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**ECONOMIC COST OF ITALIAN MAFIAS AND RESPONSE AT EU
LEVEL**

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LIST OF ABBREVIATIONS

OC: Organised Crime

EU: European Union

MS: Member States

PACA: Provence-Alpes-Côte d'Azur

THB: Trafficking of Human Beings

ITTP: Illicit Traffic of Tobacco Products

AGRASC: Agence de Gestion et de Recouvrement des Avoirs Saisis et Confisqués

CICO: Intelligence Centre against Organised Crime

TFEU: Treaty on the Functioning of the European Union

TEU: Treaty on the European Union

AFSJ: Area of Freedom, Security and Justice

JITs: Joint Investigation Teams

EPPO: European Public Prosecutor's Office

EP: European Parliament

EAW: European Arrest Warrant

MEP: Member of Parliament

S&D: Socialists & Democrats

EFDD: Europe of Freedom and Direct Democracy

PPO: Public Prosecutor's Office

GDP: Gross Domestic Product

INTRODUCTION

Over the last two decades, the movements of Italian mafias, in particular from the South to the North of Italy, generated growing interest and awareness. Attention to their movements across Europe has, however, remained limited. In fact, there is no document analyzing the overall scope of Italian mafias at international level, and the threat they represent in the EU and beyond.

When it comes to adopting an international perspective, collecting quality information is extremely hard. This is partly due to the nature of the strategy of Italian mafias, that tend to slip under the radars when acting outside the areas of origin. This remark anticipates the threat that mafias pose to the EU. Often underestimated, Italian mafia clans have the power to deeply influence the European society, polluting the legal economy and the systems of governance that sustain democracy. In fact, Italian mafias can be seen as the only EU economic actor with an opposite problem to the entrepreneurs: too many money and not enough possibilities to reinvest them. This explains the actually not so recent trend towards infiltration in the legal economy, where mafias can act as strong competitors who can afford to do business at a loss. In the long run, this can undermine the principle of free market¹.

This type of infiltration is growing, and cannot be seen any longer as a solely national affair. Instead, the response requires actions coordinated at international level. Yet, the current strategies and the available instruments to fight mafia on an EU level seem to be mainly spinning wheels. Even worse, the very understanding of the features and the scope of the phenomenon is often widely - and superficially - underestimated, and its existence denied.

Abstracting from a general *modus operandi* of Italian mafias in this particular field can be used by policy makers to lay down effective counter-measures. Therefore, it is crucial to draw a distinction between situations in which mafia clans govern

¹ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

markets from those in which they are simply part of the business. This method is key to recognize the signals of a poisoned economy and address the deficiencies of the legal framework.

To address the multi-level influence of Italian mafia across some EU Member States, this work will focus on three main areas: the strategy of Italian mafias outside their areas of origin; the portfolio of mafia groups and the economic impact in a given territory; EU counter-measures and policies.

The first chapter introduces a brief overview of the origins and the main features of the most important Italian mafia syndicates. It then mainly provides background information about their investments in the EU Member States, while it describes their expansion strategies.

The second chapter presents the theory of *functional diversification* – Campana -. According to the latter, inside their territory of origin, mafia dedicate to protection and exert a total territorial control which is close to a monopoly situation. When acting outside of Italy, instead, they are mainly interested in money laundering and legitimate activities. In other terms, they limit themselves to gain access to the criminal market. At the same time, violence and the criminal behaviors normally associated with mafia are high in Italy (or higher) and virtually non-existent abroad.

The third chapter assesses the economic impact of mafias' portfolio abroad. In fact, Italian mafias have become 'entrepreneurial' criminal organizations, with mounting evidence of their investments in legitimate business. While almost all EU Member States register such evidence, the choice of the selected countries, as well as of the chosen parameters and indicators, is based on the quality and reliability of the data and literature available.

Finally, the fourth chapter presents, on one hand, the existing instruments and fora at EU level that ensure and promote cross-border cooperation; on the other hand, it suggests a number of upgrades that are necessary to improve that strategy. The thorny debate on the introduction of the crime of mafia association still exists and divides. In this respect, introducing in each MS Italian *anti-mafia* legislation (which includes the offence of mere participation to a mafia-type organisation) is

captivating, but perhaps unfeasible. Surely, it is desirable that the EU legislator introduces at least measures to combat money laundering and facilitate transborder asset seizure, which are still largely lacking.

Research aim and its relevance

The ultimate aim of this work is twofold. On the one hand, it wants to inform and raise awareness on the *modus operandi* of Italian organised crime (OC) in a globalized environment. On the other, it aims at contributing to the literature calling for an enhancement of the judicial cooperation among EU Member States. In fact, an effective fight against OC requires action on the roots of the phenomenon and on the incentives for those - involved with an institutional context - adverse to the establishment of crime. It requires an effective fight, combining prevention and repression, also through the aggression to economic proceeds². Given the limited number of considered MS³, though, this work ought to be considered as a simple step towards the achievement of these goals.

As a functional in-depth analysis, this work presents an evidence-based figure of the distribution of Italian OC in some EU Member States. It also provides a picture of the composition of their investment portfolio, and explains some associated issues. A solid framework shall result from this, and hopefully help to adopt a more serious and coherent approach in EU countries other than Italy and at EU level.

Methodology

This work consists in a review of studies, literature and articles that provide figures and data about the presence of Italian OC in some EU Member States and the composition of their portfolios. Through a quantitative analysis, the work gathers accurate information about such infiltration. The work refrains from trying to measure the overall economic impact of mafia business in the EU, as more data from national actors would be needed for that. Besides, there are substantial intra-EU differences when it comes to collecting data.

² In this sense, see *Prevenzione e contrasto della criminalità organizzata. Audizione del Governatore della Banca d'Italia, Ignazio Visco*, Roma, Palazzo San Macuto, 14 gennaio 2015

³ Mainly France, Spain, Germany and the Netherlands but also the UK and, of course, Italy

Expected results: some difficulties

Measuring the costs of OC in general is still at an early stage of development. The nature of the phenomena, underground by definition, makes any objective measurement complex. Sometimes figures are based on unreliable methodologies, or suitable data are lacking. Finding data and figures which are specific to the Italian mafias is even harder. First, because the totality of EU countries are not equipped with a solid understanding of the strategy and the characteristics of the clans. Moreover, there is a great need for more cross-border data matching and investigation, to improve the efficiency of European law enforcement agencies in fighting organised crime (OC). Objectives data – such as those on the number of crimes committed provided by the judicial or law enforcement agencies - are especially difficult to use for international comparisons. This is due to the limited availability and different definitions of crimes. Besides, they suffer from a risk of underestimation. Qualitative data on the perception of the criminal phenomena, on one hand they allow international comparisons; but on the other, they have methodological limitations when used to measure the spread of economic crime phenomena. Identifying the value of criminal market is also hard⁴. Even with these limitations, available figures agree in highlighting the weight of the presence of Italian OC in a given territory on the functioning of the economic system and its impact on the GDP growth⁵. Indeed, the impact is not so much the value of what is produced through criminal activities, but the one which is not produced due to the distortions generated by the pollution of the legal economy⁶.

With respect to the highlighted problems, the EU has to become the propeller of a better data collection and guarantee access to researchers in this field. It has to promote harmonization in those areas of national legislation that can improve

⁴ When available and reliable, they are only referred to a specific country. For example with regard to Italy, there are estimates based on the amount of money in circulation - that suggest that the illegal economy in the country in the period 2005-2008 could weigh more than 10% of its GDP. In this sense, see G. Ardizzi, C. Petraglia, M. Piacenza and G. Turati in *Measuring the Underground Economy with the Currency Demand Approach A Reinterpretation of the methodology, with an application to Italy*, 2011

⁵ See, for example, P. Pinotti in *The Economic Consequences of Organized Crime: Evidence from Southern Italy*, 2011

⁶ In this sense, see *Prevenzione e contrasto della criminalità organizzata. Audizione del Governatore della Banca d'Italia Ignazio Visco*, Roma, Palazzo San Macuto, 14 gennaio 2015

confiscation of companies and goods, tracing money flows and other innovative solutions. The simple fact that offenders and/or victims are located in different EU jurisdictions should not determine a lower efficiency of law enforcement. Coordination and cooperation can help to make policies against transnational crime more efficient⁷.

⁷ In this sense, see M. Levi, M. Innes, P. Reuter and R. V. Gundur in *The economic, financial & social impact of Organised Crime in the European Union*, 2013

1. FEATURES AND GEOGRAPHY OF MAFIAS

1.1 History and features of the clans

Introduction

The term 'mafia' is well-known all over the world, to the point that it has become a general label to refer to the criminal realm. Despite this, many still believe that mafia and its best known groups - 'Ndrangheta, Camorra, and Cosa Nostra – are solely an Italian problem. At the same time, the understanding of the phenomenon is not adequate for its level of danger. The reasons of this are many, and although it is not the task of this study to analyze them in detail, they can be grouped into two general categories: insufficient awareness and improper policies. Nevertheless, there is mounting evidence showing that mafia is more than capable of spreading across the EU.

Mafia has a centuries-long history. It can be said with a certain degree of accuracy, given that it is a secret organization, that it was born in the 19th century, in the Bourbons kingdom of Southern Italy. At first glance, the extraordinary capacity of mafia-like OC to survive through the most different contexts is hard to justify. Often underestimated or downgraded to common crime, it took decades before the Italian political class was able to finally adopt, in 1982, a working anti-mafia legislation. In the meantime, State cover ups had become customary, as ruthless politicians sought the support of the clans to gain votes and get richer. Thus, mafia gained legitimacy and grew stronger.

The fundamental features of mafia are well explained in Art. 416-bis of the Italian Criminal Code, which goes: "the mafia-type association applies intimidatory force and use the member encumbrance and the subjugation condition deriving from that, to commit crimes pursuing direct or indirect control of economic activities [...] or (pursues) the aim of obstructing or impeding the freedom to exercise voting rights,

or collects votes for themselves or others [...]”⁸. As a matter of fact, the basis of the power of mafia resides in control and exploitation of a territory. Often organised in families, the clans exert parasitic mediation on trade around the richest areas of a region, offer services and protection and present themselves as a surrogate of the State in its main prerogative: supplying governance. Significantly, mafia clans were defined as “illegal economic enterprises involved in production, promotion and sale of private protection” (Gambetta, 1993)⁹. Finally, rituals and symbols constitute another very important feature. This is now true especially for the powerful ‘Ndrangheta. Symbols contribute to the secrecy of these associations and convey, for those who belong to it, an attractive message: that members of mafia are part of an elite, detached from the common people.

Main mafia syndicates and their features

The most important Italian mafia-type organisations are four: Sicilian Cosa Nostra, or simply Mafia, Calabrian ‘Ndrangheta, Neapolitan Camorra and Apulian Sacra Corona Unita (figure I). The latter is dangerous and violent, but because it does not have the same history and it is not as present as the older ones both on Italian soil and abroad, it is not part of this study.

The Sicilian Cosa Nostra is arguably the oldest and the most traditional mafia. Until the 90s, it was surely the most powerful one, too. It played a decisive role in shaping the recent past of Italy, one that no other mafia syndicate can boast. In fact, it is the only one that can be defined as a phenomenon originating from the ruling class, given its stable relations with the power structure¹⁰. It was the first one that succeeded in having men holding offices in strategic positions in the establishment and in rich, important cities. The family¹¹ is the territorial basis of Cosa Nostra, and its run by an elected representative who also nominates soldiers and their leaders. More families established in contiguous territories form a bigger structure called

⁸ Article 416 bis, “Mafia-type Criminal Association”, Italian Criminal Code

⁹ See P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories* in *European Journal of Criminology*, 2011, 8: 213

¹⁰ In this sense, see E. D’Angelo and M. Musumeci in *Organized Crime and the Legal Economy. The Italian case*, in UNICRI, 2016

¹¹ ‘Family’ does not mean that all members are actually related: instead, Cosa Nostra allows external members

“mandamento”, who is led by another elected representative. More of such ‘executives’ form the apical structure of Mafia, a Provincial Commission known in journalistic term as ‘the Cupola’. In the golden age of Cosa Nostra, it was formed by 13 to 18 such bosses, led by Salvatore Riina. Cosa Nostra was delivered a strong blow in 1992, as a result of its direct attack against the State. That year, the Supreme Court confirmed the convictions of hundreds of members of Cosa Nostra and recognized once and for all the existence of an organized power within it. Riina was arrested and died in jail in 2017. Despite this and a reduction of its traffics, Cosa Nostra is still alive and has recently reorganized.

The ‘Ndrangheta is the local mafia of Calabria. It is among the richest and most powerful organised crime groups at a global level (see *below*). At the same time, it is the less known and investigated Italian OC. It has developed in the rugged mountain region at the end of the Apennines Chain, thus its strong rural origins are undeniable. Inland villages maintain their position of dominance over the urban dimension (to this day, the heart of the organization is a hamlet of 4.000 inhabitants called San Luca). The ‘Ndrangheta started building its economic power in the 1970s through a peculiar strategy. It would ask ransoms after kidnappings dozens people, preferably related to rich entrepreneurs of Northern Italy. The money obtained had been invested in drug trafficking. The rapid expansion of the ‘Ndrangheta is due to many, almost simultaneous factors. On one hand, the direct attack of Cosa Nostra against the State absorbed all the efforts of law enforcement. The downscaled traffics of its competitor from Sicily allowed the ‘Ndrangheta to fill the gaps in the criminal market. On the other hand, the evolution of the drug market also contributed. Cosa Nostra had invested on the previously more remunerative heroin, so that Calabrian mafia was left with cocaine. When the latter took over, the ‘Ndrangheta was in the ideal position to exploit the market change.

The ‘Ndrangheta has a very peculiar hierarchical structure¹². It truly is the Italian OC who adapted best to globalization, adopting a transformation of its criminal organizational chart. It implemented business techniques and articulated it on

¹² It is in fact extremely complicated. For a truly complete understanding, it is necessary to take into account elements of religion, esoterism, legends and civil society. For a complete understanding, see https://www.wikimafia.it/wiki/index.php?title=%27Ndrangheta#La_Struttura

several levels, with its own 'top management'. Its traditional impenetrable secrecy, exacerbated by the presence of rules and symbols of impossible comprehension for non-members, poses a formidable challenge to law enforcement. It can be simplified as follows. At the basis there is the equivalent of the Sicilian family, a structure called '*ndrina*'. The difference is that this kind of family is blood family. Even the leadership of the '*ndrina*' follows the bloodline¹³. More '*ndrine*' form what is called 'locale', and its leader represents this affiliation in the next level, which is called 'Crime', or 'Province'. The leader of the Crime is the highest position within the organization. Inside the 'Ndrangheta, a net distinction is made between what is called 'high society', formed by the members, and the 'low society', formed by all non-members. This common understanding further cements relationships inside the organization, while it increases the perception of a gap with the rest of the population.

Calabrian mafia developed a precise and calibrated strategy of infiltrating the establishment through membership in the masonry. There, they could establish contacts with politicians, elements of the judiciary, secret services, and civil societies, shielded by absolute secrecy. The secrecy and the complexity of the organization have in fact repeatedly proven the ability of the organization to infiltrate, unseen or allowed, political and economic environments. The same applies to its remarkable capacity for corruption. Through the injection of immense liquidity into legitimate business, 'Ndrangheta has been able to achieve a position of quasi-monopoly in many sectors, such as, mainly, construction, real estate and transport. Sophisticated money laundering allows the clans to secure immense profits, and their network of legitimate business hides the criminal nature of the profits.

