WHITE COLLAR CRIME

Has the European Union Affected White-Collar Crime?

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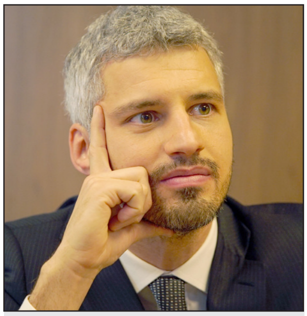
Enrico Di Fiorino is an Italian criminal defence counsel, specialised in white collar crimes (serious fraud, tax evasion, bankruptcy, corporate crimes, market abuse). He also has a particular expertise in environmental offences, anti-money laundering and medical malpractice.

As partner of the Law Firm Fornari e Associati, Enrico speaks to us on the developments in his jurisdiction and how it affects his business clients.



Firstly, can you please update us regarding the latest Italian legislative developments in this legal segment?

In July 2017, the Orlando reform, named after the Minister of Justice, was approved by the Italian Parliament. Its most important and controversial effect is the modification of the statute of limitations. This will result in a lengthening of criminal proceedings and will satisfy the conventional request by ECtHR and ECJ for the offences to be sentenced, but will not meet the needs of the reasonable length of proceedings, and therefore safeguarding of individual.

More recently, in October there has finally been the approval, by a Chamber of the Parliament, of the law concerning whistleblowing. The most important safeguards for those who report any kind of information or activity that is deemed illegal or not correct within an organisation (that could be either private or public) are protection of identity, no reprisal in the work environment and no discriminatory acts.

What do these changes mean for businesses and legal professionals?

Our clients, mostly companies and entrepreneurs, ask for reassurance. The length of Italian criminal proceedings currently makes it difficult to adequately predict future timelines. However, correcting the problem requires serious systematic reforms and sizeable investments which begin from improving human resources in the justice system, to enhancing organisational structures while accelerating the digitalisation process.

The introduction of whistleblowing is certainly much appreciated by international investors, who for some time now have been in favour of greater transparency and compliance within organisations.

Criminal law is generally seen as a jurisdiction-specific discipline. Is this still an accurate portrayal in today's world?

While that portrayal is still clearly relevant, the criminal lawyer in today's world certainly has a much greater international dimension to his role than in days gone by. For example, this can be seen in the explanation of one's own legal system to foreign clients or colleagues. Moreover, representing international clients often requires the preparation and subsequent implementation of a global strategy to address a client's cross-border issue.

In fact, the importance of this has been entrenched in my law firm from the beginning by its founder, Giuseppe Fornari, whose relationship with global international clients makes him stand out in the professional legal sector.

How has the European Union affected white-collar crime discipline?

While the EU cannot have a general criminal code, EU criminal legislation can add, within the restrictions of EU competence, important value to the existing national criminal law systems. For example, the EU has the possibility to adopt directives that set minimum rules on criminal offences, setting out what constitutes a criminal act and what type and level of sanctions apply for such acts.

The very latest update is the regulation establishing the European Public Prosecutor's Office (EPPO), which was adopted by those Member States which are part of the EPPO enhanced cooperation. The EPPO will be in charge of investigating, prosecuting and bringing to justice the perpetrators of offences against the Union's financial interests.

LM knows that you recently earned the LL.M. in Corporate and Insolvency Law at Nottingham Trent University. As a civil law lawyer, can you expand on the advantages of undergoing a common law educational experience?

Firstly, due to my law firm extensive relationship with international clients and corporations, it was helpful to gain a foundation on common law systems. Secondly, I firmly believe that the civil and common law systems, although primarily different, can learn from each other in various situations. Thirdly, a LL.M. is a fantastic experience to widen one's network of colleagues abroad, which is imperative for the modern criminal lawyer. **LM**

About Enrico Di Fiorino

Enrico graduated cum laude in law from the Università di Pisa in 2008 and in 2013, he attended the postgraduate course in Financial Market Law at the Università degli Studi di Milano.

His areas of activity are:
- **Commercial criminal law**
- **Criminal law**
- **Corporate criminal liability**
- **Criminal litigation**
- **Corporate compliance and regulatory**

Firm Profile

By appraising the experience gained over two decades of activity, the Firm has developed an articulate and dynamic structure, characterised by great competence and the high level of skills of its members.

The clientele of the Firm is composed by companies (including publicly listed companies), national and multinational corporations, public and private entities and individuals. Law Firm Fornari e Associati has extensive and recognised experience in the field of commercial criminal law and assists its clients, individuals and legal entities, in every aspect of business that can involve criminal profiles.

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