



CIVIC

COMMON INTERVENTION
ON VULNERABILITIES IN CHAINS

The vulnerabilities in the trade chains of plastic waste and WEEE



Corpo Forestale dello Stato



LEGAMBIENTE



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E DEI MONOPOLI



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The vulnerabilities in the trade chains of plastic waste and WEEE

Introduction

Waste is usually a cost for those who produce it and a profit for those who manage it. The final results of the whole waste management system depend essentially on how the trade chains are structured, their length, the circuits activated and the opportunities available. The opening of alternatives to the legal channels is not only dependant on the presence of criminal structures, but also on political and economic/industrial decisions. This is why an in-depth examination of each single link in the chain is useful in identifying any weaknesses in the system or simply vulnerable points for criminal activities. Also because a full awareness of the legal market, and its different stages, is a fundamental step in understanding the illegal market. This is the basis of the entire project.

So much so that one of the significant aspects of the CIVIC project is that of involving the individuals that are practically involved in each stage of the trade chain, so that they can provide their unique point of view on any holes in the system, weaknesses in the controls or areas of risk that offer illegal activities room to manoeuvre. An initial reading of the answers to a questionnaire sent to the various individuals involved in the trade chain, which have been analysed and commented by Eurispes, clearly reveals how organised crime is perceived as a concrete risk by the people working in the sector: 'The presence of crime, Mafia too, in the sector is considered a priority issue in the management of plastic waste and waste of electric and electronic equipment by a quarter of the sample (24.3%)'. The questionnaire also reveals how the economic incentive is what drives the more structured traffic, especially abroad, where the system of controls seems much weaker and at risk than the Italian one. More than 60% of interviewees believe that in the main countries receiving the exports, like China and African countries, the controls are much more inadequate.

Something that the operators in the sector unanimously believe also applies to all countries with a high level of economic growth such as, for example, the BRIC countries (Brazil, Russian, India and China), where the attention given to producing and selling in the rest of the world is not matched by a similar care in protecting their borders from an illegal traffic of waste, food, protected species and so on.

As far as Europe is concerned things are different, as 67% of interviewees believe that the controls here are sufficient.



The traffickers

Apart from the individual enquiries what emerges from the investigations is the existence of well-structured and efficient organizations of waste traffickers that operate, not only in the illegal market of waste disposal, but also recycle waste into the black market, draining potential raw materials from legal circuits into illegal ones. In the latter there are often companies and businessmen that are more or less linked to Mafia clans. This is why the illegal trafficking of waste is florid and there is never a drop in the demand or supply. Intercepting consignments of waste means coming into possession of precious secondary raw materials that are worth on the global market (only for the main five types of waste: aluminium, paper, plastic, ferrous materials and wood) about 90 billion dollars (source: United Nations, Comtrade Database 2013). Instead of the classic system of making the waste disappear, perhaps by switching invoices, there is a growing parallel system of waste collection and recycling, which is one of the most worrying aspects for investigators. Often this type of criminal trade flows have focused on global circuits where a large part of the production process has delocalised. A large part of low-cost raw materials (because sourced from illegal circuits) used by continuous production factories in Asian or African countries just consists of our waste.

Amongst the over 4,000 tons of waste seized in 2013 by customs officials and the police along the quay of the Italian ports, over 70% was metal waste and parts of end of life vehicles, 14% plastic, almost 7% of used tyres and rubber and more than 5% of textiles. And as the central intelligence office of the customs agency confirms: 'South-East Asia is one of the main destinations for legal and illegal shipments'. Some of the most important international operations have involved the following ports: Ancona, Bari, Cagliari, Civitavecchia, Genoa, Gioia Tauro, La Spezia, Livorno, Naples, Salerno, Taranto, Trieste and Venice. The numbers are almost identical for 2014.

As has already been declared in the Ecomafia Report, waste trafficking, especially at the national level, is also used to carry out tax fraud, in order to create inexistent management costs to lower the taxable income and pay less tax. The falsification of documents is not only used to declassify the hazard level of waste and save on the final disposal, but also to declare costs that **have not** been undertaken. Fake companies are created to issue false invoices, in large quantities, and then, when needed, disappear without trace. Being put on the roll of environmental operators with a regular vat registration number is also used in this way, to be visible in the legal market in order to operate illegally. Without forgetting that opening a waste management company can also be a front to hide a money laundering operation, as reported by the Bank of Italy in 2011 and explained, by now unanimously, by the investigators, not only in regions with traditional Mafia infiltration. This year too it was the Financial Police that mainly worked on this front. Some of their investigations into economic and financial offences led directly into the offices of important waste management companies.

Conscious of the importance of illegal trafficking in recent years, pursuant to article 260, the government in 2010 assigned the investigative powers to the Anti-Mafia District Directorate (in Italian: Direzione Distrettuale Antimafia, DDA) headed by the National Anti-Mafia Office (in Italian: Direzione Nazionale Antimafia, DNA). The work highlighted the eminently economic and financial aspect of the traffic, where a long list of 'warning crimes' – from the illegal management pursuant to art. 256 Legislative Decree 152/2006 to the transport without forms – led inquiries to company shareholders that were apparently above suspicion.

