisms of coordination and cooperation between competent authorities within a Member State and for the drafting of a national strategy on combating environmental criminal offences. Both the above-mentioned provisions of the Draft Directive stipulate specific requirements for the coordination mechanisms and the national strategy. Italy is ready, once the Directive is approved, to fully implement such provisions.

## **Recommendation n. 2**

***Consideration should be given to establishing solutions for the administrative fragmentation that has led to fragmented structures which create opportunities for criminal groups and obstacles for the authorities; such solutions could involve laying down clear guidelines to be followed by all ARPAs and enhancing coordination at central level.***

The National System for Environmental Protection (SNPA), structured into *Tavoli istruttori di Consiglio* (TIC) in order to promote the uniform application of the provisions introduced by Law 68/15 by the bodies belonging to the System (ISPRA, ARPA, APPA), mandated an *ad hoc* working group to:

- set up a monitoring centre for legal issues and guidelines issued by the many bodies involved in the application of the new legislation, also by setting up a special database of the documentation issued at a national level;
- draw up a summary of the shared application guidelines and identify specific criteria and guiding principles on the most controversial issues of interpretation;
- summarise and draw up the best practices developed by SNPA bodies with regard to the formulation of prescribed actions and more generally to the application of Law 68/15;
- carry out the systematic collection of data on the activities carried out by the System in the application of Law 68/2015.

Therefore, Guidelines for the application of the procedure for the extinguishment of environmental offences pursuant to Part VI-bis of Legislative Decree 152/2006, approved by the Federal Council on 29.11.2016 were drawn up. In addition, a database "Documentation on environmental offences" was set up, which contains policy documents issued by public entities involved in the implementation of Law 68/15 and a section dedicated to case-law pronouncements on the matter.

Further information is available at: <https://www.snpambiente.it/attivita/reti-tematiche/ecoreati/>

Moreover, it should be underlined that ISPRA (National Institute for Environmental Protection and Research) has taken a number of actions aimed at overcoming fragmentation and ensuring uniform application and implementation of provisions and policies for the protection of environment. The efforts made by ISPRA to streamline and coordinate actions between authorities at supervisory and operational level are reflected in the numerous manuals and guidelines published by ISPRA on a very wide range of topics concerning environmental protections. Suffice it to mention that since 2018 ISPRA has published more than 24 manuals and guidelines on different topics (further information is available at: <https://www.isprambiente.gov.it/en/publications/handbooks-and-guidelines>).

The periodical reports published by ISPRA also contribute to disseminating information and good practices among the territorial agencies (further information is available at: <https://www.isprambiente.gov.it/en/publications/reports>).

As to management of waste, the Report on Waste from Economic Activities – 2022 was recently published (further information is available at: <https://www.isprambiente.gov.it/en/publications/reports/report-on-waste-from-economic-activities-2022>). The Report, now in its twenty-first edition, is the result of a complex activity of collection, analysis and processing of data by the National Centre for Waste and Circular Economy of ISPRA, with the contribution of regional and provincial Environmental Protection Agencies. Through an effective and comprehensive system of knowledge on waste, the aim is to provide an objective, accurate and up to date information framework, in order to support competent authorities in directing appropriate policies, monitoring their effectiveness and introducing corrective measures, if necessary. The Report provides also data about generation and management of non-hazardous and hazardous waste at national and regional level, and for management also at provincial level.

A further valuable tool able to promote adoption of uniform policies and practices at local level is the Study on municipal waste prevention measures adopted by municipalities published by ISPRA in 2022 (further information is available at: <https://www.isprambiente.gov.it/en/publications/reports/study-on-municipal-waste-prevention-measures-adopted-by-municipalities>). The objective of the study is to define new indicators on the basis of the information acquired on the prevention measures implemented at local level. The work falls within the scope of the Agreement between ISPRA and the Ministry of Environment (since October 2022 the new name of the Ministry is Ministry of Environment and Energy Security) relating to technical-scientific and legal-administrative research activities aimed at guaranteeing the implementation of Article 206 bis of Legislative Decree 152/2006 relating to the supervision and control of waste.

### **Recommendation n. 3**

*Consideration should be given to establishing an effective follow-up system as regards the inspection role of the provincial authorities when it comes to recovering waste from dismissed vehicles.*

This recommendation concerns a very specific area: the recovery of waste from end-of-life vehicles, with particular reference to the inspection role of the Provinces.