Finally, the mafia from Campania region is called Camorra. Unlike the other organisations, it was born as urban criminality and it still is to a large extent. The cities of Napoli and Caserta and their provinces are where the clans are more present. Unlike the previous two, the Camorra is a horizontal cluster of clans and families engaged in constant fight against each other. They can form alliances or

¹³ This is the main reason why there is a very low number of members of the 'Ndrangheta who cooperate with justice, and this is one of the main strengths of this mafia.

even cartels when they have common interests in trafficking, but they are extremely volatile and precarious. Another difference is that Camorra bosses tend to have a very high profile, with an ostentatious lifestyle and extravagant expenses. Overall, it is perhaps considered a less dangerous organization than the others, but it has a huge impact on the territory. As a matter of fact, it lacks a common strategy, a unified command and an authority regulating the territory. On the contrary, Camorra adopts a free-for-all approach, very close to anarchy. This imposes a higher price on the people living in the areas affected by the clans' presence. Extreme violence is, in fact, a core feature of this organisation.

Camorra owes its wealth mainly to cocaine trafficking, extortion, misappropriation of public funds and legitimate business in construction industry, through which it launders the profits of criminal activities¹⁴. Relations with representatives of the institutions are much more in the light of day than those maintained for example by Cosa Nostra. The members of Camorra have always aimed at adding up the positions of criminal, politician and entrepreneur. Nevertheless, the State is considered as a distributor of resources and the relationship with politics is mercenary: there has never been the total integration of the Camorra leaders with the ruling class of the city¹⁵.



Figure I. Italian mafia groups, areas of origin.

Source: International Business Times

¹⁴ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

¹⁵ In this sense, see <https://www.wikimafia.it/wiki/index.php?title=Camorra#Cartelli>

1.2 The geography of mafia investments in the EU

Expansion strategies and geography of the investments

Because the clans can resort to immense assets and cash resources, they can easily infiltrate the legal economy, injecting much-needed liquidity. Italian OC has been consistently growing within transnational markets, taking advantage of globalization. In times of economic restraints for legitimate business, mafia is a severe threat to the free market.

The clans know that it is harder to replicate the conditions existing in the areas of origin. Thus they rarely attempt, both in Northern Italy and abroad, to replicate that kind of territorial control. In fact, they are normally far more discreet. Clan members mainly limit themselves to corruption and infiltrate economic sectors. At the same time, they still fall under the supreme authority of the families where they came from and of the power structure above them. That remains, in fact, both the origin of their power, their strength and their weakness¹⁶ (see *below* Chapter II). There are many reasons why mafias decided to invest in the legitimate business, besides money laundering. First, traditional mafia activities (such as racketeering) were not enough alone to guarantee control and influence over a territory; second, the enormous surplus generated in the already in the 70s and the 80s with drug trafficking required a strong investment action; third, legal companies quickly assumed front role for emerging illegal activities, such as those related to waste disposal or counterfeiting. Finally, mafias understood that legal enterprises could be their most powerful tool to infiltrate the socio-political and economic world¹⁷. All this helps increase control over new territories, while at the same time they earn social approval. In the long run, the effects of this strategy weight on areas that are traditionally not affected by organised crime, and it can cause serious damage to the EU economy.

¹⁶ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

¹⁷ In this sense, see M. Riccardi, C. Soriani and P. Standridge in *Organised Crime Investments in Europe* in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

Mafia enterprises also show some common features. For example, most of times they adopt the structure of limited liability companies. These are particularly efficient when it comes to hide the real ownership. Besides, it is common to come across complex ownership schemes (“Chinese box”). Figureheads are important to disguise ownership, but in most cases they are chosen between relatives – in particular, by the ‘Ndrangheta. On average, mafia companies have low level of financial debt and higher level of current assets than their legitimate competitors; they often employ more staff than necessary; they are often not well manage, and therefore their profitability is lower or equal to that of legal peers. Many times, in fact, they are nothing but empty boxes deprived of any productive intent¹⁸. These information are extremely important to bear in mind to detect signals of a potentially poisoned economic sector.

Evidence of the presence of Italian OC can be found extensively in Europe. Some areas show a particularly high degree of infiltration. It is the case of the PACA region (Provence-Alpes-Cote d’Azur) in France, Andalusia and Madrid area in Spain, Amsterdam-Rotterdam areas in the Netherlands, Berlin and Dusseldorf areas in Germany, and others. The reason is that either they have a historically well-rooted strong presence of Italian OC, such as Southern France and Southern Spain, or more simply they are border regions, important ports, large urban areas or touristic and coastal areas¹⁹. It is a fact that mafias activities are more intense where business opportunities are higher.

Additionally, all mafias in general have expansion strategies. Cosa Nostra sees Sicily as the core of its existence. Normally, crimes perpetrated abroad are committed only to the purpose of increasing the power of the families in Sicily. Overall, it could be said that it seems not to have an expansion strategy abroad. Nevertheless, it allows its members to establish transnational activities using the structure and the relations of the clan. Usually, the families send their delegates to the areas of

¹⁸ In this sense, see M. Riccardi, C. Soriani and P. Standridge in *Organised Crime Investments in Europe* in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

¹⁹ In this sense, see M. Riccardi, C. Soriani and P. Standridge in *Organised Crime Investments in Europe*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

interest, and there they carry out the operations. In terms of investments and also of amount of confiscated goods, it is present in Europe in countries like Spain, France and Germany, but also UK, Croatia and Romania (figure II). Outside the EU, it is in the United States, Canada, Venezuela and South Africa²⁰. Abroad, members of Mafia are mainly engaged in drug trafficking and money laundering. They are able to infiltrate the host country until their members reach very high position at social, economic and even political level. This provides for their criminal profits to be complemented by a constant flow of seemingly legitimate revenues. To accomplish this, Cosa Nostra carefully recruits middle men and skilled professionals. This way they can take advantage of complex laundering schemes that hinder asset seizure. This is especially true when the asset recovery legislation in a MS is soft (for example, it does not provide for confiscation of companies or transborder asset seizure or, in general, confiscation is not provided for as a result of the commission of a certain type of offence, both criminal and civil). Confiscation of goods and proceeds has proved to be the most efficient measure against mafias, as it cuts to the source the main element of their power, which is money. The main sectors in which Cosa Nostra invests in the aforementioned countries vary from construction and real estate, waste management and renewable energy, wholesalers of food products, gambling and trade (often used to facilitate drug trafficking)²¹.

Calabrian 'Ndrangheta is currently the most successful mafia when it comes to expansion abroad. Its strategy is the most interesting and by far the most successful one. All the actions undertaken abroad by this organisation are part of a bigger and accurate plan. The 'Ndrangheta is trying to literally colonize new territories. The term 'colonization' marks the difference with the other mafias. The latter are not interested in replicating their basic structures outside the area of origin. Instead, 'Ndrangheta reproduces abroad, in territories which are not under its control, perfect copies of its operational structures - the 'ndrine and the locali (see *above*). By doing this, it pursues a long-term strategy of progressive infiltration into

²⁰ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

²¹ In this sense, see M. Riccardi, C. Soriani and P. Standridge in *Organised Crime Investments in Europe*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

economic and social fabric. The success of this strategy surely comes from the solidity, versatility and adaptability of these structures. The approach of the clans is often to exert their influence over consolidated and well-integrated Calabrese migrant communities. At the same time, one cannot forget the immense economic might of this organisation, as well as the huge corruptive power thereof. Provided with these tools, the impact on the legitimate economic and financial environments can be tremendous.

The Calabrian mafia is definitely one of the most powerful OC groups at a global level. Its colonization strategy spread all over the world. It is very focused on the development of the organization and on economic power. That is why feuds and bloodshed, although quite frequent, normally do not interfere with transnational business. In Europe, 'Ndrangheta has a dominant position in the cocaine market. Its members result involved in many other criminal fields, including weapons trafficking, fraud, rigging of public tenders, corruption, intimidation, extortion and environmental crime. Clans are mainly active – in terms of investments - in Spain, France, the Netherlands, Germany and Switzerland, with some expansion into Eastern Europe (figure III). The 'Ndrangheta is also very powerful in Canada, the United States, Colombia and Australia (figure IV)²². Evidence of its presence was found in Belgium, Romania and UK, too. In all these countries, it is active mainly in the construction industry and real estate sector, as well as restaurants and hotels, wholesale and retail of food, transportation.

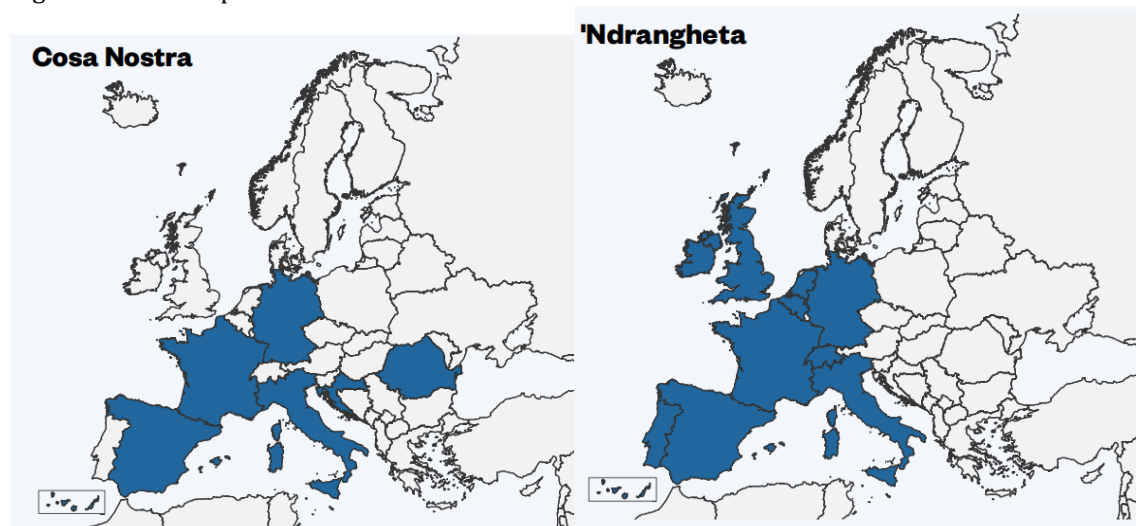
Finally, Camorra as well is very active in some Member States. Spain is the main destination, but it has also been found operating in France, the Netherlands, Germany UK (and, outside the EU, in Switzerland) (figure V). Camorra members tend to maintain a high profile and a flashy lifestyle abroad, too. They are involved mainly in drug trafficking, illicit waste dumping and counterfeit products. The control of Naples, as a key smuggling market, is crucial for the clans. Therefore, if a new one takes over, that can have major repercussions on the international dimension. In fact, the new clan has to guarantee a sufficient supply of drugs, or a

²² See, for example, A. Sergi in *The 'Ndrangheta Down Under: Constructing the Italian Mafia in Australia*, in *The European Review of Organised Crime*, 5(1) 2019, pp. 60-84. ISSN: 2312-1653

change in demand or supply can substantially alter trans-national balances. Clans are proficient in money laundering activities, too. Significant investments are made in construction and real estate, restaurants and wholesalers of food products, dairy products, clothing, flowers and plants, jewelry, slot machines, transportations and petrol stations. Outside Europe, Camorra is also present in the USA, South America and Canada.

It is not possible to precisely measure mafias' involvement in all these activities. Surely sectorial studies exist, but many obstacles hinder a precise quantification. First of all, the host country preparedness and understanding of the phenomenon can hamper and slow down the study of the impact. When a country is particularly affected by different manifestations of organised crime, the abundance of criminal syndicates makes it difficult to quantify the impact of one against another. A calculation can be derived from court proceedings in the first instance, but if the investigation is not deepened, the figure is deprived of the overall value it could assume. This and other problematics will be analyzed in more detail in Chapter 3.

Figures II-III. European countries with evidence of Sicilian and Calabrian OC investments



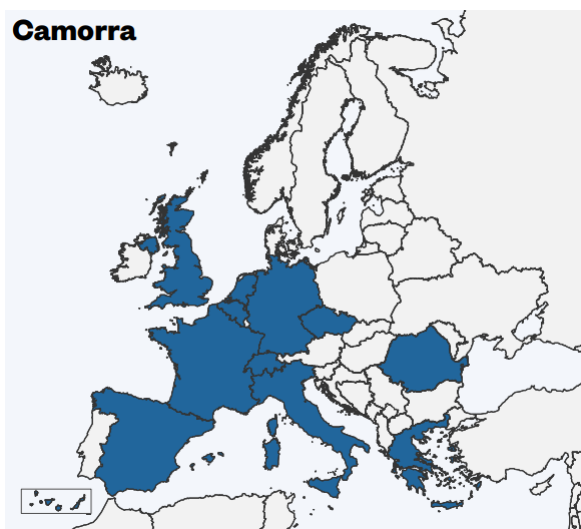
Source: Transcrime, 2015

Figure IV. World countries with evidence of Calabrian OC presence



Source: Wikimafia

Figure V. European countries with evidence of Camorra investments



Source: Transcrime, 2015

2. THE FUNCTIONAL DIVERSIFICATION OF MAFIA ACTIVITIES ACROSS TERRITORIES

2.1 How mafias operate in a globalized environment

Competing views: expansion vs. diversification

The main Italian mafia syndicates have worldwide business. Nevertheless, there are major differences between how they operate within their territory of origin and abroad. Here, they are careful to keep a very low profile, they mainly invest in economic operations and tend to avoid the use of violence. In this context, Italian OC acts as a hidden presence that slowly undermines democracy across the EU. Nevertheless, not all theoretical approaches agree with this view.

‘Expansion’, or ‘transplantation’, is a view that claims that Italian OC groups act in a globalized environment by relocating and expanding their core business – protection, supplying of governance. According to the advocates of this theory (Rains, Ciluffo, Castells), mafias would find it easy to migrate and disperse their criminal activities. They also frame the clans as fluid structures that seize opportunities where they see some (Shelley)²³.

The rival theory is called ‘diversification’, and it holds that mafias are highly dependent on the area of origin. Thus, it is hard for them to migrate and to relocate or expand their core business elsewhere. Instead, they prefer to get involved in merely economic activities (Reuter, Gambetta) (23). In fact, clans use their economic supremacy to infiltrate the administration and the political system of new territories. In the long term, this harms both free trade and democracy, while clan members gain an improved social position, often under an apparent guise of legitimacy.

²³ In this sense, see P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories*, in *European Journal of Criminology* 8(3) 213–228, 2011

Regardless of the logic of expansion, there is no lack of evidence that mafias have expanded their business across regions and continents far from their place of origin (see *above*). This Chapter assesses which view frames better the expansion strategy of Italian mafias across the EU territory.

