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FINANCIAL POLICE COORDINATION AND INTERNATIONAL COOPERATION

The Financial Investigation

- The essential characteristic of the law enforcement authorities is the use of the *investigative methods*.
- Their duty is to *prevent, detect and repress* the administrative and penal violations of the economic and financial laws.
- *The investigations, the following actions and the deterring effect* deriving from them make the interested administrations capable of functioning according to the criteria of *efficiency and effectiveness*.

- Law enforcement authorities have to investigate, *by initiative and on request*, and to report to the competent *administrative and judicial authorities* about the detected violations.
- In short, they have a structure the prevailing characteristic of which consists of the use of different methodologies from those commonly adopted by other public administrations.
- According to their administrative and criminal powers, they have the capability to examine in a *comprehensive way* the object of investigation considering all its emerging aspects.

Functions of Financial Police

- Today more than ever it is essential to ensure the fullest protection of the state budget, both on the *revenue side* as well as on the *side of the expenses*, and *the markets*.
- The law should attribute to the Financial Police the function of *gravitational pole* of any information proving financial violations.
- In fact any other police force, supervisory body and the judiciary should notify the Financial Police any aforementioned information acquired during their institutional activity.

- The Financial Police is the only *window of connection* between administrative and criminal investigation too.
- Following the authorisation of the judicial authority, the Corps uses and transmits to other administrations documents, data and information previously obtained.
- Finally, the *cross - disciplinary approach* to illicit phenomena can ensure that any inspection is a concrete action to protect the budget, as it is able to recover stolen assets to the Treasury, identify any phenomena of illegal perception of public funds and discover mafia infiltration into the legal economy.

Connection with other crimes

- Judicial investigations have often proved that crimes of false, political and administrative corruption, money laundering, fraud and tax evasion are closely related as aspects of the same phenomenon.
- A lot of enterprises have institutionalised in their ordinary activity the use of black funds coming from illicit sources.
- In most cases their illicit origin consists of tax evasion pursued through the issue and use of false invoices and false accounting entries.

Therefore tax evasion is related to the:

- illegal creation of secret funds;
- income received by the recipients of bribes;
- final subtraction of abovementioned sums to the Treasury.

Moreover:

- revenues from events, acts or activities qualified as criminal or administrative offence should be considered income, if not already subject to seizure or confiscation;
- costs or expenses attributable to acts, facts or activities qualified as a crime should not be deductible.

Domestic co – ordination

- In the broader system of prevention and repression of violations, the protection of financial interests guaranteed by the Financial Police does not overlap the functions carried out by other institutional actors and is situated on a different and independent level.
- The *complementary and coordinated* role among different institutions constitutes the added value of the preventive and repressive system taken as a whole.

A model based on specific characteristics has been highlighted in order to ensure the necessary coordination among various agencies. In particular:

- a *complementary role* as part of an integrated system to:
 - avoid duplication and overlapping of activities; increase synergies and recognise skills and projections of each institution;
 - act as a team;
- a recognition of *full autonomy* of the various institutions;