It should be noted that the entire matter relating to the treatment of end-of-life vehicles has been the subject of an organic regulatory arrangement as a result of Legislative Decree No. 119 of 3 September 2020, with which the legislator implemented Article 1 of Directive (EU) 2018/849, itself amending Directive 2000/53/EC on end-of-life vehicles.

This provision made several changes to the reference standard about end-of-life vehicles, namely Legislative Decree No. 209 of 24 June 2003, which implemented Directive 2000/53/EC.

Article 6 of Legislative Decree No 209 of 24 June 2003, amended by Legislative Decree No 119 of 3 September 2020, contains a series of detailed prescriptions concerning the treatment of end-of-life vehicles.

In connection with the subject of the Recommendation, paragraphs 5 to 7 of Art. 6 are relevant.

Below a summary of the main prescriptions:

*-The admission of waste recovery activities deriving from end-of-life vehicles in a simplified manner is subject to prior inspection by the (so called) Metropolitan City or Province competent for the territory, to be carried out within sixty days from the presentation of the communication of the start of the activity and, in any case, before the start of the activity;*

*- This inspection, which is carried out, after the commencement of the activity, at least once a year, shall ascertain:*

*a) the type and quantity of waste undergoing recovery operations;*

*b) the compliance of the recovery activities with the technical prescriptions, safety measures and technical standards established at legislative level.*

*- In the case that the Metropolitan City or the Province, ascertains the violation of the provisions, it prohibits, after warning and fixing a deadline to comply, the commencement or continuation of the activity, unless the owner proceeds, within the prescribed time limit, to conform the activity to the regulations in force.*

*- The Metropolitan City or the Province shall transmit annually to the Ministry of the Environment and Protection of the Territory, to ISPRA and to the National Register of Companies that carry out the waste management, the results of the inspections carried out.*

A specific regulation is therefore in force.

The text of Legislative Decree No 209 of 2003, as amended by Legislative Decree No 119 of 2020, is available at <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2003-06-24;209!vig=>

#### Recommendation n. 4

*The use of more informal international cooperation at judicial level should be encouraged (e.g. via direct contact with direct counterparts in other EU countries and/or making use of the tools offered by Eurojust).*

The last three years were characterized by the increasing awareness of the cross-border dimension of environmental crime and, consequently, the increasing number of cases opened by the Italian National desk at Eurojust upon request of the competent judicial authorities (14 cases opened in 2019, 20 cases in 2020 and 21 cases in 2021). The coordination meetings organized by Eurojust and concerning cases of environmental crimes also increased considerably (8 meetings in 2019, 6 meetings in 2020 and 11 meetings in 2021). Moreover, Eurojust supported a significant number of joint investigation teams set up in criminal proceedings concerning environmental crimes promoted by Italy (6 JITs in 2019, 6 in 2020 and 6 in 2021).

These data show that the competent Italian judicial authorities are fully aware of the transnational dimension of environmental crimes and regularly cooperate with Eurojust when addressing the main legal and practical problems in the investigation and prosecution of environmental crimes.

Indeed, Italian authorities have recently strengthened their efforts to promote cooperation and sharing of experiences and good practices with other countries in the field of the fight against environmental crimes.

Within the context of the Italian Presidency of the Council of Europe (Nov. 2021 – May 2022) the Office of the Prosecutor General at Supreme Court of Cassation, together with the Italian Ministry of Justice and the Italian Ministry of Foreign Affairs, on 6-7 May 2022 organized a two-day conference of the General Prosecutors of the Council of Europe Member States. The second day of the conference was dedicated to the topic «*Investigation and Prosecution of environmental crimes: how to face the challenges and ensure an effective role for public prosecutors*». During the session presided by the President of the European Network of Prosecutors for the Environment (ENPE) several experts (mainly prosecutors in charge of investigations into environmental crimes) from different countries (Spain, The Netherlands, France, Turkey, Hungary, Sweden) shared their experiences focusing on issues concerning international judicial cooperation in the field of environmental crimes.



In June 2021 the Italian liaison magistrate in France organized a seminar on cooperation between France and Italy in the area of environmental crimes.