The investigative work of the various DDA over the last 3 years has confirmed the entrepreneurial aspect of the traffickers. The illegal management of waste performed professionally requires skills, relationships and unscrupulousness. It is not enough to have means of transport and big holes to fill in the ground available. It requires setting up criminal trade chains, producing documents, managing plants, taking part in public calls for tender, knowing the price of secondary raw materials, the regulations on the 'end of waste' (the exclusion of certain types of waste by the regulations in order to be considered secondary raw material, such as ferrous scrap and earth and rocks from excavations), its allocation and the international demand for waste. From July 2013 to June 2014 there have been 123 proceedings for this crime, involving a total of 2445 individuals.

A question of economics

The waste black market is increasingly driven by money. Alongside the waste shipments there are other financial resources that not always follow the same destinations. Quite the opposite, they follow different directions, also towards tax havens. Containers in one direction and the money in another. Waste is used to drive the criminal economy, whilst the largest financial movements run the risk of disappearing from the radars of the authorities. Investigators following the global movements of waste refer that the financial operations tend to concentrate around a few extremely powerful individuals, the same ones that lay down the law on the Italian quays through the legal management of certain container terminals. They decide what is shipped and how. But following the illegal waste routes is becoming increasingly difficult because it is hidden within the traffic of the globalisation and the exchange of goods and raw materials. The intelligence work by Italian customs, alongside the police, can only try to counteract the impressive volume of waste being illegally moved in the free international market. Certain investigations are still confidential, even though the criminal strategies are already clear.

Faced with these global criminal circuits the response has to be concerted. Investigators point out that tightening the controls of only one country, results in diverting the flows towards other countries, where the controls are more lax. Proof that working together is the best way to counteract the traffickers is given by the multilateral operations of the Global Customs Organisation, of which Italy is obviously part.

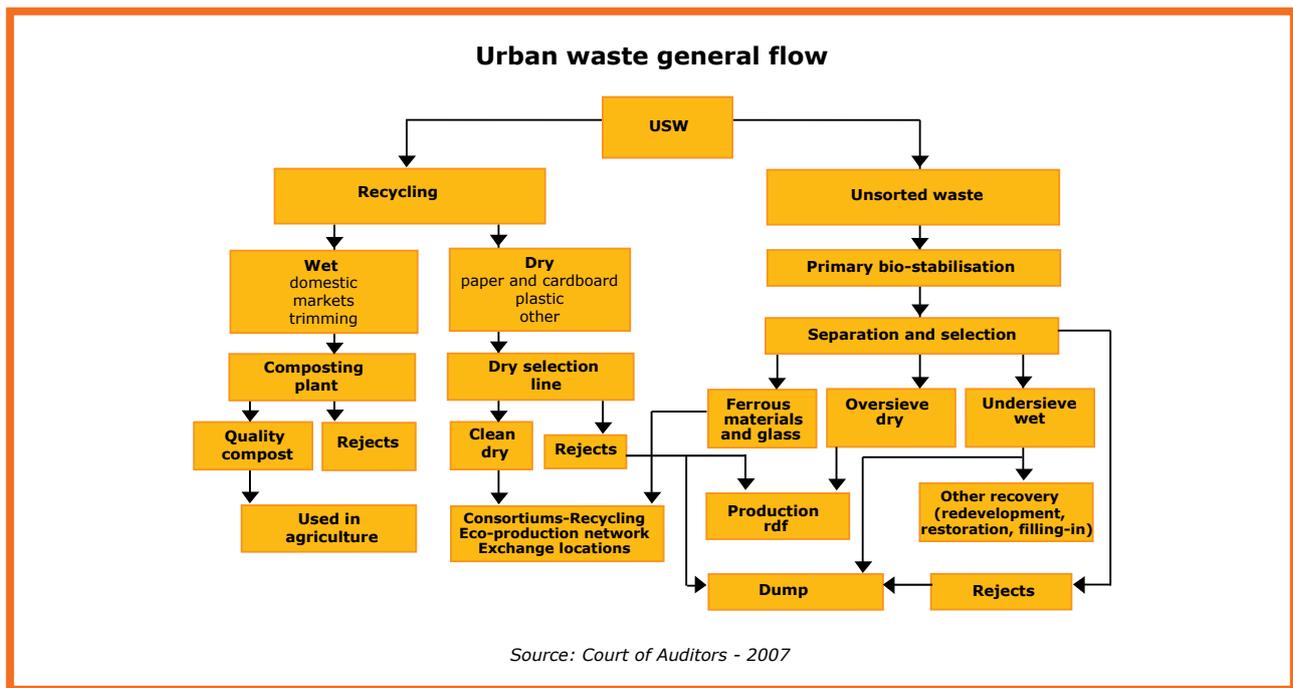


The waste cycle

The management of the waste cycle refers to the various procedures required to manage the entire waste process, from the production to the final disposal and includes: collection, treatment and recycling. The main objective of the management is, on the one hand, to eliminate or at least reduce the environmental and health impact, and, on the other, to recuperate value, both in terms of materials and energy. According to the data from the latest Ecomafia report by Legambiente, in 2014 there have been 7244 offences in this sector, with consequently 9652 reports, 78 arrests and 3601 seizures. At the territorial level, in the four regions with a traditional Mafia presence, there have been 3958 arrests, more than 54% of the national total. The enquiries against organised waste trafficking, as regulated by art. 260 Legislative Decree 152/2006, from its first application (February 2002) to the present day, have reached a total of 285, with 1522 arrests and 6955 reports, involving 854 companies in 19 regions (except for Valle d'Aosta) and affecting 34 countries (14 European, 7 Asian, 12 African and one in South America). Only in the first five months of 2015 there have been eight enquiries, with 37 arrests and 210 reports. In 2014 there were 35 enquiries, the highest number ever, with 108 arrests and 2228 reports (the latter due to a single operation of the Financial Police in the Cagliari area that led to reporting 2020 individuals). This is the context of a criminal activity that aims to control the illegal waste management. The situation is also compounded by the fact that 70% of the sample interviewed by Eurispes believed that 'in the national context the technical and industrial processes employed to recycle waste can be improved'; therefore only 'for 19.6% they are in line with European standards, for 6.7% they are obsolete and only for 3.4 % they are at the forefront'.

