

Law 13 August 2010 , no. 136

Extraordinary plan against mafia-related crimes, as well as delegation to the Government on the subject of laws against the mafia

(O.J. no. 196 of 23 August 2010)

Art. 1 (*omissis*)

Art. 2 (*omissis*)

**Art. 3. Traceability of financial flows**

1. in order to ensure the traceability of financial flows with a view to preventing criminal infiltrations, the companies' supply chain contractors and sub-contractors, as well as the institutions granting public financing, also at European level, which are in any way involved in the public works, services and procurement, need to use one or more bank or postal accounts, with a bank or with the company Poste italiane Spa, notwithstanding the provisions of paragraph 5, which is dedicated – also non exclusively – to public contracts. All financial movements pertaining to the public works, services and procurement, as well as to the management of financing referred to in the first sentence need to be registered on the dedicated current accounts and, notwithstanding the provisions of paragraph 3, shall be made exclusively using **bank or postal transfer systems, or other payment instruments which allow for full traceability of the operations.**

**2. The payments to employees, consultants and suppliers of goods and services listed among the overheads, as well as those required for the procurement of fixes assets, shall be made through the dedicated current account referred to in paragraph 1, possibly using instruments other than bank or postal transfers, provided that full traceability of the operations in ensured for the entire amount due, even if the latter does not refer exclusively to work as mentioned in paragraph 1 above.**

3. The payments made to social security, insurance companies and other institutions, as well as those in favour of managers and providers of public services, or those related to taxes, may be made using instruments other than bank or postal transfer, notwithstanding the obligation to document the outlay. For day-to-day expenses, not exceeding 500 euro, related to work as mentioned in paragraph 1, it is possible to use systems other than bank or postal transfers, notwithstanding the obligation to use cash and to document the outlay.

4. If, in order to pay expenses unrelated to works, services and procurement as mentioned in paragraph 1, it is necessary to use funds from the dedicated current accounts referred to in the said paragraph 1, the latter may be subsequently reintegrated by **bank or postal transfer, or using other payment instruments which allow for full traceability of the operations.**

**5. For the purpose of full traceability of financial flows, the payment instrument need to include, with regard to each transaction made by the principal and by the other subjects referred to in paragraph 1, the contract identification code (CIG), attributed by the Authority in charge of monitoring contracts for public works, services or procurement, on request from the principal and, if required by article 11 of Law 16 January 2003, n. 3, the unified project code (CUP).**

6. (repealed)

**7. The subjects referred to in paragraph 1 shall send to the principal or to the contracting administration the identification data for the dedicated current accounts referred to in the said paragraph 1 no later than seven days from the date on which they are opened or, in the case of existing current accounts, on which they are first used for financial operations pertaining to a public contract. They shall also notify, within the same deadline the personal data and fiscal code of the persons authorised to operate on the latter. The said subjects shall also notify any change to the data sent.**

**8. The principal, in any contract undersigned with contractors related to the works, services and procurement referred to in paragraph 1 which shall otherwise be considered null and void, agrees to introduce an appropriate clause acknowledging the obligation pertaining to the traceability of financial flows according to this law. A contractor or subcontractor who receives information about**

**a failure by the other party to abide by the financial flow traceability obligations referred to in this article, needs to immediately notify the principal and the *prefettura*-local government office that has jurisdiction over the principal or the contracting administration.**

9. The principal shall make sure that the contracts signed with subcontractors from the supply chain of companies involved in any way with the works, services and procurement referred in paragraph 1 – which shall otherwise be regarded as null and void – include an appropriate clause where each of them acknowledges the financial flow traceability obligations stipulated by this law.

**9-bis. Failure to use bank or postal transfers, or other systems which allow for full traceability of the operations, shall lead to termination of the agreement by law.**

**Articles 4, 5 (*omissis*)**

#### **Art. 6. Sanctions**

1. If any transaction pertaining to the works, services and procurement referred to in [article 3, paragraph 1](#), as well as the disbursement and granting of public benefits, is made without using banks or the company Poste italiane SpA, the defaulting subject - notwithstanding the application of the express termination clause referred to in article 3, paragraph 8 - shall have to pay an administrative sanction amounting to between 5 and 20 percent of the value of the transaction in question.

2. If any transaction pertaining to works, services and procurement referred to in [article 3, paragraph 1](#) is made on a non-dedicated current account, or without using bank or postal transfer systems, the defaulting subject shall have to pay an administrative sanction amounting to between 2 and 10 percent of the value of the transaction in question. The same sanction is applied also in cases where the bank or postal transfer fails to include the CUP referred to in [article 3, paragraph 5](#).

3. If the current accounts referred to in [article 3, paragraph 1](#) are reintegrated with methods other than bank or postal transfers, the defaulting subject shall have to pay an administrative sanction amounting to between 2 and 5 of the value of each credit operation.

4. In the event of a delay or failure to notify the information referred to in [article 3, paragraph 7](#), the defaulting subject shall have to pay an administrative sanction ranging from 500 to 3,000 euro.

5. To ascertain and report any violation of the provisions in this article, as well as for the application of the relevant sanctions, reference shall be made, where applicable, to [law 24 November 1981, no. 689](#), to legislative decree 19 March 2001, no. 68, and to legislative decree 21 November 2007, no. 231. **Derogating from the provisions of [article 17, fifth paragraph, of law 24 November 1981, no. 689](#), the administrative sanctions for violations referred to in the previous paragraphs are levied by the provincial government official with jurisdiction over the principal or contracting administration; also, derogating from the provisions of [article 22, first paragraph, of the said law no. 689 of 1981](#), any objection shall be raised before the judge with jurisdiction over the offices of the authority which has levied the sanction.**

**5-bis. The judicial authority, notwithstanding any investigation requirement, shall notify the Local government official in charge about the facts which have been discovered and involve the violation of the traceability obligations stipulated by [article 3](#).**

*Omissis*