On a more general note, it is worth noting that since 2017 Italy has significantly strengthened its legal and policy framework in international judicial cooperation both at the EU level and with non-EU countries (see the recently adopted OECD Working Group on Bribery Phase 4 Report on Italy, pages 57 – 62 and page 87). The strengthening of the legal and operational framework will have a positive impact also on the judicial cooperation in the field of environmental crimes.

It is important to highlight activities and initiative taken at international level by one of the main actors in the fight against environmental crime: the *Comando Carabinieri per la Tutela Ambiente e Transizione Ecologica – CCTATE* (Carabinieri Department for Environmental Protection and Ecological Transition). In particular CCTATE:

- is a permanent member of the EnviCrimeNet - Environmental Crime Network<sup>1</sup>, a structure operating at a **strategic level** providing support to the decisions of European institutions in the field of combating environmental crime through analysis and suggestions. In this context, the CCTATE representative is also responsible for drafting at least five proposals for legislative changes to the EU within the LIFE + SATEC project, developed to support the network's activities;
- intensified cooperation activities with EUROPOL, which operates at an **operational level**, ensuring the exchange of information with countries of greater interest in terms of information and investigation activities with a transnational scope (with requests for inspections, sharing of results and modus operandi through the SIENA communication channel). Evidence of this is that in the second half of 2021, 11 SIENA messages were shared regarding information useful to feed the relevant *Analysis Project ENVICRIME*. The interest was mainly focused on waste with EWC code 19.12.12 (*other wastes - including mixtures of materials other than those under 19.12.11*) generated by mechanical treatment of wastes, other than those under 19.12.11 (*other wastes - including mixed materials containing dangerous substances*). Most of the activities concerned *Croatia, Slovenia and the Czech Republic*. With regard to the phenomenon resulting from the disposal and recovery of plastics, it should be noted that cooperation was launched with Malaysia with regard to waste identified with EWC code 15.01.02 (*plastic packaging*). As to the African continent, cooperation was launched with Togo for the disposal of waste identified with EWC code 16.01.03 (*end-of-life tyres*);

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<sup>1</sup> In the year 2021 also held the position of Vice President.

- continues to play an active role in the development of EMPACT priorities, as it operates at the **tactical level** with the implementation of coordinated cross-country Operational Actions and ensures that environmental issues remain the focus of the EU. In this regard, the taking on of the EMPACT - Envicrime Drivership in the four-year period 2022 - 2025, replacing France, should be underlined. Also within the framework of the activities related to the OPFA Waste project, an Operational Meeting was held on 7 and 8 July at the *Comando* with the Croatian Police to exchange information on an illegal channel of waste movement from Italy to Croatia;

- participates as a partner in the “Counteracting Environmental Crime” training project for the General Directorate National Police of Bulgaria.

Moreover, within the framework of investigative and judicial cooperation, the Joint Investigation Team between the Public Prosecutors’ Offices in Milan, Grosseto and Salerno, with delegated powers to their respective NOEs [Operational Environmental Units], and the Bulgarian judicial counterparts in Varna and Pleven, is still active in the investigation of international waste trafficking to Bulgaria.

It seems useful to point out that the year 2021 is an extraordinarily important operational year, given that the international activities directly involving CCTATE, in line with the conferred mission, are of primary importance. More specifically:

- the launch of the project of the G7 Roma-Lyon working group with the circulation of a questionnaire to find out the level of knowledge and awareness of the issue of waste trafficking by G7 countries;
- the launch of the EMPACT 2021 O.A. 2.4 action, the only action in the area of waste trafficking with CCTATE as Action Leader and coordinator of the following three sub-actions:
  - “A” on EWC code 191212, under the leadership of Europol;
  - “B” on plastics, under the leadership of Spain;
  - “C” on demolition debris, under the leadership of Slovakia.

A total of 4 agencies (Europol, Olaf, Eurojust, Interpol) and 23 countries participate in the activity.

## Recommendation n. 5

*Consideration should be given to developing a more strategic approach towards awareness prevention programmes involving companies and the general public.*

Awareness-raising activities have become a priority for Italian authorities. The Ministry of Environment has engaged in countless public campaigns and awareness-raising activities. A list can be found at: <https://www.mite.gov.it/pagina/campagne-ed-iniziativa>.

