

*Protecting habitats and endangered species in
Europe through tackling environmental crime
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The Italian Environmental Network of Prosecutors General

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The investigations of environmental crimes

- ▶ In Italy, the investigations of crimes are **directly** conducted by Public Prosecutors, or by the Police **under the direction** of Public Prosecutors.
- ▶ The Police can begin investigations **in urgent cases**, i.e. when a crime is still being committed or the crime was freshly committed.
- ▶ Public Prosecutors make use of **different police branches** to conduct environmental investigations.
- ▶ There is a **specialized police** division located within the police branch known as the *Carabinieri (NOE and Carabinieri Forestali)*.
- ▶ However, Italian legislation does not exclude that other police corps may conduct investigations relating to environmental crimes. This sometimes causes **practical problems** when the delegated police force is not specialized in this field.



The organization of the Public Prosecutors office

- ▶ Only **larger offices** have prosecutors specialized in environmental matters, but these prosecutors are usually responsible for crimes within other subject matters (for example corruption, work safety, health).
- ▶ Most prosecution offices are **small or medium**, therefore they do not have specialized section in environmental matters.



The cooperation between Prosecution Offices

The Italian Code of Criminal Procedure establishes:

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



The independence of Public Prosecutors

The **Constitutional principle** establishing the autonomy and independence of Public Prosecutors implies that the information on the conduct of investigations for the most serious environmental crimes is **not intended** to let the Prosecutors General at the Courts of Appeal or the Anti-Mafia National Prosecutor **lead the investigations, but just to enable them to support the coordination among different offices**, if necessary



The Prosecutor General Office at the Italian Supreme Court

With the support of the Prosecutor General's Offices at the Italian Courts of Appeal, the Office has the power of **surveillance** regarding the uniformed prosecution of all crimes by encouraging the prosecutorial offices to adopt **uniformed practices and shared protocols**.

This power **does not enable** the Prosecutors General at the Courts of Appeal and the Prosecutor General at the Supreme Court to issue binding and mandatory guidelines for each Prosecutor.

Instead, it leads to a general monitoring by performing:

1. a “**warning**” function, by identifying and indicating the detected discrepancies;
2. a “**compliance**” function, by encouraging the adoption of uniform practices and shared protocols.



The Environmental Network of the Prosecutor General's Offices

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

This Office is charged with a **steady monitoring of investigations in environmental crimes** by the establishment of a Network ruled by a Protocol approved in May 2017.



The aims of the Network

The Network is designed to:

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



The structure of the Network

The Network is composed by:

1. The Prosecutor General at the Italian Supreme Court and his delegate;
2. The Prosecutors General at the Italian Courts of Appeal;
3. The National Anti-Mafia Prosecutor and his delegate.
4. It is opened to the contribution of individuals who are responsible for the environment within various Prosecution Offices.

The Prosecutors General at the Courts of Appeal

The Prosecutors General at the Courts of Appeal directly or through their delegates:

- encourage **regular training and information sessions** among several districts on the subject matters relating to the Network's activities;
- **receive the indications of good practices and operational and organizational issues** from the individuals who are responsible for the environment in the Prosecution Offices;
- carry out adequate **initiatives** to ensure the **uniform prosecution** of environmental crime matters;
- ensure that **district records** of organizational protocols and instructions for the police on the environment are kept;
- **inform the Network** - through the delegated Prosecutor of the Prosecutor General office at the Italian Supreme Court - of the contents of these records as well as the experiences and best practices.

The Prosecutor General at the Italian Supreme Court

The person delegated by the Prosecutor General at the Italian Supreme Court:

- ▶ **coordinates** the activities of district contact points, **receives their indications and reports** of the protocols, instructions and good practices and disseminates them at the national level;
- ▶ **encourages forms of cooperation within the Network** and distribution of tasks in thematic working groups;
- ▶ identifies the inner resources to be allocated to:
 - ∞ the establishment of **enduring forms of electronic communication** among the members of the Network and the persons who are responsible for the environment in Prosecution Offices;
 - ∞ the **building of a database of protocols and good investigative practices** concerning the environment which can be accessed through the institutional site of the Prosecutor's General Office at the Italian Supreme Court.



The cooperation with other Institutions

The Network, in all its components, **encourages the signature of agreements and protocols** with the High Council of the Judiciary, the Ministry of Justice, the Ministry for the Environment and the Prosecutor General Offices of the *Corte dei Conti* (Italian Court of Auditors), as well as other public institutions.

Amongst these institutions there are *ISPRA* (Italian Environmental Protection and Research Institute) and the system of local environmental agencies, the police agencies concerned with environmental crimes, Italian Regions, local authorities and park institutions.

The Network is open to the cooperation with **supra-national Institutes** working in the environmental field.



The five Network's priority activities

1. The **uniform application of procedures for environmental recovery**, thus avoiding the prosecution of minor offences provided for under the Environmental Code of 2006
2. The implementation of the **specialization criterion in environmental matters** within the organization of Prosecution Offices and with police sections that refer to Prosecutors' offices
3. The development of **uniform guidelines for the police force** conducting investigations on the environment

The five Network's priority activities

4. The identification of the **best practices for technical assessment and management of seized structures, buildings or installations.**
5. The regulation of the procedures to **enforce final sentences whereby the judge orders:**
 - a) environmental **recovery**
 - b) **clean-up** or
 - c) **elimination** of the **harmful effects** of environmental crimes
 - d) the regulation of the annexed forms of **cooperation with local administrative authorities** in line with the provisions of the protocol for the **demolition of illegal buildings** and other such constructions.



Further challenges and opportunities

The Network of Prosecutors General could meet the following needs:

- ▶ **immediate availability** within the network system of **best technical competences** necessary for the taking of samples, for following-up analysis, for capital assessment, and for the study of documents and contracts;
- ▶ establishment of a **steady connection with administrative health care authorities**. In creating such a relationship, the results of investigations into illegal waste trafficking and environmental pollution may be used as part of a **risk prevention campaign** for the health of the population.