The functional diversification approach

As noted elsewhere in this paper (see *above*, 1.2), mafia members know that infiltrating the economic fabric of a territory abroad is a powerful tool to increase control over it and to improve their social status at the same time. The core assumption of the diversification theory is, indeed, that mafias abroad tend not to seek an expansion of their 'core business'. Instead, they would rather vary their activities with investments in the legal or illegal economy. The reason of this behavior lies in the importance of territory. The power of mafia resides, indeed, in the control and in the exploitation of an area, where it supplies governance, offers extra-legal protection and exercises parasitic mediation on trade (see *above*, 1.1). When mafias act as suppliers of market governance, they aspire to hold a kind of control comparable to a State monopoly. Basically, in so far as they constitute organisations specialized in the provision of private protection, they aspire to protect *any* transaction in a given area, not just those related to a specific market²⁴. In this scenario, competition is not tolerated, and the local clans govern the market. When it comes to drug trafficking, for example, mafias sell the right to act on this market to independent operators, in exchange for a 'license fee'.

The situation changes completely when clans operate in the same market abroad. In this scenario, clan members trade on the wholesale market without seeking to govern or monopolize it. Like all other groups active on that market, they would buy drug to then resell it elsewhere. In other words, the clans are not involved in selling governance, but they simply join illegal trade²⁵. As a matter of fact, where mafia-type groups lack an overarching control over a territory, it is objectively hard to transplant activities like racketeering and protection.

²⁴ In this sense, see Varese, F. in *What is organized crime?* in Varese F (ed.) *Organized Crime*, 2010

²⁵ In this sense, see P. Campana in *Understanding then responding to Italian organised crime operations across territories*, in *A Journal of Policy and Practice*, Volume 7, Issue 3, September 2013

The resulting differentiation can be summarized with the formula ‘governing vs trading’. The distinction has an impact at a structural level of mafias. Activities related to markets governed the criminal groups tend to be managed, carried out and remunerated in a very centralized way. Simply trading on markets requires, instead, a less hierarchical structure, where participation tends to occur on a voluntary basis²⁶.

Another direct consequence of the functional diversification of mafia activities regards the use of violence. The latter is a constitutive feature of mafia. The capacity to resort to it, ensures its survival²⁷. That resorting to violence depends on the activity involved is a basic assumption. In fact, managing the clan or racketeering are likely to require a higher level of intimidation, which can often evolve into brutal behaviors. Managing a legal, economic undertaking, clearly does not entail the use of the same instruments. If it is true then that the core business is carried out mainly in the area of origin, according to the functional diversification theory it is also rational to expect there a higher degree of violence. Abroad, instead, where mainly economic investments are carried out, violence is avoided (see *below*).

In conclusion, it seems more logical that the type of control sought by mafias abroad is merely economic, in the wider sense: it is not limited to the mere goal of making profit. Instead, it reaches all aspects of the production and the consumption of goods and services: mafias offer their own goods and services at a lower price. At one point, it is obvious that the legal competition simply cannot remain in business. In some cases, clan members offer loans at a very high and unreasonable interest rate to entrepreneurs who are willing to accept them as they are desperate. When they cannot pay back, mafias take over the business. In other cases, the associates may propose a merger, to isolate the partner and at the same time take advantage of its good name. Forcing to file for bankruptcy is another strategy that allows the clans to take over the business for a price far below the market value²⁸. Working at a loss, given the immense money reserve in their hands, the mafias also secure public

²⁶ In this sense, see P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories*, in *European Journal of Criminology* 8(3) 213–228, 2011

²⁷ In this sense, see P. Reuter in *Disorganized Crime: Illegal Markets and the Mafia*, 1983

²⁸ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

tenders. It is important to stress that all this happens under the light of the day and in conditions of apparent, formal legitimacy. In addition to all that, mafia members can still resort to the intimidating/corruptive power of the organization. This way it is possible to influence decision makers, especially those involved in the assignment of public tenders and those who control their regular implementation. Additionally, a big part of the corruptive power of mafias cannot be measured in terms of money or material goods. In fact, they earn legitimacy and secure their survival also by providing votes for elected positions²⁹. Under this perspective, the threat that Italian mafias poses to the EU goes beyond the one posed by any other OC group. In theory, if it is considered possible to reproduce abroad a strategy already tested in Italy, mafias can arrive up to placing their men in apical positions of the State administration. Or, at least, even in these territories far away from those that they control, they can exert their influence over those who cover those elected positions.

Empirical evidence of the theory

To verify empirically the functional diversification theory, Campana – who studied deeply this strategy - ran a systematic analysis over the wiretapped phone conversations of a Camorra clan active in the UK and in the Netherlands, the ‘La Torre’ clan. The results not only confirmed the assumptions of the theory, but also that the diversification is the main expansion strategy of the criminal enterprises when they open branches abroad. To reach this other conclusion, he later applied the theory to 110 cities across 22 European countries where any kind of mafia activity has been recorded.

The records were divided into 5 categories, or tasks, according to the content of the conversation: protection activities; other illegal business; legal business; resource acquisition; and group management. The latter includes activities such as the remuneration of the ‘workforce’, the monitoring and dispute settling among the members as well as the efforts to deal with the pressure of law enforcement (arrests,

²⁹ In this sense, see *Threat assessment, Italian Organised Crime*, in *Europol Public Information*, The Hague, June 2013 FILE NO: EDOC#667574 v8

necessity to hide evidence or deal with witnesses or turncoats)³⁰. It resulted that roughly half of the contacts dealt with activities that generate profit *strictu sensu* – protection activities and legal or illegal business. By far, the most important of such activities is racketeering (in line with the features of Camorra). The other half of the phone calls was made to talk about, mainly, group management (38%) and acquisition of resources (14%). As a matter of fact and despite the underestimation in the literature, the main characteristic of mafia is the production and the sale of extralegal protection. It does not come as a surprise then that the protection of economic exchanges, including dispute settlement, debt recovery and dealing with law enforcement (arrests, etc.) took so much time and effort of the La Torre clan. As a subspecies of OC which is characterised by this specificity, the territory of origin – Mondragone – is the place where the core business (protection) is run.

The clan was active abroad as well, in Aberdeen, Scotland, and Amsterdam, the Netherlands. There is no evidence of protection business being run in any of these areas. Recruitment and other resources resulted highly regionalized, too. This confirms the strong link that mafia maintain with the area of origin, even when a clan runs transnational business. The cities abroad are departments of the 'enterprise', where mafias run mainly legal affairs. In Scotland, the family was involved with legal undertakings in real estate, construction and food services; there are records of contacts with legitimate entrepreneurs; payments tend to be made in cash, to remain less traceable. Aberdeen was considered not only a prosperous market where to launder money coming from criminal activities, but also a safe place where to live due to the unpreparedness of Scottish law enforcement to prosecute mafia members. As a result of the latter, Italian authorities were lacking an extradition power, for example. This shows that mafias are careful to take advantage of soft legislations, fiscal paradises or simple loopholes. In Amsterdam, members of the clan were involved in drug trafficking with dealers from all over the world. They used to buy drugs to then resell them in other markets, both in Italy and

³⁰ In this sense, see P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories*, in *European Journal of Criminology* 8(3) 213–228, 2011

abroad. An important member of the clan was hiding there, too, which is another reason why clan members can be found outside Italy.

The conclusion is that each “branch” of the criminal enterprise has a clear function. The core business remains in the territory of origin. Clans tend to look at abroad for investment opportunities, in the legal or illegal sector. Despite the transnational trait of this and other clans, recruitment and resource acquisition are highly regionalized, and clan members reside mainly in Italy. The theory’s assumption concerning the use of violence is confirmed, too. The general rule is that mafias do not resort to it abroad unless it is essential. And in fact, these activities are less likely to require the use of violence. Besides, mafias do not exert abroad the subjugation typical to the one they have in their territory of origin, and they are not credible counterparts of the State.

In conclusion, instead of expanding their activities elsewhere, mafias prefer to diversify them according to the environment and the opportunities they seize, along “lines of functional diversification”³¹.

Functional diversification across the EU

After confirming that diversification is the most reasonable strategy, it seems a logic consequence that it is the most likely to be followed, too. And in fact, by analyzing the type of activity carried out in 110 European cities, it is possible to confirm that diversification takes place on a large scale.

First of all, criminal activities have not been recorded in all these territories. For example, up to almost a third are used as hideouts for criminals, or as logistic bases. In the remaining ones, either legal investments or illegal activities – or both – have been carried out. As it has already been stated, when they invest abroad clans are mainly busy with either legal business or drug trafficking and smuggling of counterfeited goods (figure VI). The logic behind these trends is that law

³¹ In this sense, see P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories*, in *European Journal of Criminology* 8(3) 213–228, 2011

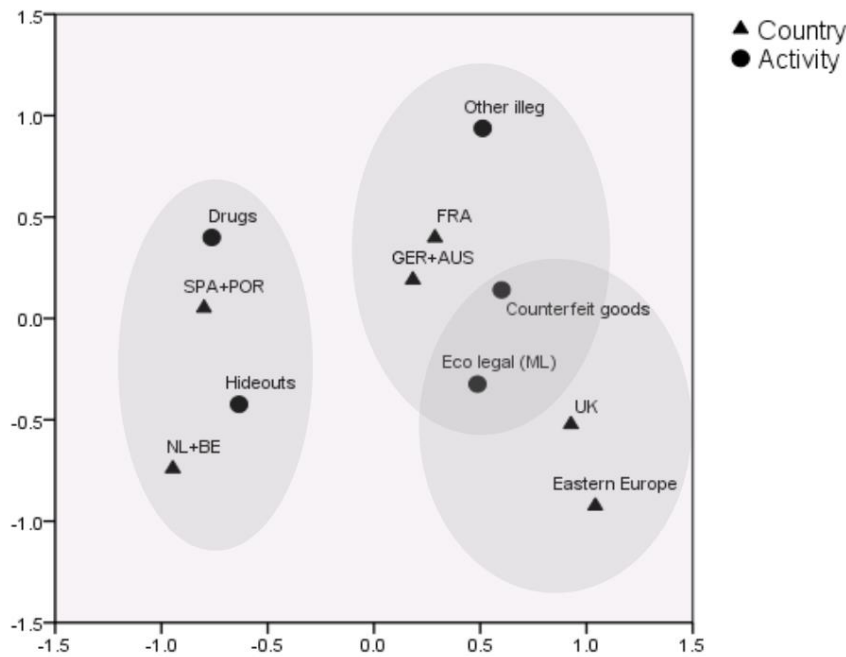
enforcement is hindered when it has to deal with extradition and cooperation between States: in particular, when the host country does not qualify a certain action as a crime, extradition cannot work (double criminality requirement); besides, an extradition agreement must be in force between the requesting country and the country receiving the request; involvement in legal economy is considered a powerful tool to increase control over a territory and exploit the resulting improved social status, while at the same time it provides the perfect tool to launder money. Cluster figure shows how territorial specialization works (figure VII). Germany, Spain and France are the countries with the highest rate of recorded presence of Italian mafia. For the drug trafficking market and for hideouts, clan members tend to go to Spain, but also to the Netherlands and Belgium. Investments in legal activities and trade of counterfeited goods appear to be the main business in the UK and Eastern European countries. The same applies to Austria and France - although, here, illegal activities other than protection took place, too (for example, usury, gambling, arm trafficking).

Figure VI: Type of Mafia activities across EU Member States (excluding Italy)

Type of Activity	Number of Cities	Percentage of Cities
Legal businesses	37	33.6%
Counterfeit goods	28	25.5%
Drug trafficking	27	24.5%
Illegal activities other than protection	10	9.1%
Unspecified activity	12	10.9%

Source: Campana, 2011

Figure VII. Clusters of territorial specialization of Mafia activities across Europe. Notes: Countries: NL+BE (Netherlands and Belgium); SPA+POR (Spain and Portugal); FRA (France); GER + AUS (Germany and Austria); UK (United Kingdom); Eastern Europe (Romania, Poland, Slovakia and Hungary). Activities: Hideouts; Counterfeit goods; Drugs; Other ill (arms trafficking, gambling, usury and frauds); Eco legal (Investments in legal businesses; money laundering). It includes only countries with Mafia presence recorded in more than one city.



Source: Campana, 2011

The nature of the evidence is abundant and yet not definitive. Nevertheless, this frame cannot be read as a total colonialization. Protection is registered in a very limited number of cases in Germany only (related to labor racketeering in the food sector). All the rest of the cases belongs to the instance of trade, not to the one of governance. This confirms that there exists a territorial specialization of mafia activities across territories and that it is considered harder or less beneficial to move the core business. It further shows that the functional diversification of activities is currently the main model adopted by Italian OC abroad³².

2.2 Conclusions

Outcome and policy implications mention

The *modus operandi* of Italian mafia syndicates substantially changes depending on where the activities are carried out. Thus, the distinction *governing vs trading* is crucial to tailor effective response strategies to first detect and then tackle Italian mafias' operations across territories. Criminal actors tend to act like legitimate operators in areas far away from where the crime has been committed. Recognizing

³² In this sense, see P. Campana in *Understanding then responding to Italian organised crime operations across territories*, in *A Journal of Policy and Practice*, Volume 7, Issue 3, September 2013

the functional diversification of activities, then, has important policy implications (see more *below*, Chapter 4).

The findings discussed in this chapter reflect their importance also at a theoretical level. As a matter of fact, failure to establish whether a clan manages to move the core business abroad or not is a significant disadvantage that can lead to misleading explanations. This is partly due to the unsuitability of the notion of ‘transnational crime’ as an analytical tool. A clan such as the La Torre one was surely carrying out transnational operations, and yet the ventures run abroad did not represent the core business of the clan. The latter was still highly dependent on the territory of origin, instead. It seems, then, that the concept of transnational OC is not able to explain the way in which mafias act in a globalized environment. It is advisable that the taxonomy ‘expansion’ or ‘transplantation’ and ‘diversification’ is adopted, instead, to indicate respectively when clans manage to expand their core business abroad and when they do not. Finally, it is true that the majority of the clans is not interested, at least in a first moment, in expanding the protection business elsewhere. But it does not mean that a transition to a transplantation at a later date is not possible, or that they have not managed to do so already³³. Authorities should therefore carefully monitor early signs of this transition (33).

³³ In this sense, see for example F. Varese in *Mafias on the move*, 2011

3. THE ECONOMIC IMPACT OF MAFIAS ACROSS TERRITORIES

3.1 How much does the criminal economy weigh?

Discussion about the methods

It is not easy to find unequivocal definitions of "illegal" and "criminal" economy. Because of the strong interconnection between economic-criminal activity and the licit economy, it is also hard to distinguish between which activities fall within one sphere and which within the other. In fact, the two sectors have created a continuum: both financial and, sometimes, human resources seamlessly circulate from one domain to the other. Keeping this in mind, it could be said that both the production, distribution and possession of goods and services prohibited by law is illegal, as well as those activities which, despite legal, are carried out by unauthorized operators. Therefore, a criminal economy is the one that: provides illegal or legal goods and services; is based upon a stable organization with its own resources; operates only with internal rules. Such rules are often based on violence, but with profit-related objectives. In this sense, criminal enterprises are not dissimilar to lawful enterprises.

As already stressed elsewhere in this paper, the focus on economic activities, profit and legitimate business is what characterizes the Italian OC's action abroad. What would be extremely interesting to do, but it is very difficult to accomplish, is to measure the volume of the phenomenon. Some studies do so by taking into account specific markets – for example drugs, arms and tobacco trafficking, counterfeiting, gambling - and trying to estimate the value of the business³⁴. Another very interesting approach consists in weighing the effects of the presence of mafias

³⁴ See for example E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015; also see E. D'Angelo and M. Musumeci in *Organized Crime and the Legal Economy. The Italian case*, in UNICRI, 2016

on the functioning of the economic system of a given territory³⁵. In particular, in so far as it prevents the economy to work in normal conditions, hampering competition, free market and development.

