INVESTIGATIVE AND PROSECUTORIAL STRATEGIES IN COUNTERING ILLICIT FIREARMS TRAFFICKING

ITALIAN BEST PRACTICES AND CHALLENGES

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Main characters and dynamics of illicit firearms trafficking (IFT) in Italy

**Actors:** The prominent role of powerful ‘mafia groups’

**Routes:** Italy’s geographical position (strategic location for trafficking routes, via the Mediterranean and the Balkans, to continental Europe)

**No hegemonic group:** Mafia groups have always had large quantities of weapons available, although no organization has ever exercised a hegemony over IFT

**Links:** Italian mafia groups illegally trade arms in connection with other foreign criminal groups (above all from Balkans)
Investigation and prosecution of IFT offences in Italy

**Instrumental nature of IFT**: according to Italian police and judicial sources
IFT does not aim primarily to produce profits, serving more as an organisational method for structuring and strengthening mafia groups operational capabilities to commit other offences (such as homicides, extortion and drug trafficking), as well as maintaining the control over the territory.

**The “occasional character” of investigation on IFT**: the strategic plan of investigation, in general, aims to identify the leaders and affiliates of the association, to unveil the main criminal activities and recycling channels of the organization, as well as to ascertain individual responsibilities with respect to other offences.

Only rarely investigations focused on the ‘**history of weapons**’ (origin, channels and method of supply). This basically happens when the interceptions offered indications in that direction, or in the light of information provided by mafia informers (the so-called pentiti)
Enhancing intelligence pictures of IFT DNA project (2018)

National Authorities involved: National Anti-Mafia and Anti-Terrorism Bureau (DNA); 26 District directorates (DDA); law enforcement authorities (SCICO, ROS, SCO); Italian custom agency

Aim: to stimulate DDA’s proactive and tailored investigations of IFT

Methodology:

➢ **Step one**: pre-investigative phase based on seized firearms, aiming at capturing data and information on IFT - Sources: implementation of the Italian data management system – IBIS database; and selected cases

➢ **Step two**: establishment of a working group, with the purpose to analyse data and to address specific investigative recommendations to DDA. On the basis of cooperation mechanisms already established by DNA, involvement of judicial and law enforcement agencies of some Balkan States identified as the main origin area of IFT in Italy
Key findings and strategic areas of intervention

The Italian picture confirmed one of the main conclusions of UNODC 2020 Global Study on firearms, namely that IFT is still a quite hidden criminal activity, which require comprehensive, integrated, multilayers and mutual reinforcing countering strategies (both nationally and internationally).

3 strategic areas of intervention:

1) Further harmonization of domestic legal frameworks on firearms
2) The enhancement of the acquisition and information exchange on firearms among practitioners
3) The strengthening of operative cross-borders coordination efforts among law enforcement authorities, as well as judicial cooperation in tackling IFT
Further harmonization of domestic legal frameworks on firearms

Strategic objectives:

- To reduce the risk of forum shopping by criminal groups
- To strengthen transnational investigations, international law enforcement and judicial cooperation
Further harmonization of domestic legal frameworks on firearms

**Priority One**

The regulation of licit firearms

Since a wide number of illicit firearms are originally legally manufactured, the **regulation of licit firearms** is of striking importance to tackle IFT. Measures such as shared **classification criteria** of firearms, common **strict standard** on control of the acquisition, possession, circulation (including online trade of firearms), and even the **ban of most dangerous automatic and semi-automatic firearms**, could positively contribute both to preventing the leakage of licit firearms to the illicit market and to tackling IFT.

For instance, several investigations undertaken by Italian practitioners revealed that the existence of **weapon classification criteria** that vary greatly from country to country may severely **hamper investigation and prosecution** of IFT offences.

❖ Good legislative practice in this area: **EU Firearms Directive** (2017)
Further harmonization of domestic legislations on firearms

Priority Two

The prevention of diversion

In order to prevent the diversion of licit firearms into the black market, States parties of the Firearms Protocol are encouraged to fully explore all the measures encompassed in other relevant instruments, especially with the purpose to introduce human rights criteria for transfers of SALW and end user certificates into their national legislations regulating arms trade.