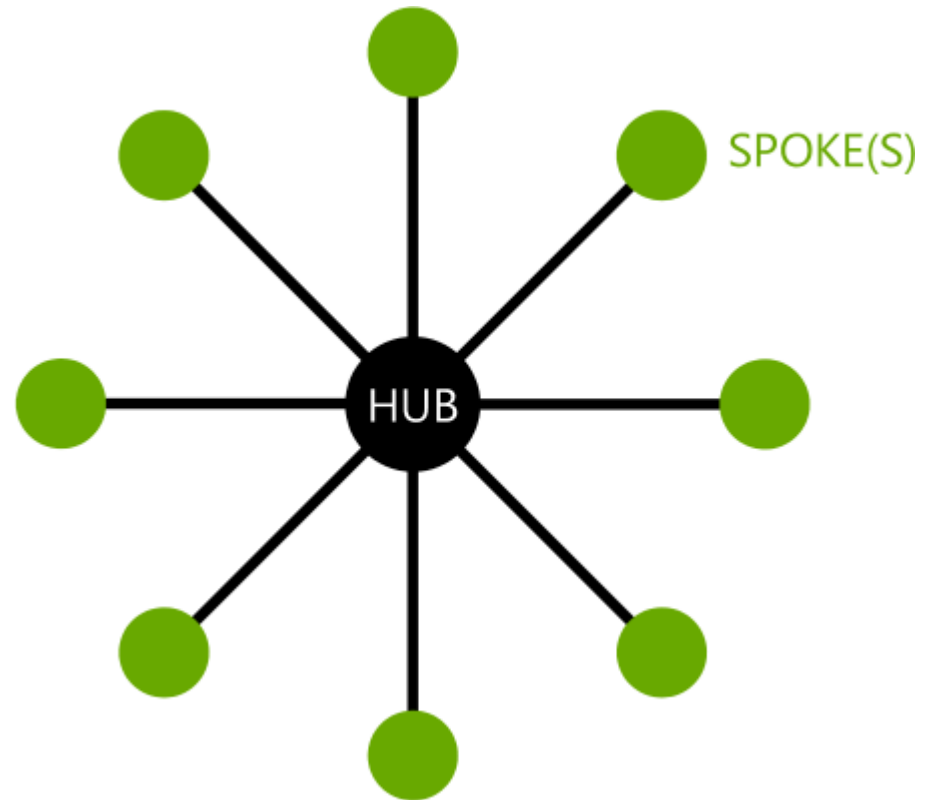
a concept of enlarged tax fraud

As confirmed by operational experience, tax fraud and illicit transfer of capitals to and from foreign countries are unlawful and complex behaviours affecting both the spheres of State tax interests and economic and financial crimes, because of the possible connection with money laundering activities, creation of hidden reserves, acts of bribery or corruption carried out by public officials, fictitious registration of assets originating from criminal organisations;

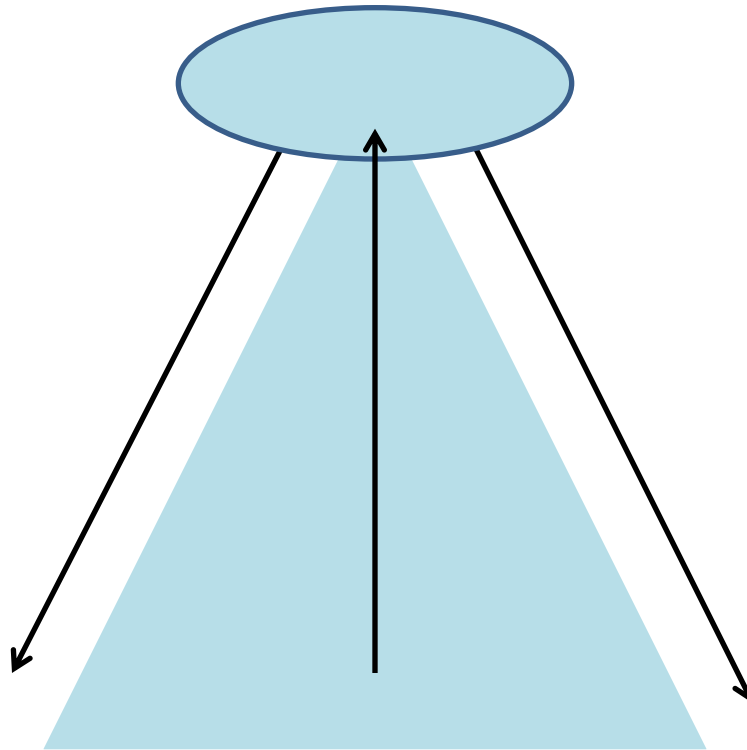
- the need to intervene timely and in an appropriate manner in order to effectively attack these complex and dangerous phenomena, setting the operational plans with the most appropriate investigative techniques according to a *police approach* in order to shed light on both tax violations and more serious economic and financial offenses;
- a *preventive coordination system* in order to ensure that financial police should have a *priority of intervention* even if other agencies should obtain information regarding possible cases of international financial flows suspected of links with financial crimes or other criminal activities.

- In this regard, it is worth noticing that there is *asymmetry between the state* charged with implementing policies to combat money laundering *and the private sector*. The former has the power to act, the latter has access to information. Collaboration and information exchange between them is therefore necessary.
- *The Financial Intelligence Unit* is supposed to *bridge the gap* between enforcement authorities and financial institutions.
- Private sector professionals have become a filter responsible for separating economically justified transactions from transactions linked to money - laundering activities.

- *Hub and Spoke* is the organisational model proposed to enhance domestic cooperation among parallel organisations.
- The Service should act as a hub used to spread *knowledge, techniques, information and analysis* among various administrations (so called *circulation of information*) and improve the effectiveness of investigation.