The first method allows to answer the question about the origin of criminal proceeds and the size of the criminal markets where they are generated. Combining the results – the value of the business - with the information on the geographical location of the investments of mafias, the economic sectors that receive most of them and with data on seizures, it is possible to draw a speculative conclusion on the nature and the size of the influence of mafias over a territory. The second method estimates the growth performance of a given territory in conditions of absence of organised crime and then compares it with the actual one, as it results after the mafias established roots. It does so by taking into an account growth parameters, such as government expenditures and private investments, in conditions of increased criminal density. The latter is also indicated by an exceptionally high murder rate in the treated regions, allowing to establish a relation between an intense presence of mafia and very high murder rate. The results allows to answer the question on the origin and the size of the extent of the GDP decrease in a scenario of increased criminal density.

The methods under discussion rely on a different set of data and study rather different situations. As for the information, in particular some of them are available only where deep rooted awareness and understanding of the mafia phenomenon exist. This is the case of the second type of study, which is based not only on an extremely specific and high quality of data³⁶, but also on a deep knowledge of the facts and of the causes of mafia expansion in the areas of interest across decades. The available response arsenal of the State is also paramount. As a matter of fact, the existence of laws and *ad hoc* law enforcement allows to keep track of the criminal phenomenon with a holistic approach. Without such means to conduct a study, this type of measurement is simply impossible. That is part of the reason why, so far, it

³⁵ In this case, see P. Pinotti, *The Economic Consequences of Organized Crime: Evidence from Southern Italy*, 2011

³⁶ For example, the Italian Statistical Institute – ISTAT - publishes a Yearbook where it reports the number of cases ex Art. 416-bis (see note 8) of the Italian Criminal Code since 1983 (that is, right after it was introduced in the legislation)

has been conducted successfully only with respect to a limited number of territories in Italy (see *below*). The other reason is that, in such areas, the concentration of the criminal syndicates is very high, and the kind of control exerted over the territory is monopolistic (Chapter 2). The measurement of the market volumes is, instead, a more suitable calculation for mafia economic activities abroad. In fact, the influence over these territories is not remotely comparable to the one exerted in Italy, and data are more recent and scattered. Most importantly, and according to the thesis supported so far, mafias abroad share markets with other OC syndicates, without willing to dominate them. Instead, they aim at diversifying their activities to increase their profits. As a result, one must verify the assumption, suggested also by common sense, according to which where illicit traffics are higher, the investment portfolio of OC is deeper. Which means that the focus the focus partly shifts from damage to the economic system and the social fabric to the profits of the mafias. To explain this connection with a survey of some value, it is advisable to start from an estimate of the overall volume of an illicit market in specific geographic areas; at the same time, data on asset seizure and the nature of the assets seized are a further evidence of the level and the type of detected infiltration in the economy of these areas. The resulting figure can in some cases be linked to the recorded presence of Italian OC in the region.

The challenge is not easy and the result not satisfying, as it ends up being a logical inference, if not even a speculation, rather than a measurement on the impact on the economy of a given territory. This is precisely the reason why this paper takes the cases of some EU Member States other than Italy and calls for an improvement of legislative harmonization at EU level. Enhanced cooperation throughout the EU can help tracking down criminal enterprises and unbundle their impact.

The Italian case: impact on growth

In 2011, a project launched by the Antimafia Commission and the Bank of Italy was published with the title: “The Economic Consequences of Organized Crime: Evidence

from Southern Italy”³⁷. It provided the first and so far the only available evidence of the economic cost of Italian OC in a given area. The study examined the economic growth of two regions in Southern-Italy (*Apulia* and *Basilicata*) which have been exposed to mafia presence, to estimate their performance in conditions of absence of organised crime. As it turned out, it resulted that the presence of mafia costed those territories a 16% lower GDP per capita. It also appears that the poor economic performance of the regions goes hand in hand with contemporary decrease in private investment and increase in public expenditures. The calculation was made through a method called ‘synthetic control’, which is a weighted average of other regions less affected by mafia activity whose economic structure and outcomes resembled the ones of the regions of interest, decades before the appearance of organized crime³⁸.

In fact, Apulia and Basilicata are not regions of origin of mafia (see *above*, 1.1). Instead, they became territory of conquest of the criminal syndicates between the 70s and the 80s, mainly due to external and circumstantial events. One of them was the devastating earthquake occurred 1980, which hit the area between Campania and Basilicata the most. Following the calamity, a huge governmental expenditure followed, to rebuild what went destructed; the massive amounts of relief money and public investments attracted the interest of criminal organizations, who succeeded in infiltrating and winning public procurements due to the absence of a sound administrative framework. The closure of the free port of Tangier, back in the 60s, had meanwhile caused a shift in the smuggling route: criminal enterprises gave up the Morocco-Marseille route, which passed through Sicily and Naples, and were pushed to look for other routes, instead. This is why the mafias looked at the eastern side of the Peninsula, looking for new bases on the route to Turkey through the Balkans. Finally, in those years Apulia became the Italian region where the largest number of criminals, convicted or suspected to be members of mafia, had been sent by law enforcement as a precautionary measure aiming at eradicating them from

³⁷ P. Pinotti, *The Economic Consequences of Organized Crime: Evidence from Southern Italy*, 2011

³⁸ Ibid.

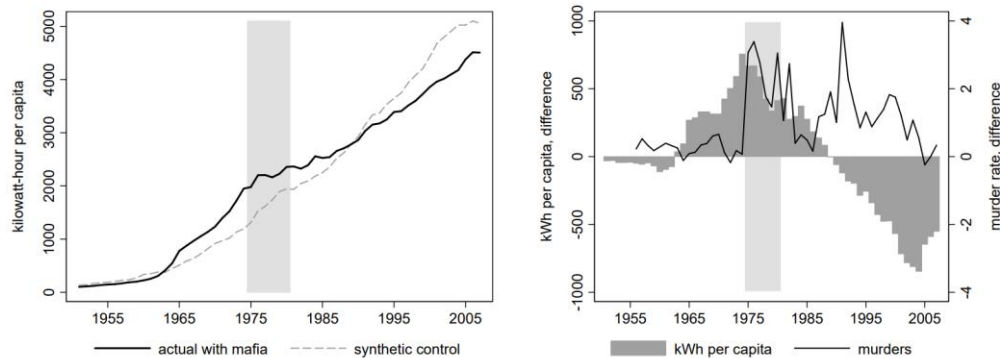
their context of influence. This strategy turned out to be a fatal error since it became the main facilitating factor of expansion of the clans to other regions.

As it can be noticed, none of the latter qualify as reasons of expansion driven by economic or social context of the two regions. This suggests that the advent of mafia can be driven by factors independent from it, which is a very contemporary lesson to learn for regions outside of Italy who may think they are immune to such infiltration.

The study shows that, over a thirty-year period approximately, while the murder rate increased up to twice as much the average of all Italy in the post-war period, at the same time the two regions experienced a 16% drop in GDP per capita (Figures X and XI). A possible explanation related to the presence of mafia is that it increases the weight of the shadow economy to the detriment of the official sector. Basically, job opportunities appeared more often in the first one and decreased in the latter (“reallocation of workers and resources outside the official statistics”³⁹). In this sense, the difference with the synthetic counterfactual would simply overestimate the change in welfare, since it would ultimately be a mere matter of a different way to read the composition of the capita income. To refute this thesis, the author used the data on electricity consumption. The latter is apparently often used to measure the size of the shadow economy of a country, because it depends on demand of firms and households operating both in the official and in the unofficial sector. As an alternative measure of aggregate economic activity, energy consumption is, in this sense, more neutral than GDP and other statistics based on official data. It turned out that, after a steady increase, energy consumption slowed down all of a sudden in the 70s (left graph, Figure VIII), exactly when homicide rates started increasing (right graph, Figure VIII). The aggregate figure is even about three times bigger than the one concerning the drop of GDP and can perhaps be traced back to the fact that mafia slows down disproportionately sectors that generate a higher energy consumption, such as manufacturing, rather than household production or less energy intense businesses. Be as it may, the result allows to state that there was no compensation in the unofficial sector of the economic contraction in the official one.

³⁹ P. Pinotti, *The Economic Consequences of Organized Crime: Evidence from Southern Italy*, 2011

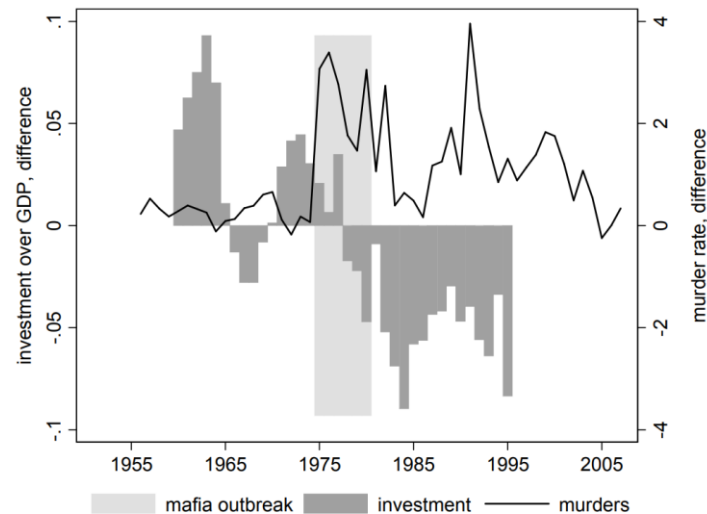
Which, in turn, means that the 16% GDP decrease corresponds to an at least equal aggregate economic loss, if not to a greater one⁴⁰. The murder rate was also used to establish a similar relation with the decrease of investments in the treated regions (Figure IX).



Note: The left graph plots the time series of electricity consumption, as measured by kilowatt-hour per capita, in Apulia and Basilicata (“actual with mafia”) and in the synthetic control, while the right graph shows the difference between the two both in terms of electricity consumption and murders. The synthetic control is a weighted average of the other Italian regions excluding those with a historical presence of mafia-type organizations (Sicily, Campania and Calabria). The weights used to construct the synthetic control are chosen to minimize the distance with Apulia and Basilicata in terms of average GDP per capita and other predictors of subsequent growth (investment rate, sectoral shares of value added, human capital and population density) during the period 1951-1965; see Section 4 for the details.

Figure VIII: Electricity consumption in the treated regions and in the synthetic control, 1951-2007. Pinotti, 2011

⁴⁰ In this sense, see P. Pinotti, in *The Economic Consequences of Organized Crime: Evidence from Southern Italy*, 2011



Note: The graphs show the difference between Apulia and Basilicata (“actual with mafia”) and the synthetic control in terms of (private) investment over GDP per capita and murder rate, which is available from the data set CRENOS on a consistent basis over the period 1970-1994. The synthetic control is a weighted average of the other Italian regions excluding those with a historical presence of mafia-type organizations (Sicily, Campania and Calabria). The weights used to construct the synthetic control are chosen to minimize the distance with Apulia and Basilicata in terms of average GDP per capita and other predictors of subsequent growth (investment rate, sectoral shares of value added, human capital and population density) during the period 1951-1965; see Section 4 for the details.

Figure IX: private investment and murder rate in the treated region and in the synthetic control, estimated gap, years 1956-2007. Pinotti, 2011

Another interesting finding of the study relates to the variation in the GDP formula components. It appears that mafias are particularly able to deter productive private investments while at the same time they seize opportunities in public procurement. Mafias hampering the activity of local entrepreneurs prompt the government to increase the public expenditure in the area. It does so out of fear of a drop in employment that follows the withdrawal of private firms. Such an economic effort is absorbed to a great extent by mafias, that can use their cash reserve to win public procurement or simply resort to their corruptive power. The trend can be expressed by saying that private capital is substituted by public one. But such replacement is not matched by a reallocation in the labor market, which means both that public sector is less efficient and that governmental expenditure represents a great opportunity for mafias. The trend is the result of a well-tested mechanism according to which mafia racket imposes higher prices on inputs or on labor, thus causing an increase in the costs of production. This is easier to impose on firms that do not suffer from competition, i.e. public ones. Alternatively, firms directly linked to clan members adjudicate procurement bidding by threatening the competition.

The results of this study, based on the comparison of actual and counterfactual development relying on the synthetic control, prove that the effects of an intense mafia activity are very significant on the long term. In fact, the distortion of economic activities in terms of what is not produced affects the growth rate. The decrease in GDP per capita was caused by a reallocation of the economic activity from more to less productive ones, and by the removal of resources for production. Besides, increased criminal density drove up the cost of credit for businesses, diverts foreign direct investments and leads to difficult access to credit (Pinotti, 2011; D'Angelo and Musumeci, 2016). The available literature suggests that the concentrated presence of mafia has significant negative effects on the main variables that influence a territory's growth⁴¹. Furthermore, in those areas where mafias established deep roots, they discourage investments in production, hamper full use of propriety rights and alter the overall allocation of resources and general functioning of local economies⁴².

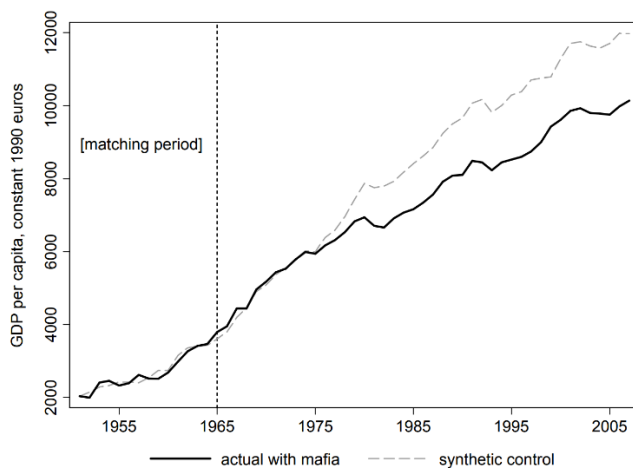


Figure X: GDP per capita in the treated region and in the synthetic control, years 1951-2007. Pinotti, 2011

⁴¹ In this sense, see “Prevenzione e contrasto della criminalità organizzata. Audizione del Governatore della Banca d’Italia, Ignazio Visco”, Rome, Palazzo San Macuto, 14 January 2015

⁴² In this sense, see Sciarrone R. in *Alleanze nell’ombra. Mafie ed economie locali in Sicilia e nel Mezzogiorno*, 2011

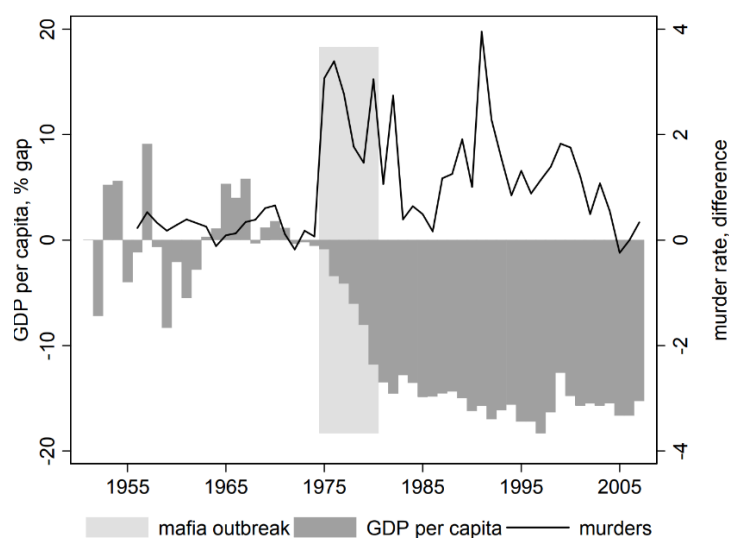


Figure XI: GDP per capita and murder rate in the treated region and in the synthetic control, estimated gap, years 1951-2007. Pinotti, 2011

Shifting the focus to the overall situation of Italy, the variables increase exponentially and so does the difficulty of the survey. A rather recent study conducted in 2012 by the Central Bank of Italy⁴³ assessed the value of the criminal economy at 10.9 % of the country's GDP. A second version of the study - further differentiating between licit and illicit activities - estimated that activities dedicated to money laundering produced by the criminal economy would constitute 7-8% of Italian GDP. Based on these estimates, in 2012, the Antimafia Commission of the Italian Parliament declared that the total revenue of OC in Italy was worth €150 billion⁴⁴.