First of all we need to distinguish, based on the production source between solid urban waste (hazardous and non-hazardous) and special waste (hazardous and non-hazardous). The former accounts for about a quarter of the total waste produced in Italy every year (with similar percentages in other countries). The production of urban waste was, in 2010, a little less than 32.5 million tons, up by 1.1% compared to 2009. The production of urban waste seems in line with the social and economic indicators, such as gross domestic product and household expenditure, even though, based on what has been seen in recent years, the increase in the production of waste was, between 2003 and 2007, more substantial and the subsequent drop, between 2007 and 2009, less evident (ISPRA, 2012).

The distinction between urban and special waste is important in terms of the competence of its management. The former is managed publicly and the latter privately. The public management of **urban solid waste** (including waste produced by various activities, not merely household waste, that each municipality can decide to assimilate with the urban waste) requires certain processes that do not apply to the management of special waste, such as calls for tender to assign the contracts. Moreover urban waste must be disposed in the same region that it is produced in, whilst there are no restrictions for special waste. This implies that the special waste trade chain risks becoming very long, even though recent evidence shows that urban waste runs the same risks (municipalities in Campania and Lazio shipped their waste to Germany and Holland).



For the correct management of urban waste municipalities can decide whether to assign the operation to third parties through a call for tender or through in-house companies set up especially (public owned companies regulated with private law). The in-house solution provides a certain degree of protection from the strict free market rules imposed by the European Union. It allows the public authorities to manage certain public services (in this case waste management) through private models, by setting up specific companies. As the activities performed by these companies are aimed at meeting public interests, they can operate in partial violation of the competitive rules, that require that the principal of equal treatment between public and private companies is always guaranteed (Constitutional Court 23 December 2008, no. 439)¹. The in-house company is based on the assumption that there is no infringement of the European principle of competition, when the company is not a true entrepreneur. This is the case whenever it operates without the business risk and is only the operational arm of the administration². Therefore the management of in-house companies does not include any economic operators in running the activities of the public administration, therefore the competition rules that apply to public tenders and the assignment of public services to third parties are not significant.

Therefore to avoid assigning public services to third parties certain municipalities within a specific territory (usually due closeness or territorial and social homogeneity) can decide to create consortiums and set up specific private law companies. As the company is incorporated under private law it follows that it will operate in a managerial manner, but without having profit as its main objective (as the local authorities are the shareholders), but rather the best management for the collective interests (which does not necessarily mean the most economically advantageous). As shown by the experience of the company Sogenus, for example. A public owned company, it was set up by 12 municipalities in the Ancona area of the Media Vallesina, and to manage the waste (urban and special) they produced, with an integrated management system that has revealed itself to be very efficient and respectful of the environment. In this case the municipalities have taken on the management of their waste, through the company, with excellent results on all fronts. Including the low level of criminal infiltration, in an area where there has been minimal work carried out in terms of counteracting the illegal management of waste. Confirming once again that prevention is the best weapon against illegal activities.

1- Carmine Volpe, *L'affidamento in house di servizi pubblici locali e strumentali: origine ed evoluzione più recente dell'istituto alla luce della normativa e della giurisprudenza europea e nazionale*; Vedi su www.giustamm.it, n. 3/2014.

2 - *Ibidem*

Even though corrupt practices are always lurking around the corner, as confirmed by the latest Ecomafia Report 2015, in light of investigations by the police and a consolidated experience in the field, the direct control by the public administrations – through the two models mentioned earlier – throws a beam of light on the management process to the benefit of transparency and community involvement. The assignment to third parties, on the other hand, even though it does not give carte blanche to companies, allows for the prevalence of private interests over public ones, allowing for the establishment of organisational models with lesser concerns for environment protection and social considerations. Economic efficiency, sometimes driven to break the rules of the game, is not always in line with environmental protection. If economic rules must prevail, the following must be taken into account: if in the first case the municipalities manage and support any costs (environmental, social, economic) of an inefficient management or any environmental impact (such as extremely expensive reclamations or the additional cleaning costs, and general urban decay), in the second case the operation is driven solely by profit margins, leading to the recurrence of the mechanism that is often found in the environmental context: the privatisation of the profits and socialisation of the costs.

This in theory, as there are plenty of situations where the opposite is true or where either model has little influence in practical terms, mainly in territories with organised Mafia clans or deep-rooted illegal organisations. The recent events linked to the 'Mafia Capitale' enquiry in Rome are an emblematic example. In these cases the criminals were able to pervert the laws and management models, and shift everything towards particular interests, even though the factions involved were non-profit social cooperatives. If the public administration ends up in the hands of the Mafia and/or criminals the possibilities of multiplying the profits for the latter are considerable. Confirming the importance of the context where the management policies are implemented, of the quality of the social awareness, the compliance with the rules, the public spirit and ethical responsibility, which is not equal everywhere.