As to companies, in the last few years CONFINDUSTRIA has engaged in several initiatives aimed at disseminating awareness concerning environmental issues among companies. CONFINDUSTRIA is the main association representing manufacturing and services companies in Italy, with a voluntary membership of more than 150,000 companies of all sizes, employing a total of 5,382,382 people. CONFINDUSTRIA's added value stems from its network: a headquarters in Rome, 225 local and trade associations and since 1958 a delegation in Brussels. One the most significant projects launched by CONFINDUSTRIA is the Confindustria – Circular Economy project which is based on the EU's new Circular Economy Action Plan adopted in March 2020 and is intended to contribute to achieving the objectives of the Plan. Under the Confindustria-Circular Economy project, information, solutions, best practices are shared among Italian companies. The project includes a number of initiatives among which it is worth mentioning the organisation of the *Innovation Days* that take place in the different regions of Italy (further information is available at <https://economiacircolare.confindustria.it>).

Moreover, it is important to consider that CONFINDUSTRIA supports Italian companies in the drafting of organizational models pursuant to Legislative Decree 231/2001. Legislative Decree 231/2001 provides for the administrative liability of legal entities (including companies) for the criminal offences committed by individuals in the interest and/or for the benefit of the legal entity. Environmental criminal offences are included in the list of crimes for which the administrative liability of legal entities is provided for. In order to be exempted from liability, legal entities must prove that they have adopted and effectively implemented organizational models (compliance programs) which are adequate and apt to prevent criminal offences from being committed.

Therefore, companies are required to adopt and implement organizational rules, standards, protocols, procedures aimed at preventing criminal offences including environmental crimes. CONFINDUSTRIA periodically issues guidelines for the drafting of organizational models (compliance programs) with a focus on the different categories of criminal offences. This practice facilitates the dissemination of effective organizational measures and protocols to be implemented by companies in the prevention of environmental crimes. The latest guidelines were issued and circulated in May 2022 after the approval by the Ministry of Justice.

In this regard, it should be noted that the Ministry of Justice plays a significant role with regard to guidelines (codes of conduct) on organizational models issued by business associations. According to Article 6, paragraph 3, Legislative Decree 231/2001 and Ministerial Decree no. 201/2003 (Articles 5 – 7), business associations, before disseminating their guidelines on organizational models among their members, shall submit them to the Ministry of Justice. The Ministry of Justice evaluates the guidelines in order to assess whether they are adequate in providing indications for the adoption of suitable organizational models, having regard to the specific sector of the business association and the specific risks connected with the business activity (including risks concerning the protection of environment). The Ministry of Justice may make observations on the guidelines submitted by business association. In 2021, 13 business associations submitted their programmes pursuant to Legislative Decree 231/2001.

ASSOAMBIENTE is the business association which represents Italian companies providing services in the environmental sector (mainly services related to the management of waste) and companies whose activity is based on circular economy. ASSOAMBIENTE issues and periodically updates guidelines for the organizational models to be adopted by companies providing services in the management of waste. ASSOAMBIENTE also submits its guidelines to the Ministry of Justice for approval.

## Recommendation n. 6

*Consideration should be given to setting up a national risk assessment on environmental crime, to be used as the basis for setting budget allocations and targeting the fight against environmental crime.*

In this regard, the comprehensive and extensive activity of the Parliamentary Committee on Waste is worth mentioning. The Parliamentary Committee has been established in each legislature. As far as the period 2018 – 2022 is concerned, by Law no. 100 of 7 August 2018 the Parliamentary Committee on Waste was set up. The Parliamentary Committee focuses on illicit and criminal activities related to the management of waste. As correctly mentioned in the Report on Italy, the Parliamentary Committee has the same investigative powers as the judicial authority and deals with a range of topics and situations. The analysis carried out by the Parliamentary Committee through on-site visits, several hearings of law enforcement officials, experts, members of the judiciary, representatives of civil society organizations provide Italian authorities (members of Parliament, Governmental agencies and judicial authorities) with useful information and inputs for the implementation of policies which are suitable to effectively tackle environmental crime.

The activity of the Parliamentary Committee set up in 2018 was concluded in June 2022 with the adoption of a final report.

For an exhaustive illustration of the activities of the Parliamentary Committee see the 2022 final report

at: [http://documenti.camera.it/\\_dati/leg18/lavori/documentiparlamentari/IndiceETesti/023/036/INTERO.pdf](http://documenti.camera.it/_dati/leg18/lavori/documentiparlamentari/IndiceETesti/023/036/INTERO.pdf).

