



TRANSPARENCY
INTERNATIONAL
ITALIA

Associazione contro la corruzione

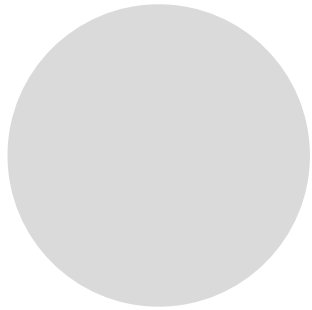
CONFERENCE | **ASSET RECOVERY**

ASSET RECOVERY IN ITALY

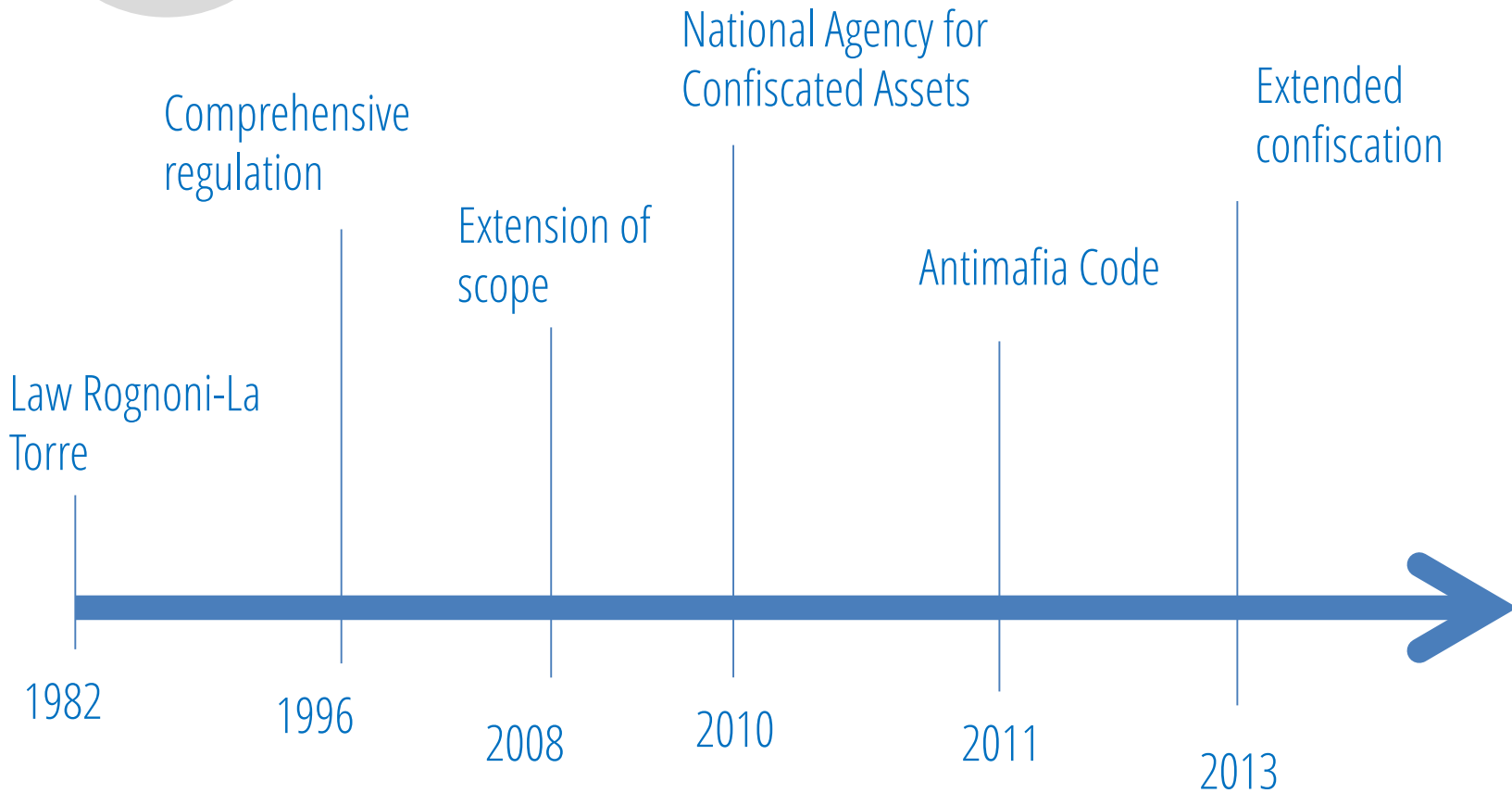
A lot of experience but a lot to improve