In conclusion, studying the repercussions over a territory's growth is probably the most efficient way to capture the overall economic impact of criminal enterprises on that area. Sorted data and holistic approach are the indispensable elements without which this measurement is not possible. Such a combination exists in Italy, where the presence of mafia in certain regions is highly concentrated. This does not reflect the case of the EU Member States - the same goes for the data on homicides - , which are mainly concerned with investment in the legal economy and fight against

⁴³ G. Ardizzi, C. Petraglia, M. Piacenza and G. Turati in *Measuring the Underground Economy with the Currency Demand Approach A Reinterpretation of the methodology, with an application to Italy*, 2011

⁴⁴ In this sense, see E. D'Angelo and M. Musumeci in *Organized Crime and the Legal Economy. The Italian case*, in UNICRI, 2016

criminal traffics. Nevertheless, these can as well cause the deterioration of the social and economic fabric, precisely through the weakening of democratic and free market institutions.

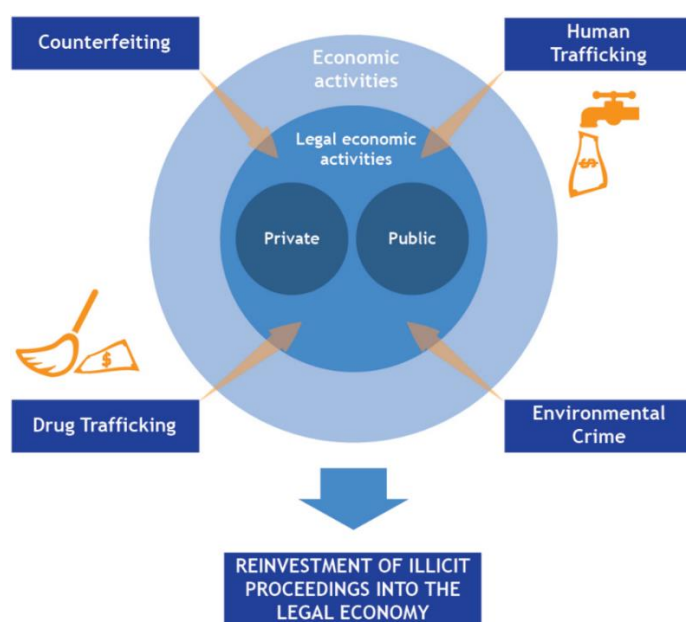
The case in 3 EU countries: the volume of illicit markets

As anticipated, the only feasible approach elsewhere than in Italy is the one that measures markets' volume. The aim is to answer questions like: where do Italian organised crime proceeds originate? From what illicit markets? In what regions, assets and business sectors are these proceeds invested in the legitimate economy? What is their scale? The aggressive criminal business presence of mafias will be noted into the sectors that were already highlighted elsewhere in this paper (see *above*, Chapters 1 and 2). These are, for example, food and catering, wholesale and retail trade, transportations, real estate and especially constructions. Most of them are cash and labor-intensive, low tech, some may enjoy public subsidies and others are territorial-specific. The expansion of the mafia business is sustained by the huge comparative advantages that make criminal enterprises more competitive than legal ones, such as forced reduction of salaries, huge financial resources for investments and dejection of competition⁴⁵. Such advantages originally come from revenues on illicit markets (figure XII).

The overall most remunerative illicit markets in seven MS (Finland, France, Ireland, Italy, Netherlands, Spain and UK) are cocaine, cannabis, heroin, ecstasy, trafficking in human beings (THB), illicit trade in tobacco products (ITTP), counterfeiting and

⁴⁵ In this sense, see E. D'Angelo and M. Musumeci in *Organized Crime and the Legal Economy. The Italian case*, in UNICRI, 2016

fraud (an illicit activity very hard to define⁴⁶) (Figure XIII)⁴⁷. It was not possible to find data for traffic of firearms and gambling, two of the sectors where Italian mafias are more active. The cocaine market, thanks to the 'Ndrangheta, is the one where the evidence of Italian OC is statistically higher. Markets with consistent but lower evidence are especially heroin, cannabis, THB and fraud ones (figure XIV). Taking into an account the GDP of these countries in the year of the survey, it turns out that the total volume of all these markets added together is equal to: in the case of Spain and Italy, 1% of the country's GDP; in the case of the Netherlands, 0,6%; in the case of France, 0,8% of the GDP; in the case of the UK, 0,9% of the GDP (43).



Garciullo, 2014

Figure XII. UNICRI elaboration from

⁴⁶ According to the Association of Certified Fraud Examiners (2014), it “includes any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means to it”. It is characterised by four elements (Golden, Skalak, & Clayton, 2006): false representation, intentionality, confidentiality and financial damage. It may include VAT tax fraud, one of the most spread and exploited, public fund fraud, card and bank account fraud, insurance and social benefit fraud, etc. Despite the scarcity of literature trying to measure the proceeds of this market, there is consensus over its increasing weigh. To generate proceeds, professionals play a paramount role in designing complex money laundering and fraud schemes. In this sense, see D. Camerini, J. Cusveller, M. Riccardi and A. Salha in *Focus on ten illicit markets*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

⁴⁷ In this sense, see M. Riccardi, D. Camerini and J. Cusveller in *Illicit markets and organised crime in Europe*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP Transcrime*, 2015

Illicit Market	Finland	France	Ireland	Italy	Netherlands	Spain	UK
Heroin ^a	102	957	623	1,370	54	271	2,321
Cocaine ^a	17	755	90	1,699	85	1,200	1,452
Cannabis ^b	21	1,277	47	1,356	305	1,575	787
Amphetamines ^c	41	55	16	284	19	338	811
Ecstasy	47	190	30	639	73	558	702
Trafficking in human beings (THB)	N/A	3,000 ^d	N/A	3,082 ^e	460 ^f	N/A	151 ^g
Illicit trafficking in firearms (ITF)	N/A	N/A	N/A	93 ^h	N/A	N/A	N/A
Illicit trade in tobacco products (ITTP) ^a	146	2,083	277	546	249	635	1,304
Counterfeiting ^a	280	5,746	456	4,596	1,986	3,928	4,570
Illegal gambling	N/A	N/A	N/A	425 ^h	130 ^f	N/A	1,128 ⁱ
Extortion racketeering	N/A	N/A	N/A	5,253 ^j	N/A	N/A	N/A
Usury	N/A	N/A	N/A	4,634 ^k	N/A	N/A	N/A
Fraud (MTIC fraud) ^a	2,956	2,957	2,958	2,959	2,960	2,961	2,962
Organised property crime (Cargo theft) ^m	0.3	48	0.8	11	47	21	233
TOTAL (Heroin, Cocaine, Cannabis, Amphetamines, Ecstasy, ITTP, Counterfeiting, MTIC frauds, Cargo theft)	1,084	16,010	1,708	15,993	3,428	10,834	15,142
TOTAL	1,084	19,010	1,708	29,480	4,018	10,834	16,596

^aTranscrime-OCP, 2014. For ITF, no estimates at national level have been produced by OCP but only aggregates at EU-28 level (see Table 5); ^bCaulkins, Kilmer, & Graf, 2013; ^cKilmer & Pacula, 2009; ^dINHESJ, 2012; ^eMancuso, 2014a, referring to THB for sexual exploitation; ^fUnger, 2007; ^gMills, Skodbo, & Blyth, 2013; ^hCalderoni et al., 2014b; ⁱGroom & Davies, 1998 (in UNODC 2011a); ^jLisciandra, 2014; ^kScaglione, 2014; ^lEllison, Collard, & Forster, 2006; ^mEuropol, 2009b.

Figure XIII. Estimates, million euro, annual revenues from illicit markets in seven MS. Source: Transcrime, 2015

Illicit market	HIGHER EVIDENCE OCGs	LOWER EVIDENCE OCGs
Heroin	Albanian, Balkan, Turkish, African	Bulgarian, Romanian, Other Eastern European, British, Dutch, Italian mafias, Other Italian, Lithuanian, Motorcycle gangs, Middle Eastern, Other Asian, North African
Cocaine	Colombian, African, Albanian, 'Ndrangheta, Spanish	British, Finnish, French, Other Italian, Motorcycle gangs, Other Western European, Balkan, Bulgarian, Romanian, Russian/Georgian, Mexican, North African, South American
Cannabis	Albanian, Chinese, Dutch, North African, Other Asian, Spanish	African, Russian/Georgian, Turkish, Italian mafias, British, Finnish, French, Irish, Motorcycle gangs
Other illicit drugs	British, Dutch, Lithuanian, Other Eastern European	British, Finnish, Motorcycle gangs, Other Western European, Albanian, Russian/Georgian, Turkish, Chinese, Other Asian
THB	African, Albanian, Balkan, Bulgarian, Romanian, Russian/Georgian, Other Eastern European, Chinese, Other Asian	British, Dutch, Finnish, Italian mafias, Other Italian, Lithuanian, Motorcycle gangs, Spanish, Other Western European, North African, Turkish, Japanese Yakuza, Colombian, South American
ITF	Albanian, Balkan, Turkish, Other Eastern European, Russian/Georgian, 'Ndrangheta, Other Western European	Dutch, ETA, Finnish, IRA, Other Italian, Motorcycle gangs, Romanian, Bulgarian, African, North African, Middle Eastern, Chinese, South American
ITTP	Russian/Georgian, Other Eastern European, Other Asian	Apulian, Albanian, Balkan, British, Irish, IRA, Bulgarian, Romanian, Lithuanian, Other Eastern European, Turkish, Chinese
Counterfeiting	Camorra, Chinese, Other Asian, Russian/Georgian, Other Eastern European	African, North African, Albanian, Bulgarian, Other Italian, IRA, Other Western European, Romanian, Lithuanian, Middle Eastern, Turkish, Japanese Yakuza
Illegal gambling and match fixing	Chinese, Other Asian, 'Ndrangheta	Other Italian, Other Eastern European, Russian/Georgian
Extortion racketeering	Italian mafias, Romanian, Russian/Georgian, Other Eastern European, Turkish, Middle Eastern, Chinese, Other Asian	British, Bulgarian, Dutch, ETA, Finnish, French, Irish, IRA, Lithuanian, Motorcycle gangs, Other Italian, Other Western European, Spanish, African, Colombian, South American
Usury	-	Italian mafias, Other Italian, Albanian, Balkan, Chinese, Other Asian
Fraud	Bulgarian, Romanian, Other Eastern European, Russian/Georgian, Chinese, Other Asian	British, Dutch, Irish, IRA, Lithuanian, Middle Eastern, North American, Italian mafias, Other Italian, Other Western European, Balkan, Turkish, African, North African
Organised property crime	Russian/Georgian, Other Eastern European	Albanian, Balkan, Bulgarian, Romanian, Turkish, French, Irish, Italian mafias, Other Western European, Chinese, North African

Figure XIV.

Categories of OC groups active in illicit markets in Europe. Transcrime, 2015

Combining the data on the relevance of specific types of markets and the ones on the presence of Italian OC in the countries, for the purposes of this study it was preferable to focus on three MS: Spain, France and the Netherlands.

3.2 Unfolding mafias' portfolio across territories

The kind of assets in which mafias invest is very varied. Before proceeding, it is necessary to clarify the definition and the scope of criminal investments. Because it is not easy or possible to identify the nature (fully or partially owned), the purpose (profit or non-profit) and the origin (licit or illicit) of the investments, the definition adopted is broad. It includes, in fact: "any possession and/or acquisition of any type of asset in the legal economy [...] by individuals belonging to a criminal group, acting on its behalf and/or involved in one of the criminal activities previously

identified”⁴⁸. Depending on the investment strategy of a specific area and the scope of the activity carried out there, mafias can invest in: a) registered assets. Mainly boats, trucks, cars and anything that can be used to transport illicit goods; registered assets can also include luxury goods, such as yachts, expensive cars, jets and helicopters; b) movable assets. Cash is clearly the primary good, as well as bank accounts, but investments were found also in bonds, options and stocks. Jewelry, artworks and paintings complete the picture; c) real estate properties. For many reasons, this is the favorite investment of mafias. Houses, villas, flats and other immovable properties are safe investments, they can guarantee high returns and even facilitate other illicit activities when used as warehouses, safehouses or places where to exploit prostitution; d) finally, companies⁴⁹.

Obviously, this information comes from the data on seizures and confiscations. This field is very complex due to the high diversity of the regulatory framework among the MS and because not all data come from the same stage of asset recovery. In this area it would be particularly beneficial to reach harmonization at EU level. Statistically, the majority of seized assets are cash and bank accounts, as well as vehicles (movable and registered assets); real estate and companies in particular represent a smaller share, and the one of real estate becomes substantial only at the final stage of confiscation. Even in this case, Italy represents an exception, as the share of confiscation of real estate and companies is much higher (figure XV), and in general it is common to confiscate companies, whereas in other MS the law mainly provides for the confiscation of movable property. In fact, confiscated companies are difficult to manage: therefore, where this type of confiscation exists, prosecutors may use it only where it is strictly necessary, as it may lead to the sub-optimal use of confiscation against businesses⁵⁰.

⁴⁸ See D. Camerini, M. Riccardi, C. Soriani and P. Standridge in *Methodological remarks*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP* Transcrime, 2015

⁴⁹ Ibid.

⁵⁰ In this sense, see P. Standridge and M. Riccardi in *Focus on seven European countries*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP* Transcrime, 2015

Besides, it is complicated to reveal legitimate business ran by criminals, due to increasing complex concealment techniques and money laundering schemes. Regarding seizure and confiscation procedures, since the available figures are not exclusively related to Italian OC, what is interesting is to see if the regions with the greatest asset recovery actions are the same regions with the largest presence of Italian OCs.