## **Recommendation n. 7**

*Solutions should be found for a quicker and more efficient response by the public administration in dealing with the demands and complaints of various actors (NGOs, etc.) and citizens, adopting an integrated approach.*

ARPAs at regional level and municipalities have established specific channels for complaints and reports by the general public (citizens, NGOs, associations etc.) concerning violations of environmental law or incidents affecting the environment. Some ARPAs have implemented a 24/7 system for emergency situations. The websites of the different ARPAs provide detailed information on the channels for reporting a complaint and on the procedure adopted by the administration for the processing of the complaint.

## **Recommendation n. 8**

*Statistics compiled by each authority should then be collected by one authority, put together and should include all environmental violations, covering criminal offences as well as minor violations which are dealt with via administrative procedure.*

It is worth noting that since 2018 the Italian Ministry of Justice has continued to collect and publish annually comprehensive statistical data on environmental crimes. The monitoring procedure was set up and regulated by the administrative decision adopted on 19 February 2016. The first report collecting all data on criminal proceedings concerning environmental crimes was published in 2017. The last report was published on 7 July 2022. The report contains data relating to 2021 as well as consolidated and updated data relating to the period 2019-2021.

The report indicates for each environmental criminal offence data concerning (i) criminal proceedings opened; (ii) criminal proceedings dismissed; (iii) criminal proceedings where the accused was committed to trial; (iv) judgments of conviction; (v) judgments of acquittal. The report also illustrates the above-mentioned statistical data with specific reference to each of the different districts of Italian courts of appeal.

It should be emphasized that in the last two years Italian authorities have undertaken a number of actions aimed at strengthening the digitalization of the justice system as well as the collection and analysis of statistical data concerning the functioning of the justice system in the area of both civil and criminal proceedings.

The Italian Parliament approved Law 27 September 2021, no. 134 (*Delegated powers to the Government for the efficiency of criminal trials as well as in the field of restorative justice and provisions to speed up judicial proceedings*) which was published in the Official Gazette of the Italian Republic on the 4<sup>th</sup> of October 2021 and entered into force on the 19<sup>th</sup> of October 2021. As to digitalization of criminal proceedings, considered as one of the main tools to improve the efficiency of the system, law no. 134/2021 provides for (a) the adoption of a three-year Plan for the Digital Transition of the Justice Administration; (b) the establishment by decree of the Minister of Justice, a technical-scientific Committee entrusted with the task of advising and supporting the technical decisions connected to the digitalization of criminal proceedings.

Among the measures adopted by Italian authorities to further strengthen the digitalization of the justice system, by Decree of the President of the Council of Ministers no. 54, of 22 April 2022, within the Ministry of Justice the new *Department for the digital transition of the justice system, statistical analysis and cohesion policies* was set up. It consists of three Directorates: the Directorate General for Automated Information Systems, the Directorate General for Statistics and Organisation Analysis and the Directorate General for the coordination of cohesion policies.

Special attention has been given to the goal of strengthening the Directorate General for Statistics and Organisation Analysis. The Decree of the President of the Council of Ministers no. 54/2022 has assigned to the Directorate (i) the tasks set forth in Legislative Decree no. 322 of 6 September 1989, as the national office for statistics, including the creation and management of judicial statistics databases; (ii) the task of drafting the national statistical programme by the identification of unified and uniform standards across the country ensuring coordination of the Ministry's offices, decentralised administrative offices and judicial offices at the central level for relations with ISTAT (National Institute for Statistics); (iii) relations with European and international relevant bodies.

The setting up of the new Department for the digital transition of the justice system and the strengthening of the Directorate General for Statistics and Organisation Analysis reflects the idea, underlying the most recent justice sector reforms, that all actions to be taken in the field of justice, as well as the assessment of reforms and the evaluation of the need for further reforms, require as their crucial basis the collection, analysis, study of the relevant statistical data which need to be transparent, reliable, comprehensive and updated.



