

ALLEGATO 1

### **NOTICE**

In its sitting of 21st February 2018, the Parliamentary Committee of Inquiry into Mafia-related and other criminal organizations, including foreign organizations, decided to have some chapters of the final report of its proceedings translated and published as an annex to the verbatim report of the above sitting.

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## 1. Background

Law n. 87 of 19 July 2013 established, for the duration of the Seventeenth Parliament, a Parliamentary Committee of Inquiry into Mafia-related and other criminal organizations, including foreign organizations. Over the course of previous parliamentary terms of the Italian Republic, another nine Parliamentary Committees of Inquiry into the mafia were set up by law<sup>1</sup>.

The Committee was established with the election of the Bureau (chairwoman Rosy Bindi, MP) during the session of 22 October 2013 and inaugurated its activities by symbolically holding the first two sessions in the Seventeenth Parliament in Reggio Calabria on 9 and 10 December 2013, with the hearing of the Minister of Justice and the Anti-mafia Public Prosecutor, and in Milan on 16 and 17 December of that year, with the hearing of the Minister of the Interior and the Director of the Anti-mafia Investigation Directorate.

The Committee is tasked with investigating mafia infiltration into Italy's institutional and social fabric in all its complexity, through the traditional modalities it has used in its inquiries: plenary Committee sessions, sessions of the fifteen sub-committees, and missions, the first of which took place in Palermo<sup>2</sup>.

In addition, the Anti-mafia Committee continued its traditional function of acquiring documents, with impressive results during this Parliament: as of 25 January 2018, the total of archived items amounted to 5,493, including documents (3,713), complaints (1,555) and anonymous reports (225), in addition to the verbatim reports of the hearings held during Committee sessions – both plenary and sub-committee – and those held during missions.

Additionally, as part of an intensive effort to give greater visibility to the history of the Committee and to the work carried out during previous parliamentary terms, the Committee has decided to digitalize – in view of future publication – all of the verbatim reports of the first Anti-mafia Committee (the Parliamentary Committee of Inquiry into the Mafia Phenomenon in Sicily), the so-called “Great anti-mafia Committee”, established during the Third Parliament with law n. 1720 of 1962, and which concluded its work at the end of the Fourth Parliament in 1976. Again with the

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<sup>1</sup> The Parliamentary Committee of Inquiry into the Mafia Phenomenon in Sicily was first established by law n. 1720 of 20 December 1962, during the Third Parliament, and chaired by MP Paolo Rossi. During the Fourth Parliament, it was chaired by Senator Donato Pafundi, during the Fifth Parliament by MP Francesco Cattanei, and during the Sixth Parliament by Senator Luigi Carraro. The Committee's work ended in 1976, at the conclusion of the Sixth Parliament. The second Anti-mafia Committee was established for a duration of three years by the Rognoni-La Torre law (law n. 646 of 13 September 1982), chaired first by Senator Nicola Lapenta and subsequently by MP Abdon Alinovi. It did not have powers of inquiry and was established for the sole purpose of assessing the enforcement of national laws relating to the mafia phenomenon and its links. Its work ended in 1987, at the conclusion of the Ninth Parliament, as a result of the extension set out under law n. 12 of 31 January 1986. The third Anti-mafia Committee was established in March 1988 (law n. 94 of 23 March 1988), for the duration of three years, and was chaired by Senator Gerardo Chiaromonte. It had powers of inquiry and its work ended, after the extension set out under law n. 229 of 27 July 1991, with the conclusion of the Tenth Parliament in 1992. The fourth Anti-mafia Committee was established in August 1992 with powers of inquiry (law decree n. 306 of 8 June 1992 as amended and enacted through law n. 356 of 7 August 1992), chaired by MP Luciano Violante, and carried out its parliamentary inquiry for the duration of the Eleventh Parliament. The fifth Anti-mafia Committee was established in June 1994 (law n. 430 of 30 June 1994), chaired by MP Tiziana Parenti, and carried out its parliamentary inquiry for the duration of the Twelfth Parliament. The sixth Anti-mafia Committee was established by law n. 509 of 1 October 1996, chaired by Senator Ottaviano Del Turco, replaced during the final part of the Parliament by MP Giuseppe Lumia, and carried out its parliamentary inquiry for the duration of the Thirteenth Parliament. The seventh Anti-mafia Committee was established by law n. 306 of 19 October 2001, n. 306, chaired by Senator Roberto Centaro, and carried out its parliamentary inquiry for the duration of the Fourteenth Parliament. The eighth Anti-mafia Committee was established by law n. 277 of 27 October 2006, chaired by MP Francesco Forgione, and carried out its parliamentary inquiry for the duration of the Fifteenth Parliament. The ninth Anti-mafia Committee was established by law n. 132 of 4 August 2008, chaired by Senator Giuseppe Pisanu, and carried out its parliamentary inquiry for the duration of the Sixteenth Parliament.

<sup>2</sup> The list of missions, together with information on the purpose and the activities carried out during each, is attached to this report. The first mission, which took place in Palermo on 26 November 2013, was organized to express solidarity with the magistrates of the District Attorney's Office after the grave threats received and to urge the adoption of adequate security measures.

purpose of preserving and publicizing the “anti-mafia Committee’s living memory”, the Committee re-published the “*Relazione di minoranza a firma dei deputati La Torre, Benedetti e Malagugini e dei senatori Adamoli, Chiaromonte, Lugnano e Maffioletti, nonché del deputato Terranova*” [‘Minority report authored by MPs La Torre, Benedetti, and Malagugini and Senators Adamoli, Chiaromonte, Lugano, and Maffioletti, in addition to MP Terranova’], submitted on 4 February 1976 upon conclusion of the work of the Parliamentary Committee of Inquiry on the Phenomenon of the Mafia in Sicily (Doc. XXIII n. 12), and published other archival documents deemed to be of historical interest.

In this regard, the Committee has begun the procedure to de-classify the report drafted in 1989 by the High Commissioner for Mafia Investigations related to investigations of the so-called “*pista nera*” (black trail), namely the suspicion of neo-fascist involvement in the 1980 murder of the President of the Regional Government of Sicily Piersanti Mattarella; it has made available Committee archival documents on the massacre at Portella della Ginestra; it has published records and documents on the murder of the magistrate Rosario Livatino, along with the verbatim report of the hearing of 21 September 2016 with an eyewitness to the judge’s murder, Piero Ivano Nava – who is still living under protection and had never testified before in a parliamentary setting –, whose testimony made it possible to immediately identify and subsequently convict the murderers (“*Per la memoria di Rosario Livatino. Pubblicazione di atti e documenti*”, Doc. XXIII, n. 21); finally, on the 25th anniversary of the Capaci and Via d’Amelio massacres, the Committee undertook to bring together all trial documents from the mafia’s war on the state, thus augmenting the documentation already in its possession with all existing records related both to completed and ongoing trials.

The activities carried out by this Committee over the course of this Parliament objectively stood out for the scope of the parliamentary inquiry, which was quantitatively far superior to that of previous Committees. A total of 244 sessions were held (the previous high was 122 during the previous Parliament), 131 sub-committee meetings (with 174 hearings) and 105 missions<sup>3</sup> in Italy and abroad.

A total of 20 reports were approved<sup>4</sup>, from which two draft laws were drawn, one for overhauling the anti-mafia code and one for reforming the witness protection system. Both were approved by the Chamber and the Senate and have become law<sup>5</sup>.

<sup>3</sup> A total of 54 missions elsewhere in Italy were carried out for the purpose of local information gathering; a total of eight study missions were carried out abroad; a total of 12 inspections were carried out in prisons or other sites of interest; and the Committee participated in 31 external events, including public rallies, commemorations, conferences, and the like.

<sup>4</sup> With respect to the final drafting of this document, it is to be noted that during the examination of the final report in the session of 7 February 2018, the Committee agreed to remove certain topics (murder of Mico Geraci, theft of Caravaggio’s *Nativity*, and death of Attilio Manca) that were the object of three reports approved during the subsequent session of 21 February 2018; the Manca case was also the object of a minority report authored by MPs Giulia Sarti, Francesco D’Uva, and Fabiana Dadone and Senators Luigi Gaetti and Mario Michele Giarrusso. The full list of the reports is available in Annex 1 of this document.