Country	Number	Real estate	Companies	Registered assets	Movable assets	Source	Years	Asset recovery process stage	Type of offence
Finland	302	3.0%	0.0%	34.1%	62.9%	PATJA	2003-2013	Seizure	Serious and OC offences ³⁷¹
France	18,373	0.7%	0.0%	3.1%	96.2%	AGRASC, Rapport d'activité 2012	2008-2012	Seizure	Drug related offences
	56	87.5%	0.0%	5.4%	7.1%	AGRASC	2008-2012	Confiscation	Serious and OC offences ³⁷²
Ireland	301	16.8%	1.0%	9.8%	72.4%	CAB	2005-2012	Confiscation	Serious offences ³⁷³
Italy	24,014	51.3%	8.1%	23.2%	17.4%	ANBSC	1983-2012	Confiscation	Serious and OC offences ³⁷⁴
	16,824	28.5%	15.3%	27.6%	28.5%	GDF	2000-2013	Seizure	Serious and OC offences ³⁷⁵
	113,753	47.7%	6.7%	20.1%	25.5%	SIPPI	2009-2013	Seizure and confiscation	OC offences
	12,567	44%	5%	18%	33%	SAC	2007-2011	Seizure	All offences
Spain	27,541	1.0%	0.0%	49.1%	49.9%	PNSD, Informe de gestión 2012	1996-2012	Confiscation	Drug related offences
Netherlands	N/A ³⁷⁶	N/A				PPO	2008-2013	Confiscation	OC offences ³⁷⁷
United Kingdom	N/A ³⁷⁸	N/A				JARD	2003-2013	Confiscation	Proceeds of crime ³⁷⁹

Source: Transcrime elaboration on ANBSC, GDF, SIPPI, SAC, PNSD, AGRASC, PATJA, CAB, PPO, JARD data

Figure XV. Type of assets seized/confiscated in 7 European countries for serious and organised crime. Transcrime, 2015

Spain

Spain constitutes a very open market for foreign OC, also given the relatively low impact of native OC. In fact, it is the only country in the world where presence of all four Italian mafias was recorded. The richest and full of opportunities Spanish big cities and harbors became important sources of proceeds for the criminal groups. The area with the highest degree of infiltration is Andalusia (south of Spain) and Madrid (Figure XVI).

The most important business sectors providing evidence of Italian mafias investments are food (restaurants, companies active in oil and sea-food sector, catering), real estate (hotels, real estate companies), construction (construction companies, tourist resorts). Two of the most remunerative markets in Spain (cocaine, counterfeiting) match with the areas where Italian mafias, especially Camorra, are active in the region (Figure XVII). The other two most remunerative markets (cannabis, fraud) register only lower evidence of Italian OC.

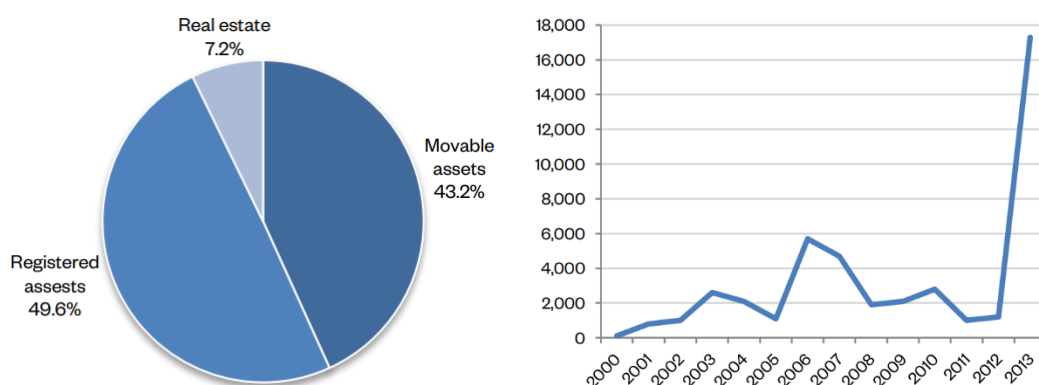
Spain has one of the highest amount of drug seizures (31.2% of world seizures of cocaine, 44% within the EU). Aggregate data on seized and confiscated assets in Spain are gathered by the e Intelligence Centre against Organised Crime (CICO) and the Special Anti-Drug Prosecution Office (Fiscalia Special Anti Drogas). The vast majority of confiscated assets includes movable (43.2%) and registered goods (49%), while only 7% are real estate (Figure XVIII). Especially the confiscation of such immovable assets has sharply increased in the last years (Figure XIX), including confiscation of real estate agencies and screen companies, or occasionally companies with a real activity (not only dedicated to money laundering). In line with the highest presence of OC in Andalusia and Madrid, these are the areas where confiscations are more numerous. Focusing only on real estate, other coastal areas, and in particular Galicia, Valencia, and the Autonomous Communities of Ceuta, Melilla and the Canary Islands, are also to be mentioned (Figures XX and XXI).

It was impossible to access disaggregated data (on a case-by-case basis) on confiscated assets. This has restricted the possibility to obtain a richer analysis for example in terms of statistical results in terms of ownership of the confiscated goods⁵¹.

⁵¹ For the whole paragraph, see P. Standridge and M. Riccardi in *Focus on seven European countries*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP* Transcrime, 2015

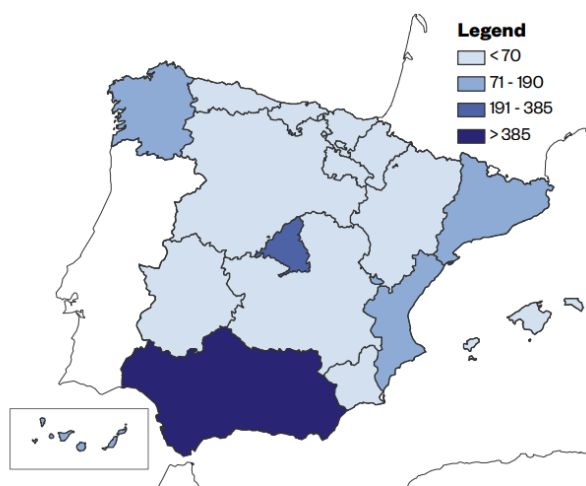
Categories of OCG	First three countries	First five business sectors
Cosa Nostra OCGs	Italy; Spain; Romania	Construction; Wholesale and retail trade ^a ; Bars and restaurants; Manufacturing; Real estate activities
Camorra OCGs	Italy; UK; Spain	Wholesale and retail trade ^a ; Bars and restaurants; Construction; Waste and scrap management; Casinos, VLT and betting activities
'Ndrangheta OCGs	Italy; Germany; Spain	Construction; Bars and restaurants; Hotels and other tourist accommodations; Agriculture and fishing; Wholesale and retail trade ^a

Figure XVII. First three countries and five business sectors with the highest evidence of investment – selected categories of OC. Transcrime, 2015



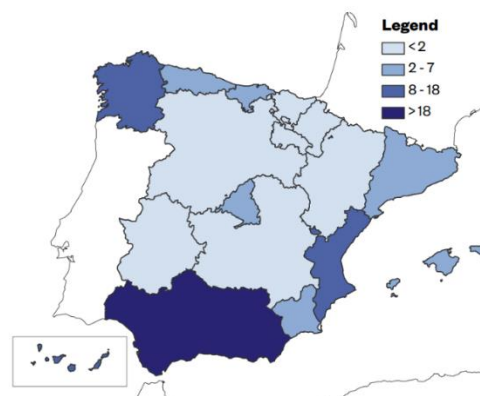
Source: URJC elaboration on PNSD data

Figures XVIII-XIX. Type of assets seized, 2013; confiscation trend of real estate (immovable assets).



Source: URJC elaboration on PNSD data

Figure XX. Number of confiscated assets per region in Spain, 2013;



Source: URJC elaboration on PNSD data

Figure XXI. Geographical distribution of confiscated real estate in Spain (2000-2013)

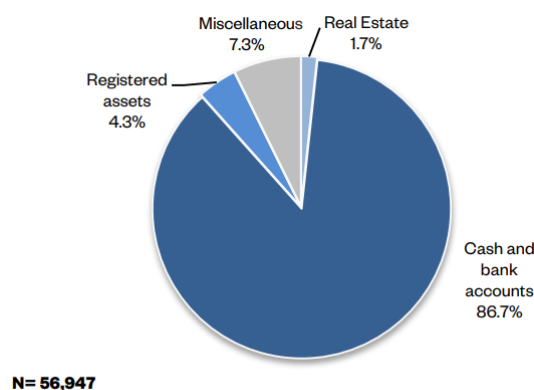
France

The most remunerative market in France (counterfeiting) match with the highest evidence of Italian OC in the region. The other most remunerative ones (fraud, illicit trade in tobacco products, THB and cannabis) register a lower presence of Italian OC. The area with the highest degree of infiltration is PACA (Provence-Alpes-Côte d'Azur, Figure XVI). As noted elsewhere in this paper (see *above*, 1.2), this region offers the mafias an advantage due to the geographical contiguity with Liguria, the bordering Italian region where especially 'Ndrangheta has rooted and done similar investments. There is, therefore, a real continuity of investments in neighboring countries. This is also the official position of the French authorities, according to which the 'Ndrangheta "arrived in the French Riviera about 50 years ago because, after settling in Liguria [...] to carry on along the coast was the natural course"⁵². The most important business sectors providing evidence of Italian mafias investments are gambling (casinos), real estate (hotels) and construction.

Aggregate data on seized and confiscated assets in France are gathered by AGRASC (Agence de Gestion et de Recouvrement des Avoirs Saisis et Confisqués), since 2011. The general trend of confiscation is growing, as assets managed by the Agency grew by 6 times from the initial year of activity to 2014. The value of the assets also grew more than 4 times from 2011 to 2013, from 212 million euro to 1.1 billion euro (+440%). Cash and bank accounts constitute the vast majority of confiscated goods in France (Figure XXII), but it must not be underestimated that the small share of confiscated real estate amounts to more than 50% than the total value (Figure XXIII), and it increased by almost a half from 2012 to 2013. Geographically, confiscations take place mainly in the Paris area, the PACA region, Nord-Pas-de-Calais and Rhône-Alpes (figure XVI). Among assets confiscated in the PACA region, almost all of them are located in the extreme south-eastern part of the territory. Related offences are mainly related to drug trafficking (67.5% in 2013, increasing). Italian owners are the third nationality after French (70%) and Algerian (16%) owners of confiscated immovable assets, but it is difficult to read this statistic, as not

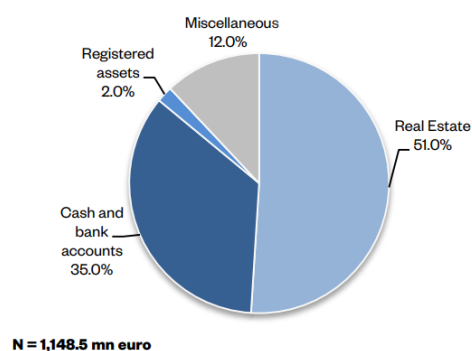
⁵² In this sense, Depierre in *United Mafias of Europe*, in *Il Fatto Quotidiano* online. Article available at: <https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/focus/france/>

only it may have changed, but also owners are not always those who benefit from ownership, but in fact they could as well be middle-men. It is confirmed, though, that assets confiscated to Italians are mainly located in the PACA region⁵³.



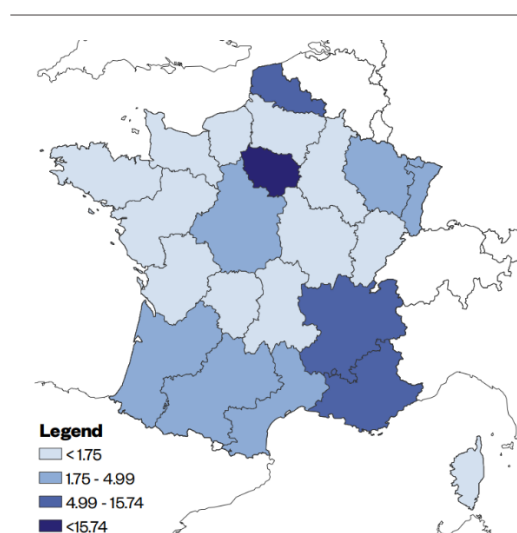
Source: Transcrime elaboration on AGRASC Data (AGRASC 2014)

Figure XXII. Type of assets seized, 2013



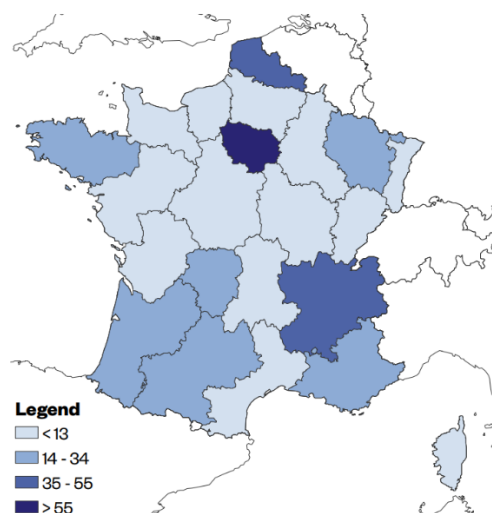
Source: Transcrime elaboration on AGRASC Data (AGRASC 2014)

Figure XXIII. Value per type of asset seized



Source: Transcrime elaboration on AGRASC Data (AGRASC 2014)

Figure XXIV. Value of seized cash, 2014



Source: Transcrime elaboration on AGRASC Data (AGRASC 2014)

Figure XXV. Number of real estate seizures, 2014

⁵³ For the whole paragraph, see P. Standridge and M. Riccardi in *Focus on seven European countries*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP* Transcrime, 2015

The Netherlands

In the Netherlands, Italian mafias are poorly detected despite timidly growing literature reporting the presence of the 'Ndrangheta (0,2% of all cases handled by the Dutch Public Prosecutor between 2003 and 2012)⁵⁴. The presence of Italian OC in this country is, nevertheless, documented and particularly significant. The 'Ndrangheta members found hiding or captured in the Netherlands belong to the most important families of the criminal syndicate. The same applies to the Camorra⁵⁵. The areas with the highest degree of infiltration are Amsterdam and Rotterdam (Figure XVI). These cities have huge ports with excellent infrastructures, an opportunity which is seized by all OC groups of all nationalities.

Unlike the other countries considered in this the study, in the Netherlands there are not many records of specific investments by Italian mafias, but things might change soon. The Netherlands, in fact, have realized that there is a massive presence in their country, and lately they have been adopting a lot of intelligent measures in response. In fact, it remains that especially 'Ndrangheta is massively involved in the drug market in the Netherlands⁵⁶.

Aggregate data on seized and confiscated assets in the Netherlands are gathered by the PPO (Public Prosecutor's Office), which also updates a database on the owner's nationality, thus making it possible to connect them to the criminal syndicate they belong to. The result is quite interesting as the vast majority of suspects with a confiscation procedure pending on them belong to Dutch OC, while the Italian syndicates, as of 2013, did not even appear in the records. The value of confiscations

⁵⁴ For the whole paragraph, see P. Standridge and M. Riccardi in *Focus on seven European countries*, in E. U. Savona and M. Riccardi *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP* Transcrime, 2015

⁵⁵ For a clear overview, see *United Mafias of Europe*, in *Il Fatto Quotidiano* online. Article available at: <https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/map/netherlands/>

⁵⁶ See, for example, A. de Simone in *So the 'Ndrangheta sends every day 10 kg of drugs in Italy and Germany hidden in Dutch flowers*, 2018, available at: <https://video.corriere.it/so-the-ndrangheta-sends-every-day-10-kg-of-drugs-italy-and-germany-hidden-dutch-flowers/8832a0fc-f6b3-11e7-b0f9-ae3913959e9e>. Also see A. de Simone in *I cento mafiosi italiani che fanno affari in Olanda con il narcotraffico*, 2018, available at: <https://www.corriere.it/video-articoli/2018/01/16/i-cento-mafiosi-italiani-che-fanno-affari-olanda-il-narcotraffico-tanti-latitanti-nascosti-qui-si-mostrano-come-normali-simpatici-italiani-bravi-cucina/1633a4e4-fae3-11e7-88bf-04c0b4baa14a.shtml>

is skyrocketing in the Netherlands, too, while the crime relation of OC members with the imposed confiscation are mainly drug trafficking and fraud.