The new Department of the Ministry of Justice and the Directorate General for Statistic will ensure and support the constant commitment of the Italian authorities, namely the Ministry of Justice, to the annual collection and publication of statistical data concerning environmental crimes. Moreover, the new Department of the Ministry of Justice and the strengthening of the Directorate tasked with dealing with statistical data will ensure a swift and effective implementation of some of the provisions contained in the draft EU Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC which is currently being discussed by the Council. Indeed, the Draft Directive provides that Member States should ensure that a system is in place for the production and provision of statistical data concerning environmental crimes.

### **Recommendation n. 9**

*It is recommended that the capacity of the judicial system be enhanced with specific reference to financial and human resources.*

Since 2018 Italian authorities have engaged in unprecedented investments in human and infrastructure resources with regard to the justice sector in order to enhance the efficiency and effectiveness of the criminal justice system. A significant part of the funds of the Recovery and Resilience Plan has been destined to the justice system.

It is worth mentioning that already in 2018 by Law no. 145/2018 the number of magistrates (judges and prosecutors) has been increased by 600 units with a consequent rise from 10,151 to 10,751 posts. Moreover, between 2018 and 2020 attention has been given to strengthening administrative staff that provide assistance to magistrates. Procedures were implemented to recruit 97 auxiliary staff, 616 judicial operators, 7 judicial clerks, 400 directors and 2,700 senior clerks.

However, after the pandemic even more significant efforts have been devoted to massive investments in the justice sector.



A very significant reform was implemented by Law Decree 8 June 2021, no. 80 (converted into Law 6 August 2021, no. 113). The Law Decree has provided for the recruitment, between 2021 and 2024, of 16,000 young lawyers to be assigned to the Offices for the Trial attached to the courts of first instance, the appeal courts and the Supreme Court of Cassation. After adequate training, these young lawyers shall perform tasks and responsibilities very similar to those assigned to the law clerks in the common law systems. They shall assist judges in their preparatory work, including by studying case files and relevant case law, verifying service of procedural documents, drafting decisions, organising hearings, analysing outstanding proceedings. The contribution of the members of the Office for the Trial is expected to have a significant and positive impact on the productivity of courts and the elimination of the backlog of judicial proceedings. A first call for the recruitment of 8,171 young lawyers was published in August 2021 and more than 66,000 applications were received. The recruitment of the first 8,171 law clerks was concluded in December 2021 and the newly hired law clerks started working in February 2022. Considering that there are approximately 10,000 magistrates (including judges and prosecutors) in Italy, the extent of the legislative reform is very clear: the recruitment of more than 16,000 young lawyers will provide courts with an innovative and impactful tool to improve the quality and effectiveness of judicial proceedings and decisions. Law Decree 8 June 2021 stipulated also that the Ministry of Justice was authorised, within six months of the data of the entry into force of the same law, to start the procedure for the recruitment of 500 new magistrates (judges and prosecutors). The recruitment is ongoing. As regards the Office for the Trial, it is worth noting the keen interest attracted by the measure, due to the Administration's effort to recruit a considerable number of young resources in a short period of time and, above all, to the impact that this measure may have on the organisation of judicial offices. The feedback received on this point following discussions with the European Commission is very positive.

Extremely significant financial efforts have also been undertaken for the hiring of administrative officers (IT experts, data-entry operators, statistics analysts) to be assigned to the Offices for the Trial. The procedure for the hiring of 5,410 administrative officers is ongoing, and in October 2022 3,209 contracts of employment were already signed. The newly hired administrative officers are expected to take on their position by the end of November 2022.

For the Office for the Trial a total of approximately 2,3 billion Euro will be invested.

Investments for the Judicial Building Sector have been planned for more than 1 billion Euro (1.186.000.000,00 Euro) for the period 2020 - 2023.

The need for building works on judicial buildings has exponentially increased as a result of the transfer of competences to the Ministry of Justice, which in 2015 took over the direct management of buildings intended for judicial and ministerial offices, located in buildings partly owned by the State, partly owned by the municipality and partly leased from private individuals or other entities. Many projects concern the building of *Judicial Citadels*. The projects to build Judicial Citadels aim to bring about concrete and visible improvement in services provided to citizens, also through urban regeneration, reduction of urban land use and implementation of ecological and sustainable mobility systems. Almost all the projects focus on the existing heritage through the renovation and enhancement of the historical heritage, with maintenance and extension operations and energy efficient retrofitting, which can be achieved through consumption rationalisation and by ensuring economic, environmental and social sustainability with the use of sustainable materials and renewable energies, while fully protecting the historical heritage. The interventions also aim to building adaption (for the buildings concerned) in terms of seismic vulnerability. Among others, the planned projects concern the Judicial Citadels of Trani, Bari, Foggia, Lecce, Bologna, Bergamo, Sassari, Milan, Monza, Naples, Perugia, Venice and other cities.