On the other hand, in pyramidal structures the concept of upward and downward flow of information is used



Guardia di Finanza

- The Italian Economic and Financial Police *Guardia di Finanza* is a specialised operational, investigative and law enforcement organisation with a unique combination of full police powers: administrative inspections and criminal investigations.
- It has a clearly defined mandate and is performing its institutional mission for the protection of Public Finance (protection of revenue and expenditure of the budgets of the European Union, State and Local Authorities) and Economy (protection of the financial and goods and services markets).

- The Financial Police in Italy has a unique and centralised organisation.
- The sub – division of the units to national and local levels, similar to those already present in the administrations of any countries, has been adopted in order to fulfil both the requirements of *elevated specialisation and satisfaction of local instances*.
- This institution is one of the major players in the field, among others, of *AML/CFT activities*. The *Special Monetary Police Unit* is an important asset inside this organisation. Staff training and capacity building for financial investigation is an important policing too.

- *Guardia di Finanza* clearly retains an important role in combating economic and financial crime.
- It is willing to enhance cooperation with other relevant institutions and authorities.
- Officers have been deployed in the most relevant embassies all over the world in order to improve and enhance the aforementioned cooperation.
- Such detachment is reason of pride for the effort lavished by the Corps.

MUTUAL ADMINISTRATIVE ASSISTANCE LEGAL BASIS FOR COOPERATION

Multilateral conventions and Bilateral treaties

Ratification of multilateral conventions adopted by the Council of Europe, the United Nations and the European Union.

- The Convention on Mutual Administrative Assistance on Tax Matters is a multilateral treaty concluded under the auspices of the OECD in the area of the Council of Europe. It opened for signature by member States of both organisations January 25, 1988 and entered into force on April 01, 1995.
- The objective of the Convention is to promote all forms of administrative cooperation in tax matters, from the exchange of information to support the recovery of claims for taxes, *in order to intensify the fight against international tax evasion and avoidance.*

Bilateral Intergovernmental Agreements concerning exchange of information on matters of common institutional interest:

- cooperation in tax matters, e.g. convention for the avoidance of double taxation and the prevention of fiscal evasion;
- cooperation and mutual administrative assistance on customs matters.

Information can be officially acquired and relevant documents may be used as evidence in court or before an administrative authority.

Memorandum of Understanding (MoU)

It is not an international agreement and constitutes the implementation of an Intergovernmental Agreement.

It is subject to approval from relevant Ministry (e.g. Ministry of Economy and Finance) and Ministry of Foreign Affairs in both countries.

As such, it:

- has not a time limit period;
- is not limited to joint operations;
- is extended to exchange of information and training activities (experiences, competences/professional qualities, knowledge).

Operational agreements

- One or more action plans (e.g. plans of joint measures and plans of special operations) may be signed under the umbrella of an intergovernmental agreement.
- They may relate to one or more service areas in a period of time more or less extended (by one day to few years).
- The information obtained must be considered as useful *intelligence for the continuation of the investigation*.

Spontaneous exchange of information

- It is performed by initiative or on request on a voluntary basis;
- Information contained is confidential;
- It is neither *susceptible* of any official use nor disclosed to third parties.

INTERNATIONAL COOPERATION WITH FOREIGN AGENCIES

OLAF

OLAF's aim is to ensure EU funds reach their intended beneficiaries, without being diverted by fraud and corruption.

OLAF plays:

- *a preventive role:*
 - ✓ supporting the EU institutions in the development and implementation of anti - fraud legislation and policies and helping the authorities responsible for managing EU funds to understand fraud types, trends, threats and risks;

- a *repressive role*, conducted in full independence:
 - ✓ *internal (administrative) investigations* i.e. serious misconduct by members and staff of the EU;
 - ✓ *external (administrative) investigations* i.e. checks and inspections on the premises of economic operators, in close cooperation with the competent member state and third - country authorities;
 - ✓ *coordination cases* facilitating the gathering and exchange of information and contacts.
 - ✓ *criminal assistance cases*.

At EU level every member country is supposed to set up an AFCOS (anti-fraud coordination service) i.e. an operationally *independent national authority* responsible for protecting the EU's financial interests from fraud.

It:

- leads the implementation of *national strategies*;
- *coordinates* legislative, administrative and operational obligations;
- *coordinates the sharing of information* on suspected fraud cases between national administrations, prosecution authorities and OLAF.

EUROPOL

Europol is the *European Union's law enforcement agency* whose main goal is to help achieve a *safer Europe* by assisting the European Union's Member States in their fight against serious international crime and terrorism.