During the same hearing of 21 February 2018, the Committee also decided to publish the following documents – either drafted or acquired by the Committee over the course of its activities or those of previous Committees – as annexes to the verbatim report of the session: 1) *Relazione dell’Alto Commissario per il coordinamento della lotta contro la delinquenza mafiosa dell’8 settembre 1989 sull’omicidio dell’on. Piersanti Mattarella del 6 gennaio 1980* [‘Report of the High Commissioner for coordinating the fight against mafia crime of 8 September 1989 on the murder of MP Piersanti Mattarella of 6 January 1980’]; 2) *Atti e documenti riferibili alla strage di Portella della Ginestra* [‘Documents and records on the Portella della Ginestra massacre’]; 3) *Resoconti delle missioni a Trapani del 4 dicembre 1989 e del 24 settembre 1991 contenenti le audizioni dell’allora procuratore della Repubblica presso il tribunale di Marsala, Paolo Borsellino* [‘Report on the missions to Trapani of 4 December 1989 and 24 September 1991 containing the hearings with the then-Public Prosecutor at the Court of Marsala, Paolo Borsellino’].

Finally, the Committee deliberated to de-classify the verbatim reports of the first Anti-mafia Committee (Fourth, Fifth, and Sixth Parliaments).

<sup>5</sup> Law n. 161 of 17 October 2017 on “Modification to the code of anti-mafia laws and prevention measures provided for in legislative decree n. 159 of 6 September 2011, the penal code and implementation, coordination, and transitional provisions of the code of criminal procedure and other provisions. Conferral of delegated powers upon the Government for the protection of workers in enterprises seized or confiscated” and law n. 6 of 11 January 2018, n. 6 on “Provisions for witness protection”.

The quantitative data reflects the approach adopted by the Committee, which combined institutional hearings and the in-depth attention paid to traditional mafia strongholds with fact-finding investigations into the changes in the mafia phenomenon, whose infiltration into the legal economy and sectors of society generally thought to be immune from it is increasingly difficult to detect and as such all the more dangerous. The scope of the inquiry included all ‘sensitive’ sectors, and thus all political, social, and economic fields, in order to identify the entry points for possible mafia contamination, while trying to involve all interested public and private actors and encouraging them to fully acknowledge the risks associated with this phenomenon, which are still under-estimated, especially in regions where public perception of this risk remains inadequate. Indeed, the mafias have long since shed their skin, and through this transformation they have remained true to themselves while able to keep abreast of societal changes at the local and global levels.

As concerns its methodology, the Committee followed a number of guidelines characterized by the fullest institutional participation and collaboration, in the conviction that this can help achieve the goal of greater efficacy in fighting mafia-related criminal organizations. Important institutional synergies were achieved in terms of substance and methodology, both through high-level collaborations and through the sharing of operational tools, particularly with the High Council of the Judiciary, the Ministries of Justice and the Interior, the Bank of Italy, the National Anti-mafia and Anti-terrorism Directorate, the State Police, the Carabinieri, the Financial Police, and the Anti-mafia Investigation Directorate (DIA). Without these fundamental contributions, many of the institutional tasks of the Committee could not have been adequately performed.

First and foremost, the Committee carried out its functions of political investigation by holding hearings at the highest institutional political, administrative, and judicial levels and involving the top echelons of law enforcement and intelligence agencies.

It has also maintained a constant focus on economic issues, particularly the social and economic impact of mafia activity on the productive system, in addition to assessing the efficacy of legislation in the prevention and repression of the accumulation of illicit assets, money laundering, and the use of goods arising from the activities of mafia-related organized crime.

Particular attention was also constantly devoted – especially when examining local issues – to social aspects, both with regards to family members of mafia victims and to the world of anti-mafia, anti-racket, and anti-usury associations, without forgetting the special consideration the Committee bestowed upon the role and history of witnesses.

The strengthening of the political and parliamentary profile of the Committee’s work, which was developed without preconceptions or prejudices through intensively listening to institutional actors and the many associations on the front lines of the fight against the mafias, made it possible to fully involve in the Committee’s investigative work all of the parliamentary groups present therein, including those of the opposition.

All of the Committee’s reports were approved unanimously or nearly so, and the few qualifications that emerged never undermined the basic agreement on the framework of the analysis and proposals made. This methodology was inspired by the principle of maximum consensus, while respecting the diversity of political positions and orientations represented in Parliament, and aimed to keep the Committee as far as possible from appearing divided in the fight against criminal organizations. This reflected the choice of re-affirming the autonomy and specificity of the role of political institutions in the fight against the mafias.

We believe that the function of a political body, albeit in keeping with the peculiar nature outlined in article 82 of the Constitution with the powers it attributes to the Committee, lies mainly in activities inspired by the principle of free determination and autonomy with regards to other state bodies and public administrations, within a framework of loyal institutional collaboration, particularly with regards to the judiciary.

The Committee has always closely and carefully followed judicial investigations, and it has always respectfully acknowledged the outcome of trials. At the same time, when necessary it has not hesitated to exert – autonomously, independently, directly, and in full – all of its prerogatives, which

include powers of judicial authority. Indeed, the Committee has directly carried out investigations, both in parliamentary and in judicial form, in its judging and prosecuting functions, through evidence and means of gathering evidence as regulated by the code of criminal procedure, in accordance with the Constitution and the law establishing the Committee.

In some cases, it was necessary to place even greater responsibility on those called upon to testify before the Committee, by giving them the formal legal status of witnesses - according to article 4 of the law establishing the Committee - bound to “reply truthfully to questions” (article 198 of the code of criminal procedure) and criminally liable in case of perjury or reticence before a judge (article 372 of the criminal code and article 207 of the code of criminal procedure). This happened in particular as part of the investigation into the connection between the mafias and the freemasonry, in which the Committee issued a search and seizure warrant pursuant to article 247 and following articles of the code of criminal procedure, in light of the repeated unwillingness of the parties in question to collaborate with the Committee.

By the same token, the Committee has, on several occasions, requested the assistance of the National Anti-mafia and Anti-terrorism Prosecutor in order to access the records and databases provided for under article 117 of the criminal code<sup>6</sup>, only for data not covered by investigative secrecy, as part of a well-nigh structural form of collaboration recognized by the High Council of the Judiciary. This took place in particular with regards to activities related to new elections for regional or municipal councils dissolved or inspected for mafia infiltration.

Indeed, it is not the Committee’s task to overlap with or duplicate the work carried out by the judiciary or by law enforcement agencies, which play an extraordinary role in Italy’s life and achieve outstanding results. In any regard, the Committee has always maintained intense cooperation and a frank dialogue with these institutions, in keeping with the diversity of functions, and beginning with the National Anti-mafia and Anti-terrorism Directorate (DNA) and the Anti-mafia Investigation Directorate (DIA). In these years, the Parliamentary Committee of Inquiry has tried as much as possible to stress the need for politicians – beginning with political parties and movements – and national and local institutions to autonomously take on responsibilities in the fight against mafia-related organized crime.

In this regard, the Committee plays a key role as a “bridge” between the findings of judicial investigations, from which it draws precious knowledge for understanding the mafia phenomenon and the new strategic approaches of mafia organizations, and the public policy sector, towards which the Committee – either by initiative of the chairperson or of one or more of its parliamentary members – promotes legislative modifications or attempts to draw the government’s attention towards urgent matters of public interest.

The Committee paid particular attention to regional and local issues, and leveraged its guiding role as the ‘national’ anti-mafia Committee vis-à-vis its regional counterparts in Italy. This is the framework for the events held at the national level in 2015 in the presence of the President of the Republic and in 2017 with the presidents of the regional governments, the Conference of the presidents of regional councils and autonomous provinces, the chairpersons of all the regional anti-mafia committees, and the mayors of several major cities.

Over the years, this ‘unifying’ role has been accompanied by a deeper awareness and increasing commitment on the part of regional institutions in fighting mafia-related criminal organizations through the creation of regional anti-mafia committees or observatories. The choice of strengthening the local dimension of the fight against the mafias reflects the attention that the mafias themselves have devoted to regional and local government bodies, used as bridgeheads to infiltrate Italy’s administrative and institutional structure.

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<sup>6</sup> As amended by article 9, paragraph 3, letters a) and b), of law decree n. 7 of 18 February 2015, as amended and enacted by law n. 43 of 17 April 2015 on “Urgent measures for the fight against terrorism, including international terrorism, and extension of international missions by police and armed forces, development cooperation initiatives, and support for reconstruction and participation in International Organization initiatives for the consolidation of peace and stabilization processes” (so-called anti-terrorism decree).

The Committee thus aimed to emphasize the political function of its investigations as a tool to shed light on the mafia phenomenon, by analysing not only its criminal dimension, but also the political, cultural, and social ones, and particularly its forceful expansion, which has greatly influenced the Committee's view of the phenomenon and its effects, as well as of actions to prevent and counter it.