On the other hand for **special waste** the rules of the free market apply. On one side the producers of waste and on the other the companies that provide the management services. The first pay and the second collect. In this case the rule is simply economic convenience, reason for which many companies choose informal alternatives to lower costs. Investigations reveal that the longer the journey from where the waste is produced to where it is managed, the greater the possibility of illegal practices, as is the case for other trade chains.

Also because in this case it is even simpler to switch invoices, compared to the public management of urban waste, because there is absolutely no control that, at least in theory, is required by the public administration. As it is a self-certification and includes different types of waste, it is practically impossible to perform a detailed control of the trade flows. This is why the presence of controlled management sites close to the areas that produce the greatest amount of scrap is a strong disincentive to the use of illegal practices. In theory, as the quality and level of the social awareness of each territory and its acceptance of illegal alternatives, along with the presence of more or less organised criminal structures, needs to be assessed. Because in areas with high levels of organised crime the waste management plants turned out to be merely a front to mask completely illegal methods of waste treatment and disposal.



Comparison of the management models and vulnerabilities of the trade chains

In operative terms the first stage consist in the collection of the waste. If a recycling model has been implemented, the process of separating selected types of waste starts from the individual households. These are destined for further selection processes, treatment and storage, to prepare the different types of waste to recycle material and/or energy. This process transforms the waste in input into secondary raw materials, ready to be sold on national and international markets. These controlled trade chains, that can be of a varying length, involve various professional fields that can be characterised by significant innovation and research processes. If traditionally the Mafia controlled the management of not very innovative economic segments with a high level of impact, such as earth movements – soon transformed in the transport of waste –, investments, also public, into processes to recycle waste are sure-fire investments in combating the Mafia. Generally the risk of illegal infiltrations can occur with the intervention of companies (regularly registered in the Business registers and with vat registration numbers) that try to intercept the waste loads to direct them to parallel circuits.

These companies operate in both the legal and illegal market, which gives them enormous potential. They can change the nature of the waste managed, and therefore their costs, by falsifying a simple code. The need to increase the control and traceability of the movements is evident for the recycling sector. The requirement to take to the plants only specific types of waste, which must have certain specifications (to be placed on the market), in some way discourages the tampering with documents to justify fake treatments. If everything is sent to a dump, the incentives to resort to illegal activities will clearly be greater. Obviously this creates a conflict, within the same company, between trying to lower treatment costs and creating a value that can be sold through regular operations. The incentive to create a profit with recycling can be very convenient (although not always), compared to simply lowering the disposal costs. This is a strong incentive to follow the rules. Seeing as it is the economic aspect that triggers the illegal activities, shifting the focus onto virtuous processes, from a costs-benefits point of view, can dislodge old mechanisms with a high risk of illegal activities, to the benefit of legality, the environment and the health of citizens. To simplify the concept further, it is an adapted form of Ronald Coase's theorem, for which the conflict between property rights within the market would result in a more efficient management of the resources, that in our case would be mitigated by the crucial regulation and control role performed by the municipalities and therefore the public authority.

For third party companies that have won tenders or are operating through sub-contracts, there are risks for the falsification of documents certifying the correct management procedures and the final use of the waste. As shown by the enquiry coordinated by the Catania DDA called Nuova Jonia (2013), which resulted in the arrest of 27 people, six of which current and former employees of the waste management company and two employees of the Val Dittaino dump. The investigators are examining the alleged tampering of documents to improve the performance of the recycling activities. Not only, it seems that the public administrators omitted controls and, when performed, they were carried out with considerable notice. Moreover when irregularities were found the competent authorities did not contest the charges but contacted a person operating both as a manager of the company holding the waste management contract and representative of the Cintonino clan. This enquiry, like others – the Milanese enquiry called Clean City, into the management of urban waste by certain municipalities of Lombardy, Piedmont, Lazio and Puglia – demonstrates how corruption is the preferred instrument to circumvent laws and regulations. And if the public institutions are the first to give in, it becomes impossible to fight illegal activities in all their forms effectively.

Clearly if the industrial system is able to create a demand for waste to be treated, and therefore absorb the flows to create added value, the operating margins for criminals are restricted. This does not mean eliminating them, but containing them. Investigations have proven that even with recycling systems, a lack of industrial districts that can absorb the flows, creates the risk for illegal activities. There have been cases where the same municipal recycling centres were victims of theft or illegal exchanges.

Undoubtedly the system of assigning the waste management service through tenders is the one most at risk of corrupt practices and illegal activities in general. Even though public calls for tender are the natural mechanisms to guarantee the transparency and efficiency from a public point of view, in actual fact they can often be infiltrated by private interests. The effective market freedom has been sorely strained by the use of temporary consortiums of contractors, designed to sidestep the competition and present a team that will certainly win the contract and then divide the work between the parties that secretly signed the agreement. As demonstrated by numerous enquiries, a rotation system within the trusts set up has always favoured large groups, with mechanisms that are easily infiltrated by criminal parties. This mechanism applies in part also to waste management, where the initial domain of one company has soon led to a monopoly situation, aimed at solutions that are more convenient from an economic point of view, for the selfsame company.