❖ Good normative practices in this area:

Further harmonization of domestic legislations on firearms

Priority Three

The enhancement of the traceability of firearms

With the aim to strengthen the legal framework on the traceability of firearms, States parties of the Firearms Protocol should furtherly harmonize their legislations on records-keeping and marking of firearms.

❖ Good legislative practices in this area:
Further harmonization of domestic legislations on firearms

Priority Four

The regulation of deactivated and converted firearms

Converted firearms (such as alarm weapons) and reactivated firearms are among emerging challenges worldwide.

The lack of coordinated approaches in this area has created vulnerabilities (and limited traceability of converted and reactivated firearms) that significantly bolstered the smuggling of these weapons worldwide; this lacunae has also created several obstacles for transnational law enforcement operations and international judicial cooperation.
Further harmonization of domestic legislations on firearms

Priority Four

The regulation of deactivated and converted firearms

States parties should provide for more comprehensive regulation of deactivated and converted firearms (far beyond the provisions and obligations embodied in the Firearms Protocol)

Common rules in this area should include: common technical standards on deactivation and convertibility of firearms, national registries keeping records of deactivated and converted firearms; classification of deactivated and converted firearms as real firearms

❖ Good legislative practice in this area:

Further harmonization of domestic legislations on firearms

Priority Five

The criminalization of IFT and related offences

A study published by the EU Commission in 2014 underlined (as a matter of concern) that the lack of harmonization with regard to the definition of offences and penalties for IFT could hinder cross-border cooperation by police and judicial authorities to combat IFT.

Although in this area still limited information is available, States parties of the Firearms Protocol should, in line with their legal traditions, introduce further legislative interventions, with the purpose of effectively harmonizing their substantive criminal law on IFT (common definitions on offences and penalties on IFT and related offences), also including offences not covered by the Firearms Protocol, such as the illegal possession and illicit trafficking of deactivated and converted firearms.

❖ Good legislative practice in this area: Italian legislation
The enhancement of the acquisition and information exchange on firearms among practitioners

The picture emerging from information obtained by Italian judicial and police authorities confirm that IFT constitutes one of the most difficult illegal markets to monitor (still limited quantitative and qualitative data is available to properly assess the nature and scale of IFT in several regions of the world). In the light of relevant provisions embodied in the Firearms Protocol, States parties should promote regional and cross-regional projects and studies, especially focused on:

- Strengthening information exchange and collection of data on seized firearms, including in relation to related judicial cases

- Increasing capacities of national authorities in target countries to collect, register and analyse data on seized firearms and illicit firearms trafficking
The enhancement of the acquisition and information exchange on firearms among practitioners

These initiatives should pursue both strategic priorities and practical goals, such as:

- **domestically**, to contribute to enhance the capacity of national authorities to effectively prevent, detect, investigate and prosecute illicit firearms trafficking and related offences; as well as to increase their ability to conduct risk and threat assessments; and thereby promotes the practical implementation of the Firearms Protocol.

- **internationally**, to support closer cross-border coordination and cooperation between law enforcement and judicial authorities within and among the target countries.
The strengthening of operative cross-borders coordination efforts among law enforcement authorities, as well as judicial cooperation in tackling IFT

To this purpose, practitioners should more pro-actively exploit both:

potentialities and synergies offered by the Firearms Protocol and the Palermo Convention, especially in terms of special investigative techniques and joint investigations;

and

the supporting role of existing international and regional agencies, involved in the fight against TOC (Eurojust, Europol, Interpol, etc.).
Italian-Austrian cross-borders Operation (2019)

❖ Best Italian practice

➢ Joint operation involving Italian police and judicial officers, in close cooperation with the Austrian authorities, and with the effective support of Eurojust (2019)

➢ Outcomes: Dismantling of an international ring, trafficking firearms to supply to Camorra and ‘Ndrangheta

➢ Figures: During this operation a total of 22 arrests were made, and 139 firearms and 1600 rounds of ammunition were seized
Italian-Austrian cross-borders Operation (2019)

❖ Best Italian practice

❖ Lessons learned:
• brilliant example of transnational coordinated investigations and judicial cooperation between authorities of different countries

• Ability of practitioners to resort cumulatively (and in one single operation) to a variety of measures, tools and instruments internationally and regionally available such as:
  o controlled deliveries
  o combined surveillance
  o spontaneous exchange of information
  o European Investigation Order (EIO)
Thank you for your attention
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