The Committee's wide-ranging activity is well illustrated by the broad (though non-exhaustive) range of the issues it has tackled, which can be inferred from the list of sub-committees established beginning in 2014, and to which the Committee itself has delegated extensive fact-finding activities through numerous hearings: from the fight against the mafia at the European and international levels to human trafficking and new forms of slavery; from mafia infiltration in local institutions and bodies to public contracts; from the culture of legality, minors, schools and universities to the victims of the mafia, witnesses, and collaborators with justice; from infiltrations in the legal economy, businesses, and the white-collar world to the relationship between the mafia, journalists, and the media; from mafia infiltrations in legal and illegal gambling to the relationships between the mafia and sporting events.

The coordination between the work of the Committee as a whole and the activities of the sub-committees produced important results, often in the form of draft reports approved in a sub-committee setting and then submitted to the entire Committee for discussion and approval, and in some cases for subsequent transmission to the Chamber of Deputies and to the Senate, sometimes with the approval of resolutions. For instance, the following documents are the result of the preparatory work carried out by the sub-committees, on a mandate from the Bureau and under the constant coordination of the chairperson: *Relazione sulle prospettive di riforma del sistema di gestione dei beni sequestrati e confiscati alla criminalità organizzata* [‘Report on the outlook for the reform of the management system for assets seized and confiscated from organized crime’] (Doc. XXIII, n. 1), *Relazione sul semestre di presidenza italiana dell’Unione europea e sulla lotta alla criminalità mafiosa su base europea ed extraeuropea* [Report on the six-month Italian Presidency of the Council of the European Union and the fight against mafia crime on a European and extra-European basis] (Doc. XXIII, n. 2), *Relazione sul sistema di protezione dei testimoni di giustizia* [‘Report on the witness protection system’] (Doc. XXIII, n. 4), *Relazione sulle disposizioni per una revisione organica del codice antimafia e delle misure di prevenzione di cui al decreto legislativo del 6 settembre 2011, n. 159* [Report on the provisions for a thorough revision of the anti-mafia code and preventive measures as set out under legislative decree n. 159 of 6 September 2011] (Doc. XXIII, n. 5), *Relazione sullo stato dell’informazione e sulla condizione dei giornalisti minacciati dalle mafie* [‘Report on the state of information and on the conditions of journalists under threat from the mafias’] (Doc. XXIII, n. 6), *Relazione sulle infiltrazioni mafiose e criminali nel gioco lecito e illecito* [‘Report on mafia and criminal infiltrations in the legal and illegal gambling sectors’] (Doc. XXIII, n. 18), *Relazione su mafie, migranti e tratta di esseri umani, nuove forme di schiavitù* [‘Report on the mafias, migrants, and human trafficking: new forms of slavery’] (Doc. XXIII, n. 30), *Relazione su mafia e calcio* [‘Report on the mafia and football’] (Doc. XXIII, n. 31).

The list of topics the Committee explored clearly underscores the increasing complexity and pervasiveness of the mafia. In addition to these, others were discussed directly by the Committee as a whole, such as the investigations on civil anti-mafia movements, on the Article 41-*bis* strict prison regime, on the health care sector or on the relationship between the mafia and religion, which will be discussed in more detail below. In the paragraphs in which we discuss topics that were examined in specific reports, we merely present a summary and update of the work in question; a more complete picture is provided in the reports themselves, approved by the Committee, and whose contents are an integral part of the overall assessments contained in this Final Report.

Concerning the in-depth analyses of local issues, a fundamental role was played by the Committee's missions, with an ample array of hearings, the summaries of which are attached to this Report together with the list of the individuals and entities called to testify and the main topics that were discussed. Since the beginning of its mandate, the Committee decided to carry out a thorough

programme of visits throughout Italy that would not be centred on traditional mafia strongholds. This is a departure from normal procedure, but is in keeping with the rationale implicit in the tasks outlined under article 1, paragraph 1, letter e) of the law establishing the Committee.

In light of the national scope of the mafia phenomenon, the Committee deemed it opportune to visit, for the first time, all of Italy's 26 judiciary districts and every province in each of the four regions – Calabria, Campania, Apulia, and Sicily – in which the mafia has traditionally been present. At the end of its mandate, the Committee fully complied with this programme and visited every Italian region, including Valle d'Aosta, the only region included in the judicial district of another region, Piedmont.

The Committee's missions, which took place in compliance with article 142 of the Rules of Procedure of the Chamber of Deputies, were an integral part of investigative activities, and the local scope of the mafia phenomenon was carefully examined, in part due to the perceived importance at the local level of issues that cannot always be properly discussed in a plenary session setting. Indeed, local issues can more profitably be examined in a mission setting, when the Committee invites all local institutional representatives, which as is customary include the prefect, all of the representatives of the law enforcement agencies comprising the committee for public security and order, the local director of the DIA, the district attorney, circuit prosecutors, and any other relevant stakeholders, including non-institutional ones. The attention paid to the concrete situation of organized crime on the ground, in every Italian region, proved to be a formidable tool in shedding light on other situations which constantly kept the Committee occupied during the present Parliament, namely those related to the monitoring of mafia attempts to influence and infiltrate local authorities and the relationship between the mafia and politics (article 1, paragraph 1, letters f) and n), of the law establishing the Committee).

The Committee's activities extended to the international level with a series of missions abroad (European Parliament, Canada, Spain, Republic of San Marino, The Netherlands, Malta), with a particular focus on how the mafias launder profits made abroad, drug trafficking, cross-border cooperation between investigative agencies, fugitive Italian *mafiosi* hiding abroad, and the infiltration of organized crime in the gambling sector, including online betting. The development of an "anti-mafia diplomacy" had a dual objective: on the one hand, stimulating the dissemination of adequate regulatory tools, and on the other promoting anti-mafia culture outside of the borders of Italy and the European Union. We believe that the new frontier for the fight against the mafia lies in its international dimension, and the Committee must continue its efforts to raise awareness among its European and international partners on the need to invest together in the security of the citizenry. The increasingly international fight against the mafias is part of the core of this objective.

The Committee also continued in its intent to combine in an original manner the functions related to legislative activity with a focus on current affairs, and has undertaken to respond as quickly as possible to the new events and matters of interest that seemed to unfold on a daily basis. The relevance of mafia-related affairs to public opinion is underscored by the constant attention such issues receive in the media. We have thus tried to accommodate this interest on the part of public opinion through a series of initiatives, both in Parliament and elsewhere throughout Italy.

First of all, starting in 2014 the Committee promoted the public presentation, in Parliament, of the annual reports of the National Anti-Mafia Prosecutor, and it hopes that this opportunity for shared reflection in Parliament will continue in the future.

Great importance has also been given to the participatory and cultural aspects of the fight against the mafias. The Committee promoted the organization of or participated in conferences and meetings, some of which were commemorations of mafia victims, as is fitting (the anniversaries of the massacres of Portella della Ginestra, Capaci, and Via d'Amelio, and of the murders of the President of the Sicilian regional government Piersanti Mattarella, the regional chairman of the Italian Communist Party Pio La Torre, general Carlo Alberto dalla Chiesa and the judge Rosario Livatino, just to name a few and without meaning to overlook all other such initiatives) and others that were cultural or scientific in nature, that aimed to document and delve into the mafia phenomenon and the

instruments used to fight it; among others, these include the memorandum of understanding signed between the Committee and the Conference of Italian University Rectors (CRUI), the conference on the 50<sup>th</sup> anniversary of the establishment of the first Anti-mafia Parliamentary Committee, and the initiatives related to the so-called “anti-mafia month in Parliament”, with cultural events and presentations of books and films on this topic – including those on Father Giuseppe Diana and Father Pino Puglisi – in Parliament.

Finally, on 21 September 2017 the Anti-mafia Parliamentary Committee was received by Pope Francis in the Vatican. Naturally, during this Parliament this was the most important opportunity for the Parliament and the Catholic Church to discuss issues of legality. This special audience was granted on the occasion of the anniversary of the murder of the judge Rosario Livatino.

In his remarks, Pope Francis encouraged the political world to make fighting the mafias a priority, and reiterated the “contagious and parasitic” nature of corruption, a “poisonous root that tampers with healthy competition and drives away investment”, “a *habitus* built upon the idolatry of money and the commoditisation of human dignity” which must be “fought with measures no less incisive than those used against the mafias”.

Fighting against the mafias goes beyond just law enforcement, “it also means to restore, transform, and build” by acting on two different levels: the political level “through greater social justice” and the economic level, “through the correction or elimination of those mechanisms that everywhere generate inequality and poverty”.