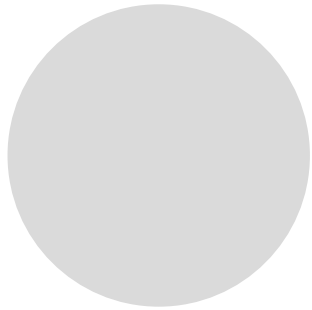
Giorgio Frascini

Sofia | 28 04 2015



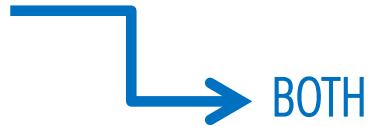
HISTORICAL BACKGROUND





A PECULIAR NATIONAL MODEL

Criminal confiscation or non-sentence based confiscation?



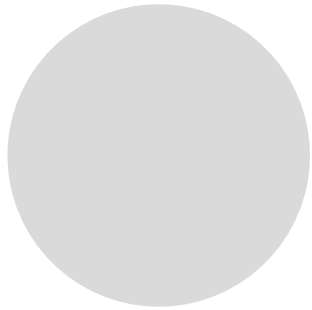
CRIMINAL CONFISCATION

- Optional
- Discretionary
- Based on a criminal decision

NON-SENTENCE BASED CONFISCATION (a.k.a. PREVENTION CONFISCATION)

- Social danger
- No need of connection between crime and assets for confiscation
- Discrepancy wealth/income





ITALIAN LEGAL FRAMEWORK

Main characteristics

OBJECT

- Price
- Profit
- Product

EXTENDED CONFISCATION

- One of crimes under article 12sexies
- Disproportion goods/income
- No explanation on source of goods

BURDEN OF PROOF

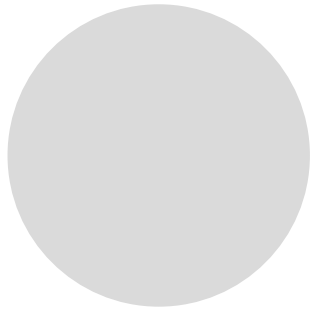
Shared between:

- Public prosecutor
- Indicted person

CONFISCATION BY EQUIVALENT

Goods lost or destroyed



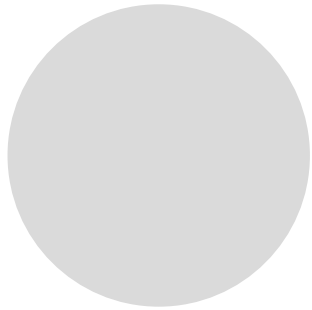


ACTORS

OF THE CONFISCATION PROCEEDING

- Court
- Delegated judge
- Judicial administrator
- Judicial police
- Public Prosecutor
- National Agency for Confiscated Assets

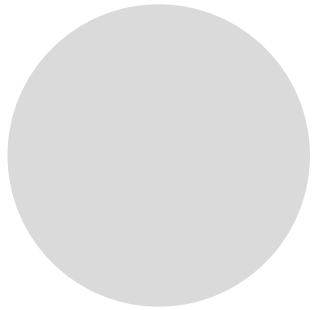




WHAT TO IMPROVE IN THE ITALIAN FRAMEWORK

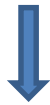
- No clarity (complexity of the issue but no unified law source)
- Collection and access to data
- Role and powers of the National Agency
- Monitoring of assets





WHAT TO IMPROVE IN THE ITALIAN FRAMEWORK/2

- Excessive length of proceedings
+ burdens (mortgages, shared goods)



- ✓ Deterioration of goods
- ✓ Need of resources



- No sell of goods



Separate, larger problem: management of
confiscated companies





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