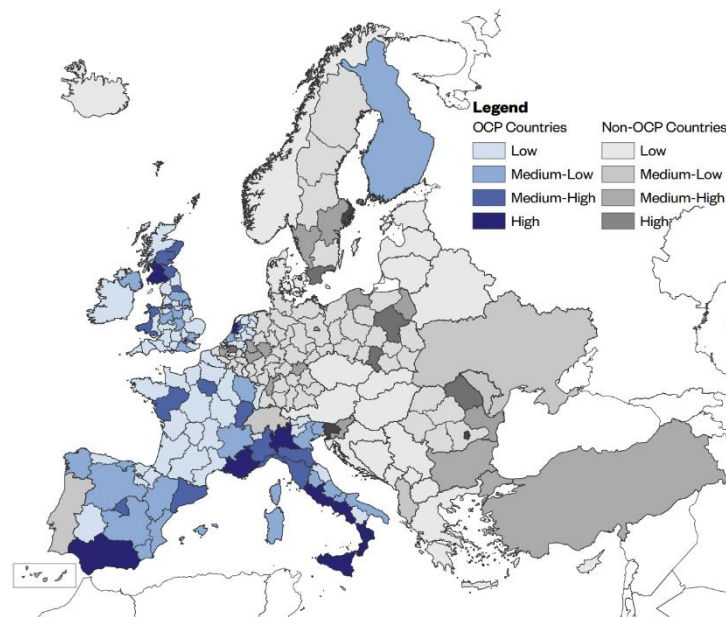


Figure XVI. European regions with evidence of OC investments. Transcrime, 2015

Figure XVI. European regions with

Conclusive remarks

A combined analysis of the data gathered in this chapter, including the illicit markets where illicit proceeds are generated, in what regions they are invested in the legal economy, into what assets and the extent to which these proceeds are seized, allows to draw a conclusion, albeit a partly speculative one. In fact, for it was not possible to calculate the economic cost in terms of growth decrease as it is possible to do in certain Italian territories where the control of the mafias is more stringent. In this sense, mafia concentration is not desirable but it helps estimating the economic impact and highlighting the signals that can tell when an economy is poisoned. A different research method led to different results, focused more on the revenues of OC in general rather than on the wider costs of the presence of mafias. This is less interesting and tells less about how a territory is affected by this, but it is a starting point and temporarily the only way forward.

The data on Spain confirm that the southern territories and coastal areas especially constitute a prosperous market for criminal infiltration. That is also where the most

remunerative investments in the legal economy take place. Both findings are in line with the areas where the majority of Italian mafias investments are found.

The data on France confirm that real estate, a typical interest of Italian mafias, constitute a significant portion in terms of value of OC investment portfolios. The concentration of the confiscated immovable goods in the south-eastern part of the PACA region, especially Côte d'Azur, can lead to confirm that the highest risk of Italian mafia expansion is located there.

As for the Netherlands, it is a positive development that Dutch Authorities, after realizing that mafias are using their great infrastructures to make profits while enjoying a very favorable legislation, have started to enforce an appropriate response involving a great deal of cooperation with both Italian authorities and EUROPOL (see note 48).

These findings allow for a number of further final remarks. In fact, measuring the illicit markets volumes is only one way to look at the impact of mafias over a territory. There are, indeed, broader social and economic-related costs to take into an account. Without the ambition to build an exhaustive list, some of the most relevant include: health and safety costs (related to drugs, tobacco products, forced labor or sexual exploitation); loss of consumers' wealth (and damages to consumers' safety with counterfeited products); loss of taxes (from the local governments to the EU); loss of legal companies' revenues, and when companies are damaged a job loss may follow; distortion of market competition (companies often turn to be perpetrators or accomplices to avoid at first to have losses themselves); law enforcement costs to fight organised crime; violence (from vandalism to homicides).

The findings confirm that there is no room for talk of uncontrolled expansion of mafias abroad. As it was demonstrated, colonization is harder, and it seems not to be part of their strategy (except for 'Ndrangheta). Hopefully, then, mafias cannot reach the same level of control abroad. But money laundering is also a mean for the commission of further illicit activities, which aggravates all the negative impacts mentioned above; it is especially a mean to gain control over a territory, infiltrating and expanding influence on the local politics, public administration and business

community beyond traditional areas. Acknowledging the presence of mafia is in all these cases the first step that the MS have to undertake. Unfortunately, usually this is done only when a blood crime is committed (the massacre in Duisburg is perhaps the most striking case in this regard)⁵⁷, otherwise it is common that the MS refuse to do so. Thus, mafias have had it easy to take advantage of lax frameworks, benefitting from such prejudices. In conclusion, failing to take adequate measures to detect and suppress the investments in the legal sphere has the potential to help criminal syndicates to complete a transition from illegal to clean business, eventually undermining the governing structures that sustain democracy at large. This is even more true in a context in which investments in the legal economy are proving to be a successful tool in the mafia's portfolio.

⁵⁷ But also see the Wiersum homicide in 2019, in R. Saviano *E ora anche l'Olanda si accorge di avere la mafia in casa*, 30.09.2019

4. THE EUROPEAN LEGISLATOR AND THE DEBATE ON THE CRIME OF MAFIA ASSOCIATION

4.1 An Area of Freedom, Security and Justice

Introduction

Judicial cooperation in both civil and criminal matters is established in Title V of the TFEU (Area of Freedom, Security and Justice - AFSJ). Between articles 67 and 89, the Treaty provides a framework without internal borders “in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime”⁵⁸. Within this framework, the Union is called to provide a high level of security through, among else, appropriate measures to prevent and combat crime. In particular, judicial cooperation on criminal matters shall include the approximation of criminal laws⁵⁹. The latter is a particularly sensitive area for many Member States, which regard criminal law as one of the highest expressions of national sovereignty.

The cross-border nature of the modern serious types of crime, and in this case of the infiltration of the mafias into the economic fabric of the Union, generates the necessity of a strong and efficient cooperation among the Member States. This must take place at two levels: the one of the domestic competent authorities, that have to enhance cooperation among themselves within the EU available frameworks; and the one of supranational policy-making within the EU (see *below*, 4.2). In the following paragraphs, measures facilitating cross-border arrest and surrender procedures, as well as improving the gathering and sharing of evidence across the Member States, will be discussed. Finally, the debate about the introduction of the crime of mafia membership will be thoroughly discussed.

⁵⁸ Art. 3(2) TEU

⁵⁹ Art. 67(2)(3) and 82(1) TFEU

Eurojust

In 2002, an EU Council Decision⁶⁰ established Eurojust. On the operational level of the fight against transnational crime within the EU, this is the most important instrument to mention. The Agency provides for judicial cooperation and support of the competent national authorities. In particular, it improves the coordination of investigations among MS and their competent authorities, by facilitating the exchange of information, favoring the establishment of good practices, promoting the sharing of investigative paths and providing for the establishment of Joint Investigation Teams (JITs). On the basis of shared successful practices, it can also play a role in the lobbying for the adoption of legal instruments at EU level⁶¹. The weakness of Eurojust is that it has been designed as an authority without binding powers: its intervention is triggered by one of its National Members⁶², and it cannot work without cooperating with other agencies (like Europol) and especially with the domestic authorities of the MS. Its operational role – not only but also with respect to Italian OC - is hindered by the lack of adequate definition of transnational crimes, too (also see *above*, Chapter 2). Indeed, tackling OC entails the fundamental aspect of raising awareness on the transnational dimension of crimes at stake and on the need to combat them in a coordinated manner. Adequate knowledge is absolutely necessary, and in this respect Eurojust offers its assistance by disseminating information (for example by issuing regular reports on terrorism and Italian organised crime). In particular, it performs a very important task of data collection and development, in a way that they can be used to better cope with transnational crimes. Unfortunately, this makes it highly dependent on information exchange with domestic authorities: if it does not exchange information with them, its functioning

⁶⁰ Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, 2002/187/JHA

⁶¹ In this sense, see F. Lo Voi and F. Giuffrida in *The Dual Role of Eurojust in the Fight Against Transnational Crime: An Overview*, in *The European Review of Organised Crime* 1(2), 2014

⁶² As far as its structure is concerned, Eurojust is composed of 28 desks—one per Member State—and other units which support their activity (Case Analysis Unit, Legal Service, etc.). Each desk is comprised of the National Member (NM), who can be helped by two assistants at most. All of them come from a national judiciary authority or a police body; the administration of Eurojust, on the other hand, provides each desk with one (or two) administrative assistant(s). The body composed by all NMs is called “College” and usually holds meetings once a week. Inside Eurojust, the members of the different desks work together on a voluntary basis and according to their expertise, in different teams

is severely hindered. The more information it receives, instead, the bigger is the role it can play in the improvement of coordination and cooperation⁶³.

Eurojust's exclusive competence is precisely within the areas - specified in Art. 4 of the abovementioned Decision - of OC, terrorism and other forms of serious crime affecting two or more MS in such a way that requires a response in a coordinated manner. Despite its weaknesses, it has proven itself capable of fulfilling its tasks. For example, in a quite recent investigation on a criminal network linked to some Camorra clans involved in counterfeiting and money laundering via Australia and Iceland, Eurojust was able to gather the information coming from the countries involved, promoting a common strategy and coordinating the national investigations. As a result, in 2010, the Italian authorities arrested several members of the organisation and seized 8 hundred tons of goods for 11 million euros, while concurrent actions to secure evidence took place in the other states⁶⁴.

The European Public Prosecutor's Office (EPPO). A failed occasion

The European Public Prosecutor was a great idea that originated from the acknowledgement that existing EU bodies such as Eurojust (see *above*) and Europol are not able to conduct independent criminal investigations and prosecutions. To remedy this lack, and with a view to better protecting the interests of the citizens of all Member States, a Regulation establishing the European Public Prosecutor's Office was adopted in 2017⁶⁵. Unfortunately, due to the abovementioned concerns over the national sovereignty on criminal law (see more *below*, 4.2), not all MS decided to participate, *de facto* diminishing the potential and legitimacy of what could have been, and hopefully can still become, an important innovation on the European scene. For the time being, the office will come into operation at the end of this year

⁶³ In this sense, see F. Lo Voi and F. Giuffrida in *The Dual Role of Eurojust in the Fight Against Transnational Crime: An Overview*, in *The European Review of Organised Crime* 1(2), 2014

⁶⁴ In this sense, see F. Lo Voi and F. Giuffrida in *The Dual Role of Eurojust in the Fight Against Transnational Crime: An Overview*, in *The European Review of Organised Crime* 1(2), 2014

⁶⁵ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')

and will be able to conduct independent investigations for crimes against the EU budget, such as corruption or cross-border VAT fraud.

The European Arrest Warrant (EAW)

The European Arrest Warrant (EAW) entered into force in 2004 following Council Framework decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States⁶⁶. It constitutes an important tool to facilitate cross border arrests and it does not allow anymore a MS refuses to surrender their own citizens to another EU country if that citizen has committed a serious crime in another EU State. To the purpose of this study, the EAW was particularly useful in the La Torre case. The extradition procedure could not be performed for a decade because the Scottish criminal law did not recognize mafia association as a crime. The implementation of the EAW brought the deadlock to an end and the La Torre clan members operating in Scotland were handed over to the Italian authorities. In fact, extradition normally requires an offence to be considered as a crime in both jurisdictions (the double criminality requirement). The EAW abolished this double criminality requirement for 32 categories of serious offences⁶⁷.

The 'whistleblower Directive'

Recently, at the end of last year, the European legislator introduced a new Directive to protect people reporting on breaches of Union law ('whistleblowers')⁶⁸ causing a harm to the public interest in plenty of fields, such as: "public procurement, financial services, prevention of money laundering and terrorist financing, product safety,

⁶⁶ Council Framework decision on the European arrest warrant and the surrender procedures between Member States 2002/584/JHA

⁶⁷ In this sense, see P. Campana in *Understanding then responding to Italian organised crime operations across territories*, in *A Journal of Policy and Practice*, Volume 7, Issue 3, September 2013; also see European arrest warrant, available at: https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/types-judicial-cooperation/european-arrest-warrant_en

⁶⁸ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law

transport safety, protection of the environment, radiation protection and nuclear safety, food safety, animal welfare, public health, consumer protection, protection of privacy and personal data and security of network and information systems, protection of the financial interests of the Union, breaches of internal market rules, including competition and State aid rules or tax avoidance issues”⁶⁹. Whistleblowers are now protected from retaliatory discrimination on the work place, including behaviors such as suspension, dismissals, harassment, etc. The new law can be particularly helpful in the case of corruptive behaviors taking place in both the public and in the public sector. In fact, employers (both public bodies and private companies with at least 50 employees) must provide channels through which whistleblowers can report safely the violations they have witnessed (i.e. anonymously or in whatever way that can preserve them from retaliatory actions from the employer itself or from a hostile working environment).

4.2 The politicization of the fight against the mafias

On the possibility of introducing anti-mafia legislation in the Member States

The difficulties encountered in establishing a European Public Prosecutor (see *above*, 4.1) have anticipated how political and ideological issues between Member States can slow down the process of harmonization necessary for the establishment of an effective and smoothly functioning Area of Freedom, Security and Justice. One issue which is very divisive not only among politicians, but also scholars and jurists, is the introduction of an overarching anti-mafia legislation in the MS. Which entails that the European lawmakers should agree upon and then publish a Regulation or a Directive - more likely a number of Directives - requiring the MS to implement the pieces of legislation in their national criminal systems, and in particular to introduce the offense of membership to a mafia-like association. The latter punishes the mere

⁶⁹ In this sense, see P. B. Quintanilla in *Breakthrough for whistleblowers as EU institutions agree on new law to protect them from retaliation*, 12.3.2019

membership to a mafia syndicate, while, normally, MS criminal systems have the offense of belonging to a simple criminal association.

The European Parliament (EP) and the Council of Ministers (hereinafter referred to as “the Council”) have in general very distant position in topics that involve national sovereignty, and this one does not represent an exception. The Council usually adopts an intergovernmental approach, trying to retain the prerogatives of the nation state at the expense of a collective action. The Parliament normally adopts an opposite stance, true to its nature of supranational institution. An example in this sense is the negotiation on the EPPO, where a real blockage took place when the negotiation arrived at the Council – hence, when the heads of states and governments were involved. The MS did not find an agreement over the file, and unanimity could not be reached. Instead, only a limited number of MS decided to participate through what is called ‘enhanced cooperation’, and as a result the EPPO was left with limited competence and legitimacy.