The text of the Holy Father’s remarks to the members and associates of the Parliamentary Committee of Inquiry is published as an annex to the verbatim report of the session of 10 October 2017, together with the words of greeting of the Committee’s chairwoman.

## 2. The evolution of the mafia's method: intimidation, corruption, and grey areas

The Committee's work has made it possible to acquire data whose analysis can provide an overview of the recent trends and the main changes that have affected the mafias. While keeping in mind the differences in geographic scope, organization, and economic and social aspects that typify the various criminal organizations falling under the umbrella of the mafias, the main common element they share is their methods. Nevertheless, these methods are themselves evolving, and these changes need to be reflected in the criteria used to identify and fight the mafia phenomenon.

The violent and military components of the mafias' methods have gradually been losing importance nationwide and in every criminal organization. They are being replaced by the establishment of mutually profitable relationships in illegal and especially legal markets.

The identification of behaviours associated with mafia organizations – which as such are dangerous and deserving of an adequate response in terms of sanctions – is thus becoming more difficult, and necessitates a re-calibration of the instruments used to describe illegal behaviours.

More importantly, this evolution mandates a redefinition of anti-mafia policies to shift their focus towards the political, social, and economic conditions that help the mafias emerge and thrive, in a context of ever-closer links between the mafia, corruption, and economic and white-collar crime.

Thus, while on the one hand prevention strategies that are better informed become a strategic requirement, on the other the usefulness of instruments of enforcement must be carefully assessed both in terms of their concrete impact and their inevitable shortcomings.

### **Law enforcement and the battle against the mafias: successes achieved and the mafias' adaptive response**

Over the last few decades, mafia organizations have been dealt a number of grievous blows, as they never before had since Italian unification. The two most powerful mafia clans – based in Corleone and Casal di Principe – have been greatly weakened. Serious blows have been dealt to the Calabrian *'ndrangheta* throughout Italy. And even in central and northern Italy, after several decades during which mafia infiltration was met with indifference and denials, military and judicial repression has become unwavering.

This has been made possible by several crucial conditions.

The first concerns the overall attitude of law enforcement and the judiciary.

The history of the mafias is a long history of impunity granted by members of the judiciary and state officials who neither deemed it a danger to the institutions of the state nor considered it a normal criminal activity, but rather saw it as a bulwark against those bandits and criminals who did not show the "proper regard" for state institutions.

In the past, the judiciary was admittedly an important part of that system of power that was unable to fight the mafias. This went beyond mere collusion or simple corruption, but was instead probably rooted in a "shared vision of things". Today, instead, the fight against the mafias is nearly monopolized by the judiciary. Judges are often accused of overly seeking visibility, but things were far different until the late 1960s.

As the historian Salvatore Lupo correctly remarked, younger magistrates have gradually detached themselves from the power structure: mass education has broadened the pool of recruits beyond the traditional channels reserved to large landowners and elite professionals; the admittedly delayed application of constitutional norms has given the judiciary as a whole – and individual magistrates in turn – a degree of autonomy unprecedented in the past; and the scope of the mafia problem itself has mobilized public opinion. Thanks to these new developments in the judiciary, similar processes took place in the police and Carabinieri. The end of the historical impunity of the *mafiosi* was thus the first epoch-making event in the history of the fight against the mafias. It is one of the causes that have led the mafias to radically change their strategy. In other words, the ongoing re-structuring of the various mafia organizations is an expression of their attempted response to the

state's ceaseless repressive action. The re-organization of the mafia thus testifies to the scope, strength, and depth of enforcement efforts.

The second epoch-making event in the fight against the mafias is the shift in public opinion with regards to mafia members, and especially the gradual loss of the cultural acceptance it enjoyed in southern Italian society as a whole. In fact, it can be said that increasing isolation of the mafias from the cultural and social context in which they operate has undoubtedly contributed to improving the effectiveness of enforcement efforts and their long-term efficacy. Mass education, the modernization of customs, urban culture, and the role of RAI Television initially and later of the mass media have increasingly broken the continuum between criminal behaviour and the social and cultural context in which it arose. The existence of so many state witnesses is another expression of this break. Starting in the second half of the 1970s, southern Italy as a whole was no longer friendly, hospitable, or indifferent to criminal organizations. The *mafiosi* were forced to change because the society around them changed.

Today, the mafias find consensus especially in those sectors that owe their wealth or survival to the economic activities that flourish around organized crime. This mirrors other places around the world where entire sectors of society know that they owe their existence to illicit or criminal activities.

Over the course of a lengthy period in history, the mafias were perceived by southern Italian society as something other than a criminal organization. One could be a *mafioso* without feeling or looking like a criminal, and without being considered one by the vast majority of the citizenry. Today, the mafia and criminality coincide, a *mafioso* is seen first and foremost as a murderer and a criminal, but this change in perception only occurred during the last few decades. Indeed, until 1982 membership in the mafia was not a crime: it became one only if the *mafioso* committed specific felonies.

The fact remains that the mafias are still one of the main factors hindering the south's growth, and in the absence of long-term development and labour policies, the growing and longstanding inequality gap will continue to play to the mafias' advantage, abetted in part by justificatory attitudes that should no longer have any reason to exist.

In this regard, we cannot fail to mention the change in the Catholic Church's position on the mafias. Until the recent past, it was typified by silence, a conciliatory attitude, and in many cases open support for the local *mafiosi*. In recent years, the Italian Catholic community as a whole has increasingly embraced the seriousness of the mafia problem as one of its concerns. This change has manifested itself through several official statements on the part of the Italian Bishops' Conference (CEI), especially those of 2010, and it culminated with the official position adopted by Pope Francis. In 2014 in Calabria, the Pope used the word "excommunication" with regards to the *mafiosi* ("The *mafiosi* are not in communion with God, they are excommunicated") after decades during which the Church's leadership had banned the use of this word with regards to the mafia. Bergoglio was the first Pope to do so in those exact terms, with his explicit use of the word "excommunicated". Just as incontrovertible is the fact that no pope prior to John Paul II had ever taken a public position against the mafias. That is, no Italian pope (Karol Wojtyła was the first non-Italian pope of the modern era) had ever mentioned the mafias in a speech, homily, or book before 1994, over a century and a half after the birth of the mafias in Italy.

Testifying to this sea-change is the fact that the entire Antimafia Parliamentary Committee was received for a special hearing at the Vatican on 21 September 2017 by the Pope himself, who delivered an important speech, referenced multiple times in this report, which the Committee fully identified with. This had never happened for any of the previous Antimafia Committees. It might take years for priests operating in mafia strongholds to fully detach themselves from such organizations – as shown by religious processions with mafia bosses at their heads, special religious funerals and communions or blessings given to the *mafiosi* – but the road ahead has been clearly marked, and it is the one traced by Father Giuseppe Puglisi, Father Giuseppe Diana, and Father Italo Calabrò with the prophetic value of their work and their lives. It should be acknowledged that many priests in mafia-dominated neighbourhoods play an extraordinary social, cultural, and even economic role in

preventing children and adolescents from being recruited by organized crime. And while their work in mafia strongholds is truly that of missionaries, it is often accompanied by the total absence of state and municipal institutions and non-religious voluntary organizations.

While the cultural battle against the mafias has thus been largely won, the battle around the mafias' relationship with political and administrative institutions, and especially with the economy, remains to be fought. And the outcome is still very much in doubt. It is at the political and economic levels that the mafia has shown remarkable strength and staying power.

This is because in spite of repression, the mafias have become a key player in certain sectors of the Italian and international economy. Its cultural legitimacy, which has eroded among the popular classes, has instead rebounded among the entrepreneurial elites in certain economic sectors. Its support has thus shifted upwards from the lower classes to the elites. The reduction in the use of violence (with the exception of the Neapolitan *camorra*) demonstrates the mafias' willingness to adapt to the business world, where the permanent use of force is economically counterproductive. And investments in legal sectors are proving to be less risky than those in illegal ones, where the more one invests; the more one has to deal with the armed and violent aggressiveness of one's competitors.

Nevertheless, the mafias have managed to overcome these repeated troubles, the stalemate they found themselves in, and the loss of social, economic, and political prestige to emerge stronger and more aggressive than before. This turnaround in their fortunes – overcoming the difficulties that could have led to a curtailment of their historical role – was not due solely to the mafias' intrinsic resiliency. While mafia organizations are adaptable, flexible, and elastic, a key role was played by certain external political, historical, and social conditions that have allowed the mafias to leverage their versatility and adapt to change. Without these historical opportunities, the mafias would not have had the strength to survive the changing times, which seemed to marginalise them more and more. The strength of the mafias is not intrinsic to the organization, but depends on external forces.