The criteria of the lowest costs favours (as is generally the case for public works), Mafia clans and criminal systems that can count on enormous illicit capital and the possibility of operating the waste management system with illegal practices. The costs will always be offloaded on the company. If the quality of the service is systematically sacrificed at the altar of maximum savings, the best offers will always be penalised, even if originating from companies that have invested on social and environmental responsibility. Aware of the importance of this aspect the eu directive has recently introduced the calculation of the costs of the life cycle of the materials and the production process, amongst the criteria that must be examined for the final assessment of offers in public calls for tender.



Plastic waste and WEEE

Compared to the two single types of waste examined in the project – plastic and WEEE (Waste of Electrical and Electronic Equipment) – the vulnerabilities to illegal practices are similar from a general point of view and different from an operational point of view.

For plastic waste and WEEE the entropy, that is the level of confusion in intercepting the flow of waste that is generated from the most disparate places, is high. From the individual citizen and his various social structures, to large companies and public offices and so on. Being able to intercept this type of waste in the best way possible (feasible from a practical and economically sustainable point of view), means controlling large sections of the individual territories. If the system of consortiums for the efficient management of packaging, which through the mechanisms of environmental contributions finances the collection and final recovery, was the first response, today we need to take a step forward to maximise the economic, and not only, potential of recycling. The existence of many subjects has guaranteed greater traceability and transparency, at least when compared to other sectors, such as metal waste, which has become the latest manna for waste traffickers, also on a global scale. In fact there are many virtuous examples amongst the consortiums, which have contributed greatly to the rationalisation and transparency of the system. One of the most emblematic cases is of the end of life tyres that, with the introduction of the system that renders the manufacturer responsible for their disposal, through consortiums, has eliminated the illegal activities.

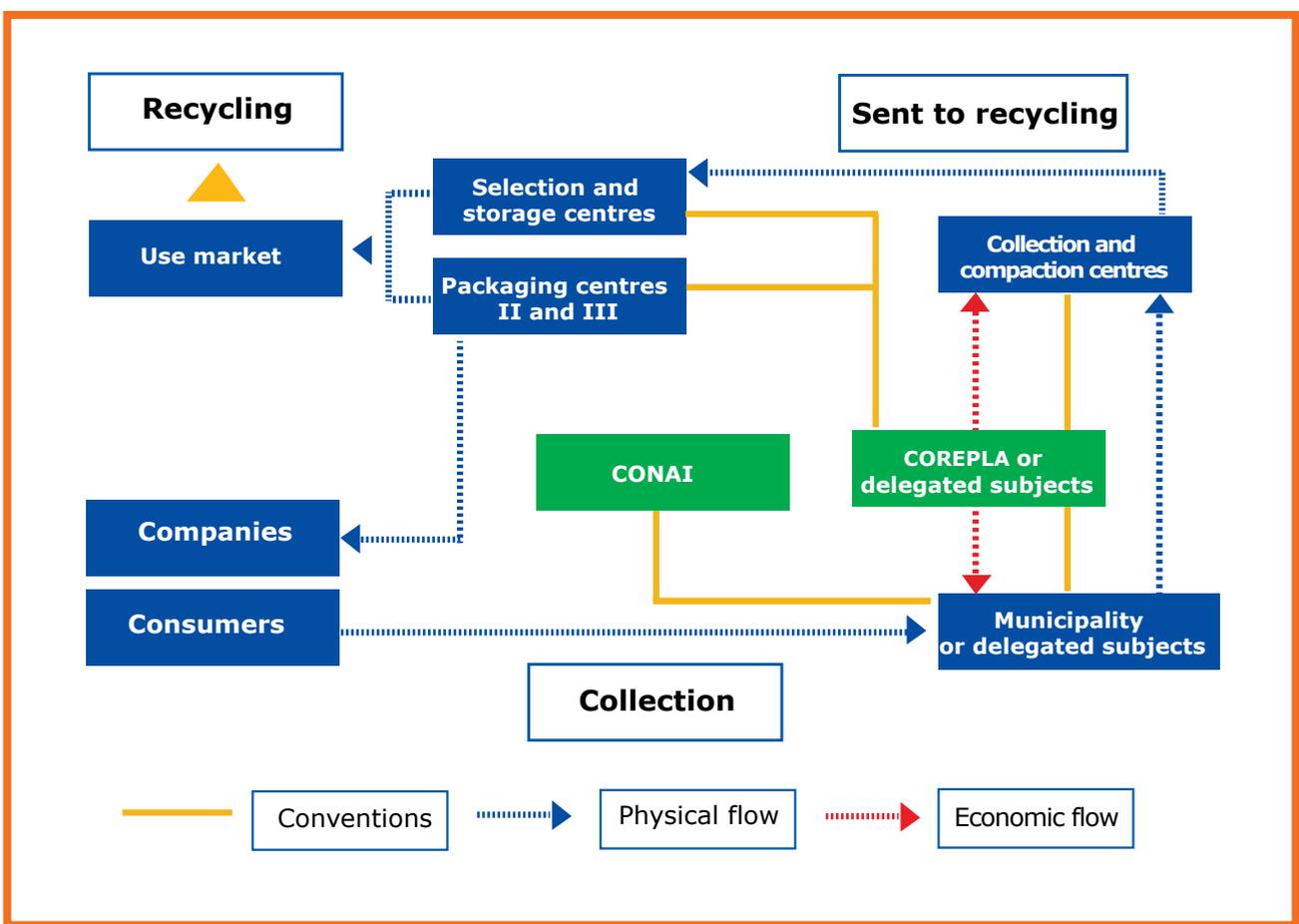
Breaches of the law occur especially in the difference between what the law says and what happens in reality. If the trade chains are certified and controlled the risks diminish and disappear, and obviously the opposite applies, trade chains that are too long are not transparent and are highly at risk. The manufacturers, importers, users and distributors of plastic materials, as well as companies that recycle and collect plastic waste, and those that want to be involved in the management of polyethylene-based waste, must be registered with the Polieco Consortium. This body performs a central role in promoting and optimising the collection and recovery of polyethylene products post-consumption, even though this does not remove the operations of the traffickers. These materials collected through different methods can end up in the illegal system thanks to subjects that intercept, at any stage of the trade chain, the materials to divert them to the black market. If it is packaging material it is easier for the legal system to intercept it through recycling operations, but if it has not been implemented – when part of urban waste or assimilated with urban waste – the traceability disappears completely. In this case all waste collected by informal subjects, or completely legal subjects but operating illegally, can be lost to illegal activities. Whilst for special waste, which is not under public control – apart from cases where there is the requirement to be part of the Polieco Consortium – it is much more complicated to keep track of these materials. Operators in the sector have identified the selection and storage stages as the ones most vulnerable. The estimates of the sector refer that about 20% of post-consumption material (also polyethylene-based) disappears from official accounts and ends up in illegal circuits.