Those who are in favor of deepening the harmonization on criminal matters have, in fact, many good points. Afterall, they derive this need from real and serious difficulties, which have been addressed in the course of this study. For example, they ask for a common legislation on confiscations and money laundering. An argument in favor of a common framework on seizures and confiscation is that where these are more efficient, the State can recover bigger amounts of money. Improving the management of confiscated companies, for example, can deprive the mafias of an important investment channel in the legal economy. Combating money laundering deprives the mafias of the biggest possibility they have to make a transition from illegal traffic to clean economy. The obligation to establish transparent public registers on owners of trusts and companies allows to combat the strategy of hiding the real owners, which allows to reinvest in the legal economy the proceeds of illicit traffic (see more *below*).

As for the crime of mafia membership, unfortunately, the mere acknowledgement of mafia as a serious issue is still very low in many Member States. There is, as a matter of fact, a resistance by some juridical systems and cultures. When information of a mafia crime is brought to the attention of an Italian magistrate, he must carry on an

investigation. Elsewhere in Europe, criminal prosecution is not obligatory, but it is carried out according to priorities established from year to year. In case an investigation is requested from Italy to, for example, the Netherlands, the Dutch authorities may be more reluctant to follow it up, because they consider it of little importance. But saying that combating mafias is not a priority is also a matter of sensitivity. It is a similar case to what happened when a European strategy against terrorism was being discussed at the time of terrorism in Spain. Many EU countries felt far from the Spanish suffering, lacking common experience. It has now been understood that terrorism is a threat to everyone and no one is free from it⁷⁰. The same thing happens with mafia crimes, as the MS are failing to understand that the deriving suffering is not just an Italian issue, but it affects everyone instead. And yet there are countries that find it hard to see how the mafias are expanding, and by resisting to the introduction of proper norms, they play the game of mafias. The path that occurred in the north of Italy, which believed and was believed to be immune from mafia infiltration, has been retraced. It is ridiculous to think that, taking the example of the 'Ndrangheta, an organization which has the turnover of a small country's GDP can reinvest all the money in the limited area of origin. It is clear, instead, the presence of a mafia investment that followed national and foreign paths looking for channels and markets where there is still a significant public expenditure.

Against the introduction of anti-mafia legislation are those who see it as more difficult, aware of the abovementioned resistances, and therefore suggest less comprehensive but still ambitious measures. Mainly, they talk about introducing laws to combat money laundering and to favor transnational asset seizure, which remain to date largely undeveloped. Beyond the aspect of convenience, the very idea of fighting mafia with an Italian-like anti-mafia legislation is considered unworkable outside Italy (Campana, 2013). This because of the fact that such an alleged need would be based on an incorrect assumption, namely that mafias operate in the same

⁷⁰ In this sense, J. F. L. Aguilar, S&D MEP, – Spain, in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at: <https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

way in every territory where they are present. The evidence collected in this study, in fact, shows that it is not the case (see *above*, Chapter 2)⁷¹.

It is also possible to identify those countries (see *below*) that are more strongly resisting harmonization and also the political groups, which do so for reasons which often has nothing to do with juridical or scientific argumentations: mafia membership is not, in fact, an opinion, nor an ideological offence. Resistance to recognizing this crime when certain systemic offences are committed by mafia associations, instead, is ideological. Conservatives and Populares in the EP are much more refractory to giving up even a very small dose of national sovereignty. This is not only because extending some powerful investigative tools such as wiretapping constitute a particularly intrusive mean in the private life of citizens (not considering that they are not only punitive but also preventive tools); there are, in fact, also reasons of domestic consensus⁷².

Money laundering

Money laundering, as the mafia strategy affecting the most the EU countries, deserves a separate focus. Some EU countries are as a matter of fact resisting common measures in this area. There are some 'usual suspects'⁷³, like Luxemburg, Malta and the Netherlands. When it comes to banning illicit flows, they share a sort of trickledown theory according to which the more these illicit flows pass through their countries the more they get a piece of the cake. In the Netherlands, you can check in money and check them out to third countries (some fiscal paradise) without any questions being asked. Germany is not very virtuous either, in this respect. Transparency needs to be improved in the real estate sector, as no public register on ownership is available (it was not even obligatory until a few years ago). This

⁷¹ In this sense, see P. Campana in *Understanding then responding to Italian organised crime operations across territories*, in *A Journal of Policy and Practice*, Volume 7, Issue 3, September 2013

⁷² In this sense, C. Fava, Vice President of the Parliamentary Antimafia Commission in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

⁷³ In this sense, F. de Masi, former GUE/NGL MEP - Italy in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

facilitates the purchases of mafias in shares of the legal economy, as they can then sell them again, thus completing the money laundering cycle. The sensibility to the mafia issue in Germany has not increased enough, despite the Duisburg facts. In that situation, there has been a window of opportunity when the media brought the attention on Italian mafia, but for many Germans it remains a strictly Italian phenomenon, definitely not one which is profoundly rooted in the German economy. This is false, even if the German case was not part of this study. In this sense, the Commission must put more pressure to improve legislation even in countries like Germany, usually leading by virtuous example, but in this case lacking behind Italy, where measures are more advanced thanks to the experience gained in the fight against Italian mafias. If things do not change, and if Germany and big European economies remain a sort of magnet for this kind of financial flaws, then Italy alone can never succeed in combating the mafia⁷⁴.

Conclusion

The debate on the introduction of Antimafia legislation will remain a thorny one for some time to come. The EP and those who support it should not so hastily dismiss the matter of sovereignty on criminal law, as it is true that a criminal system has to work with the specificities of a country. Those who oppose it should stop doing it on the basis of misconceptions and non-scientific reasons (even worse for reasons of domestic consensus) and most importantly should contribute to at least improve criminal harmonization. Since the Lisbon Treaty, the national sovereignty over criminal law is, in fact, not exclusive anymore. Art. 83 TFEU is the legal basis that appointed the EP (and the Council) as legislator in the area of criminal law and ordered to take a common approach towards organised crime, as well as to trafficking, corruption, and money laundering⁷⁵. In fact, there is a need for a

⁷⁴ In this sense, F. de Masi, former GUE/NGL MEP - Italy in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

⁷⁵ In this sense, J. F. L. Aguilar, S&D MEP, – Spain, in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

European criminal law, that partly already exists, to deal with problems that affect all citizens of the Member States. The Italian Anti-mafia Parliamentary Commission was invited to Bruxelles and it suggested the introduction of the crime of membership to a mafia-like organisation. It remains, so far, unheard. In some MS, the absence of an anti-mafia legislation could even be considered a nonsense. For example in Spain, a country where there is a huge share of the drug trafficking European scene. So if a member of a mafia clan is arrested in Spain, he will be punished individually: the idea of the additional disvalue that the mafia association is loaded with is something that has not entered into this legal culture. Let alone in countries like Germany and the Netherlands⁷⁶.

It may as well take time for the EU countries to become aware that this is not just an Italian problem, but it must be very clear that mafias exploit the regulatory shortcomings to perpetrate criminal activities precisely there where they know that they will not be punished. Furthermore, in the context of a political union such as the EU, it makes only sense to take the good practices developed at national level and make them an available patrimony for all the MS⁷⁷. And in this field, the Italian legislation is in the vanguard.

The pushbacks from certain MEPs and EU countries make it so that when a mafia fact occurs somewhere outside of Italy, the local investigators lack the skills to understand and deal with the phenomenon in its complexity⁷⁸. Moreover, the EPPO can so far deal only with infringements regarding the Single Market, while it has no competence to investigate directly on mafias and OC. At least, finally the Commission has started to work on the mutual recognition of confiscation and seizure measures and on another anti-money laundering Directive. Addressing an issue that is often seen as a problem for Italians only adds difficulties to the harmonization of laws in

⁷⁶ In this sense, C. Fava, Vice President of the Parliamentary Antimafia Commission in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

⁷⁷ In this sense, E. Schlein, S&D MEP – Italy, in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

⁷⁸ In this sense, L. Ferrara, former EFDD MEP – Italy, now Non-attached member, in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at:

<https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

this particular field, and obstacles to more effective cooperation. The MS must not fail to see the bigger picture and shall instead allow the European machine to work in accordance with the AFSJ framework. The path to take has already been written with the Treaty of Lisbon. Now the Member States must do what has been promised⁷⁹.

⁷⁹ In this sense, J. F. L. Aguilar, S&D MEP, – Spain, in *United Mafias of Europe*, in *Il Fatto Quotidiano online*. Interview available at: <https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/video/>

CONCLUSION

The aim of this study was to inform on the *modus operandi* of Italian mafias abroad, and on the multifold threat they represent for the countries where their presence has been registered. In particular, experts agree on the fact that the focus on economic activities, profit and legitimate business is what characterizes the Italian organised crime's action abroad. Therefore, the research has been carried out mainly from an economic point of view, with the aim of measuring, where possible, the scale and the scope of the phenomenon. By doing this, it was possible to reach a number of satisfying conclusions, and others underlying the need for further research and legislative work in the field.

In the first place, it has been demonstrated that when mafias act abroad, the control over the new territories where they established roots is by no means comparable to the monopolistic and parasitic control that they exercise in their areas of origin in Italy. The activities to which mafias are dedicated change as well. In fact, on one hand, mafias tend to join illegal markets without seeking to control them; on the other hand, their main focus is to develop complex money laundering schemes through which to invest in the legal economy the proceeds generated on international criminal markets, in order to complete the transition from the criminal to the legal sphere. Finally, violence and blood crimes are very low abroad, and the business of protection is almost nonexistent.

The strategy has been called 'functional diversification'. It indicates that instead of expanding their activities elsewhere, mafias prefer to diversify them according to the environment and the opportunities they seize, along "lines of functional diversification"⁸⁰. Recognizing that this is the main approach adopted by mafias abroad is the starting point to draw tailored counter-measures when abstracting from the general case history to a specific case history. It was also the starting point for this study to decide to focus on the nature, size and extent of the presence of

⁸⁰ P. Campana in *Eavesdropping on the Mob: the functional diversification of Mafia activities across territories*, in *European Journal of Criminology* 8(3) 213–228, 2011

mafias abroad in an attempt to measure the resulting impact on the economic and social fabric of the host countries.

A collateral finding in this area has been that mafias tend to adopt the structure of limited liability companies when they invest in the legal economy. This structure is considered ideal to successfully hide the real ownership of the company, using figureheads as disguises. It has been added that mafia companies tend to have low level of financial debt and higher level of current assets than their legitimate competitors; that they often employ more staff than necessary; that they are often not well managed, and therefore their profitability is lower or equal to that of legal peers. These are important information to detect the signals of a potentially poisoned sector of the economy.

In the second place, the study has tried to measure the economic impact of the presence of mafias in a given territory. A first discriminating factor in this case was the quality of the available data and figures. A second discriminating factor was the criminal density in the various countries where the research was conducted. Taking this into account, two methods have been used to assess in the most precise way the goal set.

Where data were consistent and specific and the criminal density is higher, as it is the case in Italy, it has been possible to compare the economic performance of the treated territories in condition of absence of organised crime with the actual one. Taking into account growth parameters, such as government expenditures and private investments, it has been finally possible to estimate a precise GDP loss (in the case studied, 16%). The conclusion in this case has been that a high criminal density of mafias prevents the economy to work in normal conditions, causing in particular a reallocation of the economic activities from more to less productive ones.

A collateral finding in this area has been that the poor economic performance of the treated regions goes hand in hand with a contemporary decrease in private investment and an increase in public expenditures. As private actors are discouraged from investing, the government increases public expenditure, in an

attempt to avoid a drop in employment. Unlike most of private firms, public ones are equipped to bear the increased costs of production caused by the mafia racket. The problem is that mafias absorb a consistent share of the public expenditure as they can both corrupt public officers and discourage private competition resorting to their intimidatory power.

A further collateral finding has been the establishment of a relation between a high criminal concentration and an exceptionally high murder rate in the treated areas.

In the different case of Member States other than Italy, instead, data are scattered and the presence of Italian mafias is not consistent enough to allow them to have the same territorial control that they have in some Italian regions. Because of this, it has been at best possible to draw a merely speculative conclusion on the nature and on the size of the influence of mafias over a territory. A similar result was reached with regard to the question about the origin of criminal proceeds and the size of the criminal markets where they are generated. More specifically, the figure on the value of the overall business was combined with the information provided on the geographical location of the investments of mafias, the economic sectors that receive most of them and with data on seizures. The result was only partially satisfying in so far as it did not provide a precise figure of the economic impact of mafias but rather a speculation about their revenues.

A collateral finding in this area was that mafias tend to invest in business and areas with specific characteristics. Normally, border areas are considered attractive. Often, they are important commercial stopovers, like ports, large urban areas or touristic and coastal areas. Sometimes they are regions with a historically well-rooted strong presence of Italian OC. Overall, it has been concluded that mafia activities are more intense where business opportunities are higher.

Collateral findings in the area of mafias' investment portfolio in the legal economy of the Member States were that mafias tend to invest in cash and labor-intensive sectors, such as food and catering, wholesale and retail trade, transportations, real estate and especially constructions. In fact, it has been pointed out in the study that the expansion of the mafia business is sustained by the enormous comparative

advantages that make criminal enterprises more competitive than legal ones and which derive from the huge cash reserves of mafias.

Finally, in the third place, the study has lifted the veil on the lack of cohesion of the Member States when it comes to make common decision in criminal matters. Despite since the Lisbon Treaty the TFEU provides the legal basis for the production of a European Criminal Law, the Member States are reluctant to give in their prerogatives in an area considered as one of the highest expressions of national sovereignty. Overall, this approach generated so far only weak instruments of concerted response to transnational organised crime, which are highly dependent on the Member States' initiative and willingness to cooperate. Similarly, there is no agreement on the adoption of an Italian-style Antimafia legislation. In fact, the study has highlighted that so far the mere acknowledgement of mafia as a serious issue is still very low in many EU countries. It has been argued that there is a twofold resistance in this respect, both legal and cultural. Countries that have little experience and understanding of the mafia phenomenon find it difficult to relate with the suffering of the Italians. As for the resistance originated within the EP, domestic consensus has been highlighted as one of the reasons for this resistance. The study has pointed out that difficulties have arisen even with regard to the introduction of measures to combat money laundering. In this case it is the economic aspect that explains the reluctance of some EU countries to introduce restrictive measures. The fear is to lose the economic gain generated by these cash flows. The study has concluded that as long as strong and healthy EU economies remain a sort of magnet for non-transparent cash flows, it will be impossible for Italy alone to succeed in combating the mafia.

In conclusion, the study has highlighted the capacity of Italian mafias to exploit the opportunities of a global economic market and their adaptability to changes. Pursuing maximum profit and consolidation of power, mafias have been able to create new threats to society through legal economy⁸¹, as well as to adapt their strategy according to the territory that hosts them, breaking down both

⁸¹ In this sense, see E. D'Angelo and M. Musumeci in *Organized Crime and the Legal Economy. The Italian case*, in UNICRI, 2016

geographical and political barriers. This makes them a truly common EU problem, that requires coordinated response. In this respect, and given the difficulties encountered in this research, the study has encouraged a deeper legislative harmonization at EU level as well as a more enhanced investigative cooperation among the Member States. The EU must become the propeller of a better data collection and promote harmonization in those areas of national legislation that can improve confiscation of companies and goods, tracing money flows and other innovative solutions. This way it will be more likely to track down criminal enterprises and unbundle their impact over territories.

The risk of the current approach is to underestimate the phenomenon and fail to take adequate measures to detect and suppress it. As a result, it is inevitable that not only the free market, but in the end also the governing structures that sustain democracy at large, will eventually be affected.

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