The mafias' modernity lies in its ability to break away from the historical conditions that produced them to become a method – the mafia method – that consists of the use of violence to achieve wealth and power through political, social, and economic connections, in any era. This method thus lies in the ability of violence to affect the nerve centres of the economy, society, and politics, thus making violence – whether real or implied – an “*instrumentum regni*”. What had seemed archaic (the violence of power and the power of violence) has become part of modernity. The mafias are comfortable in the modern era because modernity has fully embraced the force of violence as a key to power and wealth. With the mafias, archaicity has proven it has a future.

Often, the mafias' ability to remain abreast of the times and exploit new opportunities is attributed to their adaptability and flexibility; in other words, to the exceptional subjective abilities of mafia members. It is clear, though, that the *mafiosi* do not have a lucid, subjective strategy to drive or anticipate change. There is no single criminal mind that helps *mafiosi* out of their troubles when the times change. More simply, the *mafiosi* are each time forced to adapt to how institutions respond to them, while also taking advantage of the fact that their methods find legitimacy in society as a whole, which in its various changes does not reduce their usefulness. In other words, the changes adopted by the mafias are mandated by the repressive response of the institutions, but at the same time they are also brought about by new opportunities on the horizon. This is not a planned evolutionary strategy. Everything that happens in the mafia universe is a response to needs and opportunities. As any other power-brokering organization, the mafias are not a static structure, and their influence extends well beyond their own world. The mafias have changed, but their identity is always associated with achieving power and wealth through the astute use of violence. And this is a “virtue” they increasingly use in contexts that are not typically criminal. The mafia method has been successful well beyond the criminal sphere. It is an adaptation of violence to achieve power and wealth under changing historical conditions.

One such example is the expansion of the mafias into central and northern Italy. Initially this was mandated by the need to flee from enemies or escape capture on the part of law enforcement. In

some ways, expansion into central and northern Italy was a way to leave behind some of the difficulties encountered at home. However, physical presence alone is not sufficient to explain the mafias' success in new territories. What did work was the dovetailing of interests between the mafia and the economic crime in the north and centre, between the supply and demand of illegal goods and services, and the ability of mafia entrepreneurs to offer convenient prices to businessmen operating in legal sectors and looking for any competitive advantage. There are countless cases of entrepreneurs doing business with the mafias to boost their company's competitiveness: these can no longer be considered "accidents", but rather "custom". The willingness of entrepreneurs to do business with the *mafiosi* for reasons of convenience, despite their awareness of who they are dealing with, is astounding. In an increasingly difficult and competitive business climate, a growing number of entrepreneurs are trying to adapt through collusion with local political and mafia power. Corporate success becomes more important than compliance with the law, and disregards any sort of consideration for the moral codes to which normal citizens are bound. The market prevails over the rule of law, and questionable business decisions are explained away and justified on the basis of the need to stay competitive. There is always a justification to enter into a relationship with the mafias. Ultimately, in the presence of a massive demand for illegal services, no sector or geographic area is immune from the mafias.

#### **The main transformations of the mafias in the global economy: flexibility, mobility, entrepreneurship, and grey areas**

In this context, Italy's historical mafia organizations have changed extensively, and taken on increasingly multi-faceted and complex organizational forms and operational approaches. The four main facets of this phenomenon can be summarized as follows: *a)* gradual widening of the mafias' sphere of action beyond its historical strongholds; *b)* adoption of more flexible, often reticular organizational models, including cells in distant areas endowed with decision-making autonomy; *c)* stronger entrepreneurial role in the legal economy; *d)* changing relationships with local and social contexts, downplaying the explicit features having to do with violent intimidation while seeking to promote collusion and complicity with actors in the so-called "grey area" (entrepreneurs, white-collar professionals, politicians, bureaucrats, and others).

This is epitomised by the reinvestment of illicit profits into the public economy, where the mafias' preferred method is systematic recourse to corruption to facilitate its infiltration into public contracts and sub-contracts.

Although these four facets are quite closely linked, it is worth examining each one in turn. Keeping them in mind not only helps to trace a general outline of the mafias' transformation, but also affects the way the mafias are interpreted in the judicial, political, and research spheres, along with potential solutions to hinder its ability to operate and contain its social and economic consequences. We shall thus examine these dimensions below, with an eye towards the effect that their transformations have had on the evolution of the "mafia method" and the emergence of grey areas of collusion and complicity with the economic, political, and social spheres. The mafia method seems to increasingly depend on 'social capital' resources, i.e. relationships revolving around collusion, corruption, and "shadowy alliances"<sup>7</sup>.

#### *a) Gradual widening of the mafias' sphere of action beyond its traditional strongholds*

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<sup>7</sup> See the study promoted by Fondazione Res: "Alleanze nell'ombra. Mafie ed economie locali in Sicilia e nel Mezzogiorno", edited by Rocco Sciarrone (Rome, 2011).

The presence of numerous mafia enclaves away from its historical strongholds is now a proven fact, both in central and northern Italy and beyond national borders. Criminal organizations seem to have responded efficiently to changing scenarios by exploiting opportunities and overcoming the constraints (co-existence and conflicts with other organizations, instability, and law enforcement) associated with the quickening pace of globalization processes.

The mafias widen their spheres of action by physically moving (individuals, groups, families, etc.) to new territories, or by investing illicit capital elsewhere. Although in areas newly settled by the mafias, difficulties still remain in acknowledging their presence – both within public opinion and in the courthouse –, and although some observers continue to see the mafias as ‘non-exportable’, to fully understand and fight this phenomenon we must now consider mafia organizations as “local” and “extra-local” at the same time. In other words, while they retain a basis of social and political legitimacy in a given geographic area, they are also inherently bent on expanding their reach. Indeed, mafia organizations have boosted their local, national, and international mobility, first and foremost by consolidating the long-distance networks they had built in illegal or informal markets (such as smuggling and the drug trade), and more recently by increasing their presence in legal or formally legal markets. Territorial expansion has not jeopardized the importance of a deeply-rooted presence in their areas of origin. This presence is exemplified by ongoing extortion and protection racketeering, together with a well-established infiltration in local governments and public contracts, thus boosting social recognition of the mafia organisation’s authority over certain areas even without the systematic recourse to explicit threats of violence.

As we shall explain in more detail below, the so-called ‘grey area’ has become the preferred space and mode of action through which the mafias interact with the political and economic spheres in order to acquire wealth and power both in its areas of origin and in places where it has established a presence only recently.

*b) Adoption of flexible network models, including cells in distant areas endowed with decision-making autonomy*

The reduced recourse to violence and the endurance of ties to areas of origins is the second of the four facets of the recent transformation of the mafias, and concerns their organizational approaches: in this connection, the so-called ‘submersion’ strategy - no longer based on daily violence, but rather on consolidating new political ties, eschewing weapons, and infiltrating the economy and society in invisible ways - is merely the mafias’ response to enforcement efforts and loss of consensus.

In their areas of origin, where mafia organizations have deep roots, their control remains in the hand of mafia clans - often with complex structures - whose headquarters tend to be located within well-defined geographical borders. Away from these areas, their structure is often more flexible and reticular. In fact, they adopt a wide variety of approaches, some that are hierarchical and coordinated, and others that are looser. On the one hand, we can find a plurality of autonomous groups, some of which may be family-run, in which conflict and cooperation dynamics vary according to the activity in question. On the other, there are more complex models that take in a series of organizational levels, including in territorial terms, and effectively combine solid internal cohesion with strong openness to the outside. The former model applies in particular to criminal organizations from Campania, while the latter prevalently applies to the ‘*ndrangheta*, which combines strong internal bonds with a well-developed ability to enter into alliances and complicity with outside players.

The success of the ‘*ndrangheta* and the enduring vitality of the *camorra* show that the organizational strategies that work best are those that are based on territorial expansion (‘*ndrangheta*), international reach (‘*ndrangheta* and *camorra*), the exploitation of all the illegal opportunities provided by the urban economy (*camorra*) and family ties (‘*ndrangheta* and *camorra*). Today, the most efficient strategies are those that do not openly challenge political institutions and the state

apparatus, but rather accept a ‘soft’ and quiet co-existence; young Neapolitan drug gangs are an exception to this.