Europol's operational activities are:

- illicit drugs;
- trafficking in human beings;
- facilitated illegal immigration;
- cyber crime;
- intellectual property crime;
- cigarette smuggling;
- euro counterfeiting;
- VAT fraud;
- money laundering and asset tracing;
- mobile organised crime groups;
- outlaw motorcycle gangs;
- terrorism (and maritime piracy).

Europol officers have no direct powers of arrest but support EU law enforcement colleagues by:

- gathering, analysing and disseminating information and coordinating operations;
- providing an input to prevent, detect and investigate offences, and to track down and prosecute relevant authors.

Europol acts as:

- a centre for strategic intelligence;
- a hub for criminal information;
- a centre of expertise;
- a support centre;
- an operational centre (non - stop 24 hours a day, 7 days a week).

Europol produces regular assessments which offer comprehensive and forward - looking analyses of crime and terrorism in the European Union.

In particular the European:

- Serious and Organised Crime Threat Assessment (SOCTA/OCTA) identifies and assesses emerging threats;
- Terrorism Situation and Trend Report (TE - SAT) gives a detailed account of the state of terrorism in the EU.

MARITIME ANALYSIS AND OPERATIONS CENTRE

The Maritime Analysis and Operations Centre (MAOC) (or Maritime Analysis and Operations Centre - Narcotics),

- based in Lisbon,
- is an international law enforcement agency
- set up to coordinate anti - drug trafficking action by sea and air by several European Union states
- with financial support from the Prevention against Crime Program of the European Union, European Commission Directorate General Home Affairs.

- The participating states are Portugal, Spain, United Kingdom, Ireland, France, the Netherlands and Italy.
- Its area of operations is the eastern Atlantic, from the Cape of Good Hope in Southern Africa to the Norwegian Sea.
- The significance of West Africa as a nexus for the trafficking routes has been recognised.

- The headquarters is staffed by Country Liaison Officers of the participating European nations.
- There is a permanent observer from the United States through the Drug Enforcement Administration, Lisbon Country Office.
- Other observers are the European Commission, EUROPOL, the United Nations Office on Drugs and Crime (UNODC), the European Centre for Drugs and Drug Addiction (EMCDDA), the European External Action Service (EEAS), the European Defence Agency (EDA), EUROJUST and FRONTEX.

FRONTEX

- Frontex is an institution of the European Union whose headquarters is in Warsaw, Poland.
- Its purpose is to coordinate the patrol of the external borders by air, sea and land of EU member states and the implementation of agreements with the neighbouring countries of the European Union for the readmission of rejected non - EU migrants along the borders.

Frontex operational areas are:

- *Joint Operations;*
- *Training;*
- *Risk Analysis;*
- *Research;*
- *Rapid response capability;*
- *Joint return operations.*

INTERPOL

The International Criminal Police Organisation - INTERPOL, is the world's largest international police organisation (190 member countries).

Interpol's aim is to:

- ensure that police around the world have access to the tools and services necessary to do their jobs effectively (training, expert investigative support, relevant data and secure communications channels);
- facilitate international police cooperation.

Interpol network can be used according to
ongoing criminal investigation.

ASSISTANCE AND ADVICE ON ECONOMIC AND FINANCIAL MATTERS TO SUPPORT INITIATIVES FROM THE ORGANISATIONS LISTED BELOW:

- CoE (Council of Europe);
- IOM (International Organisation for Migration);
- FATF and FSRB (FATF-Style Regional Bodies, e.g. the Eurasian Group (EAG) int. org.).

FRSBs support countries to create:

- an appropriate legal and institutional framework for combating money laundering and terrorist financing in line with FATF standards and increasing the transparency and security of financial systems;
- real integration of member states into the international AML/CFT system;
- effective interaction and cooperation at regional level;

through:

- mutual evaluations;
- typologies;
- technical assistance programs (including staff training).

Financial Police officers, among others:

- actively participate in plenary meetings working groups and high-level missions;
- contribute to the preparation of manuals and papers on research topics (current typologies of money laundering and financing of terrorism) and related forms of contrast (best practices of financial investigations);
- develop training activities.

This provides a proper venue for an open exchange of information and coordination of activities and definitely contributes to smooth functioning of respective institutions and mutual increasing of the work efficiency.

L.O. and Customs Attaché network

The European Union Liaison Officers network:

- plays a central role in the implementation of the Action Plan on Organised Crime and the Path for the Common Space of Freedom, Security and Justice;
- is not only a trend but also a structural development.

The common framework of employment was formalised with the Decision of the Council of the European Union no. 2003/170 / JHA dated 27.02.2003.

Preparatory meetings on related policy are held periodically.

THANK YOU FOR YOUR ATTENTION