

**Titolo del Programma di ricerca:** The organized crime infiltration into the public administration: protecting PNRR funds from the mafias

Descrizione:

The criminal organization of the mafia type usually proposes itself as a parallel and alternative institution with respect to the State of which it undermines the pre-eminence and also, sometimes, the exclusivity in the exercise of certain public powers, connoting itself for the peculiar "mimicry" that it allows to act, for the most part, not militarily against democratic institutions, but by making an effort to condition their work, bending it to one's own interests and thus increasing, in this way, one's own subversive capacity and criminal control of the territory.

The pressure exerted by organized crime on the free exercise of administrative action by local authorities constitutes one of the most dangerous forms of interference by the mafia within civil society, because it is capable of orienting the life of an entire community according to the particular and contingent usefulness of the criminal association in disregard of the most elementary rules of democracy typical of a modern rule of law.

The introduction, for the first time, of an ad hoc discipline relating to the dissolution of municipal and provincial councils and local health authorities following the ascertainment of mafia-type infiltrations and / or conditioning dates back to the early nineties of the last century.

Over time, in the context of the regulatory principles of the exercise of public functions, the legal and social problems emerged following the concrete application of the disciplinary measure governed by art. 143 ff. D. lgs. n. 267/2000, especially in terms of compatibility with the constitutional dictate of tools (including exceptional ones) for reacting to the mafia arrogance, prepared in defense of the interests of the entire community, as long as they are commensurate with the severity of the danger, with the rank of the protected values, to the needs to be faced.

It is widely believed that the application of extraordinary measures must be motivated with reference to objective and duly ascertained findings regarding the existence of facts suitable to demonstrate (even if indicatively and symptomatically, but in any case in a plausible way) a dangerousness of the mafia through links or interference that (even if they do not reach the criminal offense threshold) in any case reverberate on the operations of the public administration and on public order and / or public security.

In any case, a careful and timely reconstruction and analysis of the factual and legal conditions required by the sector legislation in relation to the concrete adoption of the dissolution provision is essential, with particular regard to:

- 1) Notion of direct and / or indirect connection of the political class and the bureaucratic / administrative apparatus with organized crime;
- 2) Probative rigor concerning the assessment of the actual existence of the political / mafia union;
- 3) Forms of conditioning in the exercise of the administrative action, in crucial sectors for the life of the institution and the reference community, such as the illegal management of public contracts, the illegitimate management of the territory, the violation of the principles of sound and economic management of public resources and, more generally, of the various symptomatic events of an objective situation of overall bad management, probably attributable to attitudes, as well as connivance, even mere tolerance and non-manifest dissociation with respect to possible facilitations in favor of subjects belonging to or, in any case, close to mafia associations.

In view of the forthcoming acquisition of PNRR funds, in such a context, together with the safeguarding of the free determination of the elected bodies, the issue of criminal infiltration also within the economic and entrepreneurial fabric assumes a decisive role

In fact, local public bodies will certainly be the protagonists of the process of renewal and growth of the entire nation pursued thanks to the fruitful use of PNRR funds through the construction of new infrastructures and public works and the improvement of services of general public interest, including those intended in favor of the person and aimed at promoting social inclusion.

From this point of view, complementary to the role entrusted to the Access Commission - appointed by the prefect, called upon to carry out the necessary preliminary preparatory activity for the adoption of the dissolution provision - it proves to be, for the purposes of the perspective highlighted here, the prefectural anti-mafia information institute, the last bulwark placed in defense of the entrusting of public contracts in favor of companies not subject to mafia control.

While obviously moving on different, albeit complementary, levels, the checks carried out when ascertaining criminal infiltration in the private enterprise, or within the public administration, both assume a decisive value in allowing the exclusive use of the PNRR resources to pursue the public interest and not be bent on satisfying the wishes of the mafia factions.

In this direction, two different intervention tools stand out: on the one hand, consolidating disciplines and application practices that, promptly and effectively, make it possible to deal with any attempt to influence the public decision-maker; on the other hand, the concrete development of development policies aimed at contrasting and overcoming the conditions of economic / cultural backwardness in which a community oppressed by the mafia yoke may find itself and, moreover, the adoption of targeted interventions that instill in the community the culture of legality.