From an organizational standpoint, the commonality shared by the two mafia organizations that best responded to new developments is the combination of an increasingly closed internal structure with an increasingly outward-looking attitude. Internal structures become more closed (with family ties taking on growing importance) to resist against adversaries and law enforcement, but long-term growth is pursued through becoming more open towards social, economic, and political relationships. The *‘ndrangheta* has a rigid structure based on blood ties. The most solid *camorra* clans are those based on a heavy presence of members of the same family, including those related through marriage. The family basis of the organization and family ties between members are proving to be the model best suited to preventing internal conflict and defending against external attacks. The *‘ndrangheta* has made the family the cornerstone of its dominion over its original strongholds (but this holds true also in the areas where it has expanded) and the organizational model for its criminal activities. The more important the role within the organization, the closer the blood ties. The familism of successful mafia organizations is not so much ‘amoral’ as adaptive and functional, better suited to resisting external enforcement pressures and reducing internal conflict, and more able to sustain territorial expansion and the necessary relationships with key players in the political, social, and economic spheres. Not coincidentally, the most cohesive and compact mafia organization, and the one least affected by State witnesses, is the Calabrian *‘ndrangheta*, and this can only be explained by the increased importance of family ties in this organization.

Newly-formed criminal gangs that try to replace established ones, taking advantage of the recent efforts to crack down on traditional *camorra* families, generally flame out rather quickly. While youth gangs do not usually last long, extended families have instead shown a much better ability to survive over time.

The importance of these family ties has opened up unprecedented opportunities for women to play key roles. The number of women who have been arrested, murdered, or convicted of mafia crimes has grown exponentially.

Once they are part of the “family” women become active protagonists rather than silent or passive custodians of a culture of *omertà* or loyalty and silence. They are not subordinate, and do not limit themselves to providing moral and emotional support to their relatives, or reflexive dutifulness towards fathers, brothers, or husbands. Instead, their power becomes even greater if their relatives are arrested or killed. The absence of the family’s provider forces them to take command of the organization before someone else does. The power vacuums occurring after the arrests of male bosses opened the way for female leadership, since it was easier for these bosses to be replaced by close relatives. A key role was also played by the so-called Article 41-*bis* strict prison regime for mafia bosses. As incarcerated bosses could only have contacts with close family members, especially their wives, they would entrust them with sending messages to *mafiosi* on the outside, or to serve as liaisons with them for the most delicate tasks. Women thus found themselves in this substitute role, which proved crucial in their ascent to the leadership of mafia organizations.

The fluidity of organizational approaches, of which this unprecedented role for women is emblematic, is both cause and effect of the increasingly entrepreneurial nature of the mafias, with a decreased emphasis on its more predatory and military aspects in favour of individual profiles and economic behaviours that tend to be in line with the role of full-fledged players on global markets. This implies gradually taking on connotations that are ever more distant from traditional mafia traits and instead better match those of a political-criminal enterprise. Against this backdrop, particular attention should be paid to the role of economic aspects in describing the organizational changes undergone by the mafias. As shown by a further major scientific study that provided a comparative analysis of the mafias’ presence in seven regions of central and northern Italy (Emilia-Romagna, Latium, Liguria, Lombardy, Piedmont, Tuscany, and Veneto), the mobility of criminal organizations

is based prevalently on business decisions rather than a “sense of belonging”<sup>8</sup>. The latter aims to ensure internal cohesion, loyalty, coordination, and cooperation between mafia members. Business decisions, on the other hand, are based on instrumental rationality, which aims to obtain material advantages and benefits, especially – but not exclusively – of an economic nature. In this regard, the mafias’ mobility favours re-investments in illicit trafficking and increasingly in the legal economy, with the promotion of collusion and complicity with the outside world, or with organizational innovations that lead to adaptations and the rationalization of resources and skills to supply specific goods and services or to establish a presence in specific markets.

*c) Stronger entrepreneurial role in the legal economy*

The third of the four facets that typify the mafias’ transformation concerns the increasing involvement of these criminal organizations in the legal economy. It has been variously established – in legal, historical, and sociological terms – that the market economy has been the setting for the consolidation of the mafias’ power. This is one of the mafias’ traditional traits, and it persists – or grows in many cases – in the operations of the modern mafias.

In traditional strongholds, market types can be distinguished on the basis of their geographical scope and on whether the mafia groups have had a longstanding or recent interest in them. Among traditional activities, which are generally limited to the local sphere, we find construction, public contracts, the small-scale retail sector, and public health. Relatively ‘new’ activities include mass distribution, waste management, renewable energies, tourism, gambling and betting, social services, and immigrant reception. On a broader geographical scale, the mafias have traditionally been involved in transportation, infrastructure, counterfeiting, and contraband, while newer sectors of interest include hazardous waste management and financial investments. Most interestingly, the *mafiosi* are not endowed with particular entrepreneurial know-how: indeed, they continue to be active mostly in traditional sectors, and even when they expand into more innovative fields, they rarely show real managerial, technical, or financial skills. For example, their interest in renewable energies appears to be limited to the so-called “cement cycle” and to the construction of supporting infrastructure for renewable energy farms. By the same token, the mafias’ ever more pervasive participation in the financial sector is generally limited to only a handful of leadership figures. Of course, this may partly reflect shortcomings on the part of investigators, since the mafias’ involvement in the financial sector is more difficult to discover and counter. Having said that, from an empirical standpoint, the activities of the *mafiosi* in the financial sector generally appear to be quite shoddy, with a low degree of sophistication (usually consisting of fraud and scams). Even in cases when they were involved in significant financial investments, the *mafiosi* rarely seem to have played a leading role, since those who conduct and benefit from such business activities – mostly entrepreneurs and white-collar professionals – are much more comfortable operating in the opaque world of finance.

To summarize, the “economic success” of the mafias is not explained by particular entrepreneurial or managerial skills, but rather on the support, cooperation, and know-how of other players engaged in reciprocally advantageous exchanges with it.

*d) Promotion of collusion and complicity with actors in the so-called “grey area”*

When the mafias expand their economic role in legal or formally legal sectors, they need to build relationships and networks with “external” actors in order to conquer space on the market and

<sup>8</sup> See the study promoted by Fondazione Res: “*Mafie del Nord. Strategie criminali e contesti locali*”, edited by Rocco Sciarrone (Roma, 2014).

influence competitive dynamics in certain sectors or geographic areas. The mafias can also play a violent role in economic markets, to ensure control over certain activities. Nevertheless, recourse to violence and intimidation tends to decrease in favour of building reciprocally advantageous ties involving legal businesses, public officials, professionals, politicians, and other actors. This aspect is crucial in defining the fourth and final facet that typifies the transformation of the mafias, whose operations should be sought inside the so-called “grey area”, or the relationships that straddle the legal and illegal spheres, where criminal ties are established at different and changing levels of complicity between players whose interests, roles, and skills are heterogeneous. The actors we conventionally call ‘*mafiosi*’ on subjective grounds (affiliation, origin) or for operational reasons (recourse to violent intimidation or corruption/collusion) can be part of this grey area without necessarily being its leaders or core members. The *mafiosi* are not apart from the grey area, they belong to it. Indeed, the grey area is not an area external to the mafia, but rather the space in which the *mafiosi* enter into alliances and collusive agreements with the other actors therein, to whom they offer their protection and intermediation services. Thus understood, the grey area does not reflect the illegal sphere’s expansion into the legal one, but is rather the result of the blurring of these two spheres, marked by the existence of a shifting, porous, and ill-defined border between what is legal and what is illegal.

In light of the above, understanding the mafias’ operations in legal or formally legal markets and proposing – on that basis – the appropriate tools to counter them require us to focus our attention on economic and political conditions, i.e. the contextual factors facilitating the emergence of the ‘grey area’. While law enforcement agencies are responsible for repressive actions against the mafias’ organizational units, their offshoots, and their external supporters on the basis of criminal liability, the political and policy sphere is responsible for suggesting system-wide corrective action to modify the contexts in which the mafia operates, namely the functioning of the grey area. It is thus necessary to better calibrate the instruments to fight the mafias on the basis of the dysfunctions identified in the economic sectors that are most vulnerable to the mafias’ business interests. Here it is worth distinguishing between the illicit economy (such as counterfeiting, contraband, financial fraud, and the drug and arms trades) and the legal economy, with a further distinction between the private sector (finance, retail, real estate, import/export, mass distribution, food and agriculture, gambling and betting, etc.) and the public one (construction, public works and infrastructure, municipal solid waste management, procurement and services for public administrations and health care). These contexts can not only be distinguished from one another analytically, they also work on the basis of specific regulation criteria and relationship models, which in turn require specific law enforcement instruments.