If the Italian plastic packaging trade chain is considered too, the waste produced by the consumer goes through four subsequent stages before reaching the final destination and therefore the definitive recycling. Along the trade chain there is a series of compensations and intermediate steps that involve national consortiums. Even though the well-intentioned objective of recycling requires various stages (from the consumer to the actual recycling), for the different processes required by different uses, it is these very stages that allow for illegal activities by the individual operators, that try to create a double level: the formal one and an informal one. This is why, instead of unnecessary bureaucratic protocols which can easily be circumvented, what is required is clearer and less bureaucratic rules and more efficient traceability systems. Similarly the prevention practices should be at the heart of the general management policies, starting from the production of easily recyclable packaging – avoiding, as far as possible, multi-material packaging – and the actual design, that facilitates disassembly and recovery after consumption. The decision of the national lawmakers is to assign the economic costs of disposal to the manufacturers, through the system of consortiums and the environmental contribution that provides



the economic resources to implement a more efficient management system. In particular, if the management and disposal of urban waste must be performed by the public administration with a specific public service monopoly, the recovery and/or disposal of special waste should be performed by the individual manufactures directly, following authorisation, or through authorised and specialised third party companies. The waste management consortiums required and recognised by the national legal system operate with this approach. Transport too, even if performed individually, requires the registration with the National Register of Environmental Managers, excepting some legal dispensations.

If therefore the recycling policies for urban waste, and waste assimilated to urban waste, influence the treatment and recovery circuits, through the role performed by the consortiums, in the industrial sector, the decisions of the single operators – specifically conditioned by costs – can easily be attracted by shortcuts. Except for cases where production synergies are created, for example through eco-districts aimed at optimising the waste, where the economic incentive linked to the legal recycling clearly acts as a deterrent compared to criminal acts.