A third area where significant resources have been and are being invested is the digitalisation of criminal and civil proceedings. The modernization of the justice system has continued to pursue the objectives aimed at consolidating the IT applications supporting the activities of Courts and Prosecution Offices as well as improving IT infrastructure and hardware equipment efficiency.

The Ministry of Justice took measures for:

- the remote management of civil hearings;
- the management of the services for the electronic filing of acts and documents and for the electronic payments of the unified fees;
- the participation in any hearing of persons detained, interned or in pre-trial custody, where possible, by videoconferencing or by remote connections;
- the remote participation in criminal hearings;
- the remote handling of pre-trial investigations;

- the adoption of measures in relation to communications and service of notices in criminal proceedings;
- the management of interviews with prisoners in prisons and penal institutions for juveniles;
- the adoption of measures for the electronic filing of documents at the preliminary investigations stage.

The NRRP has also had a significant impact on digitalization.

The Ministry of Justice is involved in the implementation of two projects: (a) the project to digitalise the archives of judicial offices and (b) the data lake.

The digitalization of case files, besides having a beneficial impact from an archival point of view, will be the driving force for the completion of the digitalization of the civil trial and for the consolidation of the launch of the digital criminal trial. The project will make it possible to eliminate the paper component of pending or settled case files, for first instance and appellate courts, over the last 10 years, achieving the dual objective of allowing full consultation, in digital format, of files, as well as eliminating the management of paper archives. For the Supreme Court of Cassation, the objective is to implement an IT system for the trial and the Court's administrative acts. This digitalization will make a decisive contribution to the secure and efficient provision of more advanced and sustainable justice services, allowing faster access to information, data and documents, ensuring a considerable number of accesses (in operational continuity) to all users of the justice system and the users of services provided to citizens.

The data lake project aims to provide a highly sophisticated and advanced tool allowing a considerable extension of the information that can be extracted from the digitalized justice documentary archives. The justice system has a huge pool of potential knowledge in relation to proceedings, consisting not only of databases, but also of text documents submitted by the parties and issued by the judicial authorities. This pool is to a large extent already dematerialized but, considering the present use of digital technologies, only minimally exploited. The potential inherent in the full exploitation of the knowledge expressed by documents to improve the efficiency, quality and effectiveness of the services provided to the community is enormous.

The experimental phases, already launched, aim to expand knowledge and analysis tools available to members of the judiciary. The aim is to extract the knowledge contained in the documentary heritage of the justice system and in public data outside the Justice domain, for the creation of systems of anonymization of judgments; automation in the identification of the victim-perpetrator relationship; management control system of work processes for their improvement; advanced statistical survey on civil and criminal proceedings. The adoption of a data lake system may represent a turning point for the digitalization of justice, since it considerably expands accessible information, thanks to a potentially infinite set of data types; it is essentially the analysis question that determines the selection of data from which to draw information. Thus, in the Data Lake research has access to all available information, regardless of the source that generated it.

The projects of digitalization of judicial archives and of the data lake will be funded with 123 million Euro.

Digitalization represents a crucial area of the two laws recently enacted by the Italian Parliament for the reform of civil and criminal proceedings.

As to criminal justice, Article 1, paragraph 5, of Law no. 134/2021, in enabling the Government to adopt one or more legislative decrees on the digitalization of criminal proceedings, sets forth several important principles among which the following are worth mentioning: « a) providing that procedural acts and documents may be formed and stored electronically, so that their authenticity, integrity, readability, availability and, where required by law, secrecy are ensured; providing that at any stage of criminal proceedings and any tier of jurisdiction, the filing of acts and documents, communications and service of documents is carried out electronically; providing that electronic transmissions and receipts guarantee the sender and the receiver certainty, including temporal certainty, of the successful transmission and receipt, as well as of the sender's and receiver's identity; providing that for the acts carried out personally by the parties, the filing may also be made without the use of electronic means».