In illegal markets, the mafias are evidently skilled at activating international counterfeit, contraband, and distribution networks. In these activities, thanks to their ability to harness organized violence or the threat thereof, the *mafiosi* are veritable elites, who take on a dominant role and gradually put producers and distributors in a subordinate position. They act as regulators, as it were: this is an element that has traditionally typified the mafias as ‘guarantors’ for the unstable transactions that characterize such markets. The fight against these operations must combine the law enforcement action exercised by the competent authorities (at the national and international levels) with broader policies of a different nature, which are able to reduce the ‘costs of legality’ and establish regulatory frameworks for those sectors characterized by high levels of informality and forms of ‘improper intermediation’ (such as the consumer market for counterfeit products or the recruitment of workers in the food and agriculture sectors).

A certain degree of regulatory weakness is also found in the most vulnerable private legal markets. These are generally sectors with a high number of small businesses, a low level of technological development, unskilled labour, and weak labour unions, where the recourse to ‘barely legal’ practices has become the norm, partly due to the absence of intermediate oversight bodies (such as evading taxes and social security payments, undeclared and irregular work). Here the mafias can provide various types of services to businesses, such as protection, buffeting against free competition,

containing conflict with workers, and providing cash infusions. Nevertheless, even the most evident forms of mafia entrepreneurship can be found in private markets, when the bosses themselves – or their associates or relatives – are at the helm of legal companies in which they invest their profits from extortion and other illegal activities. Mafia-run businesses are profitable because they can avail themselves of means unavailable to legal businesses in dealing with the competition, managing the workforce, handling relations with the State, and having financial resources at their disposal. This is evident in the operation of certain historical mafia organizations in central and northern Italy, where running businesses is a way for the *mafiosi* to climb the ranks of the criminal organization while achieving social and economic prestige and power in local society.

Nevertheless, the *mafiosi*'s interest in the legal economy continues to lie prevalently in the public sector, which presents itself as a 'protected market' with public funding, reduced competition, and the benefits of incumbency. These are sectors in which good local contacts and sound knowledge of and control over the local territory are traditionally strategic. Typical examples include the construction cycle (especially earthwork operations), waste management, real estate, commercial distribution. Such contexts make it easy to achieve positions of monopoly and privileged access to public resources by pressuring and entering into agreements with public administrations, through the widespread use of corruption to facilitate infiltration into public contracting or sub-contracting processes, and by acting as guarantors for transactions that take place under conditions of 'systemic corruption'. In these cases, the *mafiosi*'s entrenchment in the local political and administrative fabric makes them actors in local governance, giving them the opportunity to steer development policies through their network of relations with the public administration and related sectors.

### **The search for the 'shadowy places' where the mafia can strengthen its power**

We have said that the family structure of mafia organizations was appreciated anew after mass repression on the part of the state, but even when such organizations take shelter in their family structures, they still do not give up on having external relations. Still, even external relations must take account of new developments. Today, no politician would want to be seen in the company of a *mafioso*, and this is also true of other professional and economic categories that in an earlier era would have drawn some social advantages from being seen as friendly with the mafia.

Today, the *mafiosi* need to re-establish relationships under these new terms; by the same token, it is crucial for investigators to interdict these relations. Indeed, the power shift from politics to the economy in modern society has had repercussions on the mafias' relationships as well. It is on the lookout for places and opportunities in which public and visible relationships can become private and hidden. The mafias' need to pursue risk-free relationships, and the need of some of the elites to gain advantages from relations with the mafias while keeping them under wraps (this includes some parts of the secret services) has mandated the need for 'safe spaces' in which to establish relations and peddle influence. The more shadowy the loci of power, the more the mafia feels at ease and can take advantage of them.

This is why in recent years a growing number of *mafiosi* seem to have joined Masonic lodges, and the role of the freemasonry has taken on an increasingly important role in the mafias' strategy in the areas under their sway. Once again, the *'ndrangheta* has proven adaptable to new developments, and this explains quite well why it has become Italy's most powerful mafia organization.

In the 1960s, for geographical reasons, the *'ndrangheta* found itself cut off from centre stage, from the relationships it needed to make a leap forward. This economic and geographic isolation led to poor accumulation of capital and limited relationships. The ruling class in Calabria was less powerful than its Neapolitan or Sicilian counterparts in Italian state dynamics, and business opportunities in Calabria were much more limited than elsewhere. The *'ndrangheta* invented a new source of profits that was alien to the other mafia organizations: kidnappings, which were dictated by the need to accumulate cash as fast as possible in order to be able to take part in business dealings at the national level. Subsequently, two opportunities presented themselves that brought Calabria back

to the centre stage of the national economy: the construction of the Salerno – Reggio Calabria motorway (and its subsequent modernization), and the construction of Italy's fifth steelworks centre in Gioia Tauro, which was ultimately never put to use. But the problem remained of how to establish relations with society both in Calabria and at national level. The *'ndrangheta* thus jettisoned its old traditions such as the prohibition against double affiliations. De Stefano ordered the murders of three *'ndrangheta* bosses: Macrì, Nirta, and Tripodo. By doing so, he broke with the old world and pursued new avenues under maximum secrecy, giving rise to an unusual novelty in the history of the mafias: a third organization, halfway between mafia and freemasonry, which would be called the *'santa* or *'holy one*'. This organization was to remain secret to many, since it had relationships so sensitive that not all *'ndrangheta* members could participate in them or indeed even be aware of their existence. Initially, only 33 people were allowed to take part, although their numbers would eventually grow. This led to the invention of the so-called *'crocevia*', the crossroads, the locus and focus of secret meetings and relationships, that would make the *'ndrangheta*'s fortunes and allow it to make it national and international breakthrough. Relationships that no one wanted to be out in the open were established in the back alleys of the political and economic spheres. The *'underground mafia*' was thus born, along with the dungeons of relationships that could not be admitted to.

The *'santa*' was successful because in Italian history – where illegal networks of crime, politics, and business have always thrived – meetings among elites that cannot take place in the open are fundamental. The *'santa*' is one such opportunity. In turn, it became a template for those in the elites (including the criminal elite) who prefer to operate outside the law. The *'santa*' is an organization given to networking, because the Italian elites have long sought to establish their own particular networks of influence and relations, since these can serve as capital that no personal merit can replace. They are useful in clientele networks, in corruption, and lately in mafia networks as well. An ambitious person – whether a politician, professional, public official, businessman, or *mafioso* – will never be able to become influential without a stable network of relations.

This allows *'mafia freemasons*' to seek out three types of relationships: with the local and national political sphere, with the local and national business sphere, and with lawyers and the judiciary. The infiltration of the freemasonry provides ample opportunities in this regard.

The history of the mafias is thus the history of integrating the violence of the lower classes into the strategies of the elites. This history of integration provides the framework in which to analyse all these crossroads of relationships, including with the freemasonry. The mafias, which have been dealt their harshest blow yet by unprecedented repression, are seeking shelter in shadowy places, taking advantage of the presence of organizations representing elites that have acquired their power thanks to influence peddling.

The history of the relationship between the mafia and freemasonry is a perfect emblem of the opaqueness of power in Italy. This opaqueness has allowed many forms of illegal activities to thrive: the mafia is one of them.

### **The dual role of the mafias in the legal and illegal economy**

These *'shadowy places*' have also served as a clearing house, in which the mafias have been able to ensure their presence both in the illegal economy, from which they have been drawing their resources, and the legal economy in which they invest them.

However, the presence of the mafia in the legal economy and in the markets is not new. Theories that describe mafia investments in the legal economy as a new phenomenon are incorrect.

The mafia as a criminal organization is characterized by the use of violence as capital to produce and accumulate wealth. The *mafiosi* demonstrate the *'cost-effectiveness*' of violence, or the value of its use, and the mafia method is nothing but a way to capitalize on the use of violence, or to acquire social capital and economic resources through its use. In this paradigm, there is no clash between violence and the market, or between the legal and illegal economy.

The real economy is much more open than the stringent regulatory framework. One can operate in the economy even outside or against the law: the mafias are the most authentic and longstanding proof.

But while the mafias' historic interest in accumulating wealth has not changed, the intensity, modality, and characteristics of mafia presence in the economy have. Never in the 200-year history of Italian mafia organizations (*cosa nostra*, *camorra*, and *'ndrangheta*) have they enjoyed the wealth they have today. The drug trade and the globalization of markets have led to a veritable boom in the relationship between the mafias and the economy, as reported every year in the National Antimafia Directorate's reports.

Three main factors have brought about the current 'explosion' of the criminal question as a global issue in finance and the economy.