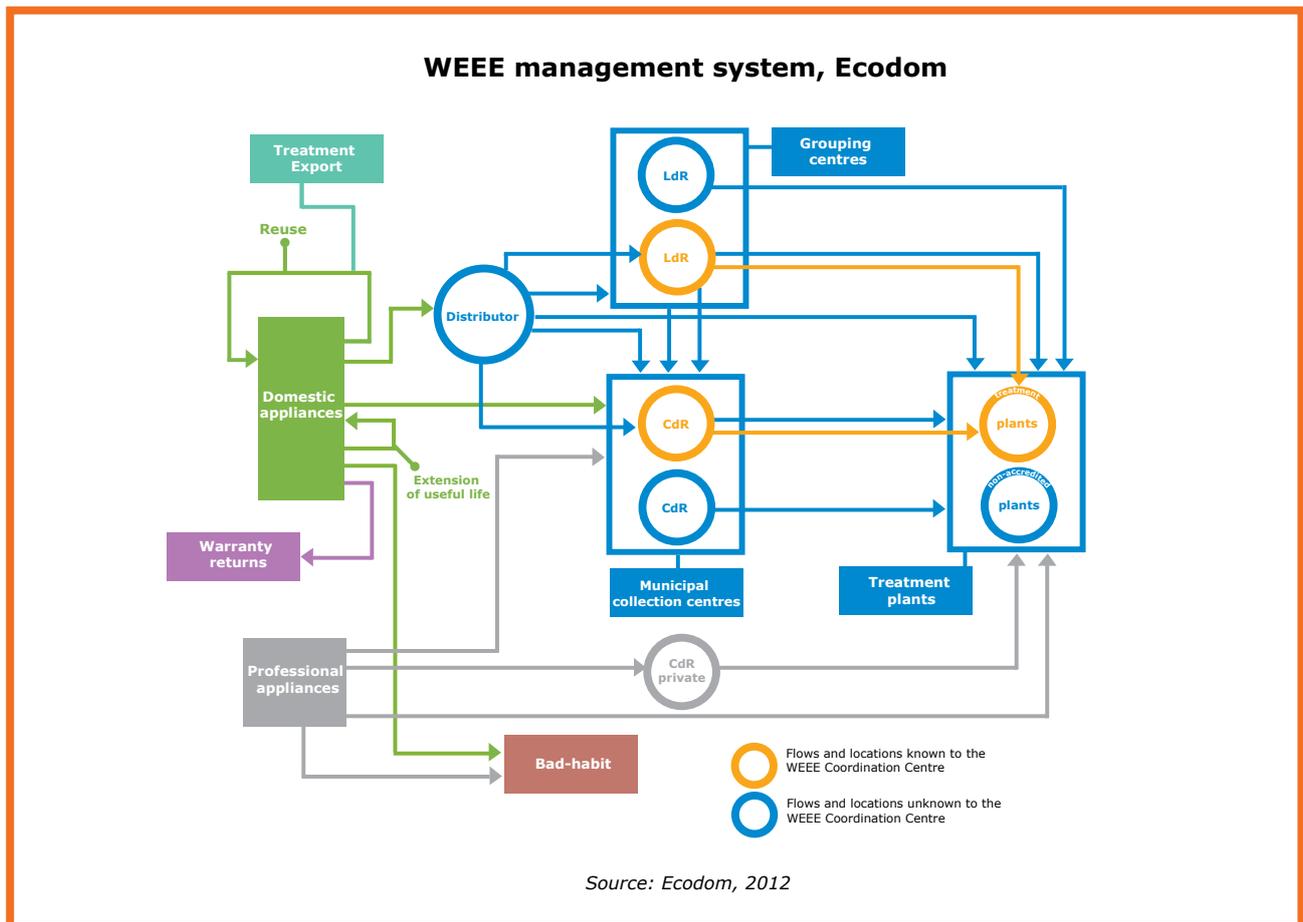




Evidently the most effective response to contrasting the illegal circuits can be a better economic and industrial strategy. As Polieco and Eurispes explained in a joint document, improving the waste management system contributes to an improved use of resources, opens new markets, creates jobs and reduces the reliance on importations of raw materials. This would also reduce the environmental impact, through a shift towards a sustainable management of the materials. In particular, plastic waste, and its management, represent a great challenge in terms of protecting the environment, but also an incredible chance to recover value. This is why one of the proposals that Polieco put forward some time ago, and shared by a vast front, is the introduction of the requirement, at the legislative level, that the recycling plants abroad that receive the waste must have environmental conditions similar to ones found in Europe; the second Polieco proposal could be the promotion of a market that would protect the 'Made in Italy' green and quality products more effectively.

As far as WEEE is concerned, in order to map the trade chain correctly, it must be divided into two large categories: domestic and professional. The former is generated from domestic uses and therefore affected by the more or less virtuous recycling and recovery policies of local bodies. The latter is generated by companies, and is affected by the decision of the single economic operators, which are more or less conditioned by public bodies.

For the domestic WEEE there are three vulnerabilities signalled by the operators of the sector and the police. The first is the superficiality or poor professionalism and care with which the collection of WEEE is implemented with the individual users. This is compounded by the objective difficulty of implementing recycling systems in the individual contexts, also due to a lack of adequate recycling plants and areas, often too far from urban centres, with difficult access and vulnerable to systematic thefts. Therefore, the considerable entropy of the collection phase is compounded by inadequate, or even incorrect, systems that act as incentives for informal solutions. This is how WEEE ends up with subjects that offer quick, and often completely illegal, solutions. Therefore improving the recycling systems, and guaranteeing the traceability of the flows, is the best antidote to illegal activities. For every 4 kg of waste per person that is collected and recycled every year by the legal circuits, at least 11 kg per person is lost. A worrying situation, also in view of the European obligations, that require the legal disposal of at least 85% of WEEE by 2019. The challenge over the next few years is to legally collect 15 kg per person.



The second vulnerability is due to the circumstance that WEEE leaving the collection centres takes alternative directions to the legal ones because the incorrect EWC (European Waste Catalogue) code is assigned, due to negligence or misconduct. The incorrect codes are usually used to save on the disposal costs, and to set up veritable criminal strategies, as proven by numerous legal enquiries. A typical case is to give WEEE which is particularly difficult to dispose of, such as fridges or other bulky household appliances, the EWC code for ferrous materials, in order to sell them to scrap dealers. It is the well-known invoice switching mechanism, which takes place mainly in the collection centres to dispose of WEEE into informal and/or criminal circuits.

The third vulnerability for domestic WEEE is that even though the EWC codes are correct, in Italy there are too many companies that do not have the necessary expertise to handle weee, which is a type of waste that is particularly complicated to recycle. As the operators of the sector reveal, the authorisations issued by the Provinces and Regions – that do not have the technical and operative instruments to perform adequate controls – have been given to companies that are perfectly legal and capable, but also to companies that have entered the market simply to exploit the confusion of the regulations and the segmentation of the controls, to move shipments of waste to illegal channels.

Whilst for professional weee, the main vulnerability indicated by the operators, is the fake sale of this type of waste as used and perfectly functional products. Often it is just a ploy to transform a cost into a profit and resolve the problem of having to dispose of the weee. In this way the WEEE ends up being lost in illegal or informal channels, with serious economic and environmental consequences. This is one of the main methods used for the international trafficking, directed mainly to African or Asian countries, as shown by the investigations carried out in recent years by the Customs Agency with the police.