As to the digitalization of criminal and civil proceedings, considered as one of the main tools to improve the efficiency of the system, Law no. 134/2021 provides for (a) the adoption of a three-year Plan for the Digital Transition of the Justice Administration; (b) the establishment, by decree of the Minister of Justice, of a technical-scientific Committee entrusted with the task of advising and supporting the technical decisions connected to the digitalization of judicial proceedings.

The above-mentioned investments both in human resources and infrastructures are partially financed by the funds of the National Recovery and Resilience Plan (NRRP).

Information on the NRRP and its governance at the national level is available on the following website [www.governo.it](http://www.governo.it) and on the *ad hoc* portal [www.ItaliaDomani.gov.it](http://www.ItaliaDomani.gov.it), whereas sections devoted to the three NRRP lines of action for the Ministry of Justice (1-Office for the Trial and Human Resources, 2-Digitalisation and 3-Judicial Buildings Sector) are available on the institutional portal [www.giustizia.it](http://www.giustizia.it), a site which is constantly updated on this topic.

### **(poss.) GENERAL REMARKS**

The *Comando Carabinieri per la Tutela Ambientale e la Transizione Ecologica* has highlighted the following most recent developments and main areas of investigative focus.

Among new legislative provisions that will guide the investigation choices in the area of environmental crime, the introduction of the obligation of separate collection of textile waste, effective from 1 January 2022, will certainly have an impact, since the new legislation will lead to a considerable increase in waste volumes through calls for tenders for contracting the service, which will move specific financial resources at national level, and the investments set out in the NRRP for the relaunch of textile waste collection and recovery chain will be even more substantial.

Against this background, the interest of speculators and an increase in illicit phenomena can be expected in the short to medium term. Another sector of high investigative interest is the so-called “cement cycle”, where attention is focused on the management of operating and dismissed quarries subject to morphological restoration, which are often used for the burial of harmful and hazardous waste, as well as on the discharge of waste in the production of cement and bituminous conglomerates, especially when used for the construction of public works. This is also in view of the unfreezing of large-scale works, functional to reinvigorating the economic recovery after the COVID emergency and the use of NRRP upcoming funds, which will undoubtedly see a proliferation of public works as a driving force for relaunching the economy in the coming months.

Finally, in order to increasingly improve the repressive instrument, particular attention is being paid to the concept of “**Follow the money**”, identifying capital, movable and immovable property of illicit origin, when they are considered to be the proceeds of wealth directly related to environmental crimes. The “rooting out” of such assets and property with a view to possible confiscation is perhaps the most effective action to limit the operational capacity and freedom of movement of criminal syndicates.

As to renewable energies, the *Comando Carabinieri per la Tutela Ambientale e la Transizione Ecologica* will continue to focus its action on the fight against related unlawful acts:

- CO2 emissions into the atmosphere covered by the ETS, the world's largest international system for trading greenhouse gas emission allowances, whose allowances have an economic value subject to market fluctuations. The activities will be carried out with the support of ISPRA staff [Istituto Superiore per la Ricerca e la Protezione Ambientale<sup>2</sup> - Institute for Environmental Research and Protection] under the Memorandum of Understanding signed with the Carabinieri which will also include a mutual training course to improve the ability to monitor allowances exchange flows and highlight any anomalies that suggest suspicious transactions to be reported to the FIU - Financial Intelligence Unit;
- the production and use of Biodiesel, where there is a system of mandatory release for consumption of a minimum annual quantity of biofuels by petrol and/or diesel producers through the blending with the fossil fuels produced. However, Certificates of Release for Consumption (CICs) release from this obligation and are negotiable on the basis of bilateral agreements between the parties;
- the operating system of consortia where, given their obligation to achieve international standards in the recovery and recycling of waste fractions, deep and systemic illegalities emerge to the detriment of public administrations and citizens.

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<sup>2</sup> ETS Administrators for Italy

Given that environmental crime is first and foremost an economic-financial crime and that illegal activities in the purchase and sale of allowances or in the operation of consortium systems can cause:

- market distortion through speculative conduct and laundering of illicit proceeds;
- infiltration by members of criminal associations, including mafia-type associations;
- damage to the environment as a final consequence;

the aforementioned issues represent the new areas of operational engagement and of absolute interest, especially in light of corporate sustainability policies.