Generally, therefore the risks of illegal activities manifest themselves in different ways, based on the source of the WEEE and subsequently by the circuits activated. Therefore before any other consideration it is evident that there are less criminal activities where there are more careful and efficient public and private management policies, similarly less space is given to criminal companies if the economic and industrial sector invests in recycling and considers WEEE as a valuable asset.



Other consideration on the critical issues of the trade chains

The analysis by the Central Anti-Fraud and Controls Office and the Customs and Monopolies Agency on the prevention and counteraction of the illegal international trafficking of waste clearly confirms that there are companies operating on global markets, also for criminal ends, which have been expressly set up to filter the responsibilities of the individuals that operate illegally on their account.

What is required is a reflection on the suitability of the current regulations on the shared responsibility of companies, for offences committed by individuals, which can be linked to company activities. It should be avoided that the controls performed by customs and the police forces lose their effectiveness and deterrence, especially for illegal activities performed by company shareholders. It is necessary to promote and implement the provisions in the national and European legal system, that allow for the suspension or disqualification of illegal company activities or when the activity is considerably opaque and without transparency in relation to the rules that safeguard the environment and the territory.



The initial response to the questionnaire seems significant, because the answers indicate that the majority would be willing to see a strengthening of alternative or reinforcing measures of the penalties, with, for example, company monitoring regimes and administrative control measures, which can encourage companies involved in investigations into the illegal traffic of waste, to return to regular company activities, in order to regenerate virtuous production cycles and render the executive bodies responsible for their actions.

Similarly at the national level the relevant administrations and government bodies must be made aware of these issues so that there can be a full implementation of the provisions that require legal proceedings against companies (legal entity), for environmental offences (both violations of art. 259 and the more serious violations of art. 260 of Legislative Decree no. 152 of 2006), as set out by the Legislative Decree no. 231 of 2001. The initial investigations by the Customs Authorities on the violations found in the illegal international trade of waste, reveal that the sanctions and suspensions that the legal authorities can inflict by virtue of Legislative Decree no. 231 of 2001 (administrative responsibilities of the legal entity), which differ from those prescribed by the criminal proceedings against company representatives, have been adopted in very rare cases. These considerations on the need to avoid tying the penalties and sanctions for breaches of the law to the legal proceedings (whose effectiveness and promptness has often been found lacking) also apply, unfortunately, to the agricultural and food sector.

The control, prevention and counteraction measures for criminal acts implemented by the customs authorities have also been heavily affected by the excessively restrictive time periods set at the national level by art. 5, paragraph 2 b of Legislative Decree no. 145 of 23/12/2013, converted into Law on 21/2/2014 no. 9, which requires a maximum of 5 hours for the physical visits and 3 days for the laboratory exams. These conditions, which were designed to speed up shipments and not to ensure the correctness of the commercial traffic, need to be reviewed.



Who we are



Corpo Forestale dello Stato

Italian State Forestry Corps, established in 1822, is a civil police force specialised both in forest conservation and in environmental crime prevention and suppression. It safeguards national parks, protected green areas and nature reserves. It is also involved in research and environmental education, has police powers and is charged with enforcing the Washington Convention. Uncontrolled dumps, aquifer pollution, wildfires, unauthorised building and food adulteration are only some of the phenomena which the corps of forest rangers, from regional commands to detective squads, is involved in. www.corpoforestale.it



Customs and Monopolies Agency is a non-economic public body established in 1999. It carries out control activities, assessment and verification with regards to goods circulation and to internal taxation related to international exchange. Furthermore, it implements prevention measures and fights against crimes not involving taxes, such as illegal trade of counterfeit products or of products not complying with health and safety legislation, arms, drugs, items of cultural heritage, waste and animal and plant species at risk of extinction which are protected by the Convention of Washington. www.agenziadoganemonopoli.gov.it



LEGAMBIENTE

Legambiente is a non-profit organisation established in 1980. It aims to solve environmentalism issues, as well as to circulate information, awaken public opinion and involve citizens, representing the most widespread organisation in the national territory which counts over 115,000 members and supporters and 1,000 local groups. Energy and waste, green areas and towns, air and water quality, innovation and green economy, tourism and cultural heritage, peace and rights: these are the numerous goals pursued by it through several campaigns, projects and reports of illegal acts. With National Observatory on Environment and Legality it analyses and reports the environmental crimes. www.legambiente.it





This study on trade chains is part of the project civic-Common Intervention on Vulnerability in Chains funded by European Commission within isec funding. Italian State Forestry Corps, Customs and Monopolies Agency and Legambiente npo are partners of this project. This work first of all aims to map the trade chains in three important sectors – waste, agricultural and food industry and protected species – in order to detect the vulnerabilities to environmental crime infiltrations. The final goal is to produce guidelines and practical proposals in order to improve efficiency and prevention standards in the fight against any kind of illegal activity.

The Report of the civic project has been edited by Customs and Monopolies Agency, Italian State Forestry Corps and Legambiente npo.

The photography on page 2 is by Marco Valle



COMMON INTERVENTION
ON VULNERABILITIES IN CHAINS

**Lawlessness in the sectors
of waste, protected species
and agribusiness.**