- The monopoly over the drug trade, a business that guarantees unparalleled profits compared to any other legal or illegal good. Drug trafficking has radically changed the amount of cash available to criminals as no other activity in the history of crime, and this is the main circumstance that has led to the current power of the mafias in Italy and abroad. It would be absurd not to take the drug trade into account when studying ways to defeat the mafia.

- The globalisation of the economy, and its gradual financialisation, has allowed *mafiosi*, among others, to make money from money (of which they had accumulated a great deal). The financialisation of the economy proved to be perfectly suited to the 'entrepreneurial' characteristics of the mafias and to the re-use of their capital. While in the previous historical era the mafias' presence in the local economy was facilitated by its political and institutional relationships, today the new role of the mafias on local and global markets seems to be guaranteed by the 'rules of the game' of the financial economy. At the current stage in mafia history, the financial economy has proven to be a crucial ally, because in order to play a leading economic role, having control over the drug trade is no longer enough; one needs a method and an opportunity that allows the re-use of illegal profits. In the old financial order, the mafias would not have had such an opportunity, at least not on today's scale. Without the ability to launder drug profits through the traditional mechanisms for concealing wealth, avoiding taxes, or using these funds without having to produce goods, it would have been enormously more complicated for the mafias to re-use its capital. This process accelerated significantly during the last two decades of the 20<sup>th</sup> century, when the mafias began to structure their operations on a trans-national scale, taking advantage of economic globalisation and new communication and transport technologies.

- The concordance between the opaque rules of the modern economy and some of the mafias' entrepreneurial values. The growth of the mafias does not seem to have been hindered by the legal economy. In business, there is no clear and insurmountable boundary between what is legal and what is not. And morality or religion is not enough to set such a boundary. The legal economy does not automatically chase away the illegal or criminal one; the two are not entirely incompatible, and indeed co-existence seems to be the main characteristic of their relationship. The alleged incompatibility between the two seems to be wishful thinking on the part of classical economic thought, and not an empirical fact. In practice, the two seem to be compatible and reciprocally adaptable.

The role of widespread corruption has also facilitated the mafia's presence on global markets.

Indeed, mafia enterprises are the only ones that, in spite of having accumulated their capital in a violent manner or exclusively through illegal activities (mostly related to the demand for goods that satisfy private vices, particularly gambling, drugs, prostitution, etc.), begin operating on the legal market without ever abandoning the illegal ones. That is to say, mafia enterprises belong to two worlds, and are the only ones that habitually and structurally bridge the legal and illegal spheres. As

businesses, they have a dual structure, and show that each one of these two spheres begins where the other ends.

The mafias are quite comfortable in a capitalistic market that is growing increasingly opaque and oriented towards “making money from money”, and they seize the opportunities therein.

It is not a matter of considering capitalism as criminal, but rather tackling the Gordian knot of the crime-business relationship, and that thin shadow line that characterizes it. There is an obvious difference between those who enter the legal market after the predatory accumulation of assets (based on the systematic use of physical violence) and those who operate on the legal market through the use of illegal methods, causing violence delayed over time (as in environmental crimes) or damaging the economy by hiding their profits from the revenue services. Some scholars argue that the distinction between economic crime and organized crime is merely an analytical anomaly caused by the division of criminology into various sub-fields. But it should be re-iterated that a mafia entrepreneur is not the same as an entrepreneur who skirts the law to accumulate profits, dodges taxes, or engages in corruption for economic gain. It is not their ruthlessness that sets them apart, but the more or less systematic use of personal violence and the way their original wealth was accumulated.

In fact, while traditional organizations are increasingly in crisis, the mafia method is proving highly successful. Or rather, while the mafias are losing social consensus, the mafia method is gaining space and opportunities in other sectors of society, and the mafia can broaden its relations.

The mafias are at ease in the modern world because the latter has permanently embraced violence as a means to access power and wealth; otherwise, it would be impossible to explain why archaic structures remain viable in modern societies.

The mafias are not in conflict with modern politics and economies.

The impression is that today the economic sphere is the one most exposed to the mafia. It is also the most welcoming one, much like the political sphere, and far more so than society as a whole.

The mafias have adapted the role of relational violence to changing historical conditions. This is not a subjective adaptation, but one dictated by the context.

The permanent degeneration of politics and the economy (patronage, corruption, and opaque markets) must be fought if one wants to fight the mafias, because this degeneration has allowed the expansion of the mafia method outside of criminal boundaries even as the social base of the mafias themselves is narrowing.

The drop in the number of mafia murders is not in question. But while bloodshed has diminished, the economic impact of the mafias has grown. Business deals are not diminishing, they are increasing; the number of homicides and armed clashes is dropping. If the mafias' economic role increases, so does its ability to use corruption instead of physical violence as a way to move ahead in business, because corruption is a widespread network of relations in the economic system. The mafias adapt. They do not create corruption but rather move in where it already exists. Corruption replaces force or works alongside it. The power of intimidation goes hand-in-hand with the power of persuasion in reciprocal economic convenience.

Ultimately, just as the mafias' historical ties with political power prevented their defeat in the past, today it is the mafias' 'internal' links to financial globalization that make them nearly unassailable. In general, those who accumulate illegal assets leave the illegal market once they enter the legal one: for this type of entrepreneur, the legal market is a goal they aspire to. For the mafias, instead, this not a goal but merely a means to an end. Generally, those who operate on the legal market do not make regular recourse to the illegal one, but for the mafias this is not so. They continue to operate in a stable manner in the illegal market even after they have established themselves in the legal one. We are thus faced with an original system of production, namely a mixed system in which the legal and illegal spheres are functional to one another; one does not come before the other, nor is either of them a means to an end. One could almost say that for the mafias, the legal market legitimises the illegal accumulation of assets, and the legal market is instrumental to the illegal one.

The mafia method of production is not alien or abusive to the national and global economy, and is not marginalized by it. Instead, it is an internal and functional factor linked to current market

models. We could say that each historical phase of the economy produces a type of criminality that resembles it, and during the present phase this resemblance is particularly strong.

The confusion and embarrassment that reign in international economic circles over how to classify crime are evidenced by a recent and sensational European Union decision. Starting in 2014, at the indication of Eurostat, the European institute of statistics, European countries have been able to include certain illegal activities – particularly prostitution, prohibited drugs, and smuggled cigarettes – in their calculations of GDP. The goal is to provide comprehensive estimates that include all income-producing activities, independently of their legal status.

The three above-mentioned activities are illegal in the vast majority of EU countries, but as they are considered economic activities based on consensual transactions – where supply and demand meet without constrictions – they are part of Europe’s wealth. In 2014, these three criminal activities allowed Italy’s GDP to grow by nearly a percentage point (0.9%), or € 15.5 billion. The drug trade plays the lion’s share, with over € 10 billion, followed by € 3.5 billion for prostitution and € 300,000 for contraband<sup>9</sup>. This is a recognition of sorts of the mafias’ impact on the Italian economy. It is as if Europe had realized that there is no clear and impenetrable border between legal and illegal activities in the economy.

The inclusion of some of the most profitable activities for criminal organizations in the GDP creates a fracture in terms of the coherence of the legal system. To fight the mafias while at the same time acknowledging their role as a ‘creator of wealth’ underscores all of the contradictions of a weakened State and highlights an evident condition of anomy, in which dysfunctional standards create confusion among the citizenry.

### **The role of corruption in the evolution of the mafia method**

Corruption exerts a strong pull on the mafia, and the fact that the level of corruption remains stable both in northern and southern Italy makes the mafias at ease throughout the peninsula.

Today, the presence of the mafias in the legal economy explains a lot about southern Italy, but also about Italy as a whole and a constantly changing globalized world.

There is no doubt that mafia association and corruption are two different felonies, yet there is a peculiar, complex, and longstanding relationship between them. The *mafiosi* are among the main culprits for acts of corruption in recent years; indeed, one could speak of the mafia governance of corruption, and this phenomenon is not limited to the south. In the north as well corruption goes hand-in-hand with episodes that involve mafia organizations or habitual criminals. In other words, the mafias play an increasingly central role in the system of corruption. Of course, there are instances of corruption where the mafias are not involved – such as the scandal around Venice’s MOSE – but investigations into the Milan Expo, the health care sector in Lombardy and Piedmont, and on corruption in Emilia-Romagna (just to name a few) increasingly show how corruption and mafias co-occur in such a nonchalant, serial manner that cannot fail to impress scholars. The same is true for corruption in small towns in northern, central, and southern Italy, side-by-side with the mafias’ pervasive influence on local political and administrative activities. If we look at the municipal administrations that were dissolved due to mafia infiltration in recent years, we will notice that the motivations highlight an increasingly striking correlation between mafia presence in institutions, public investments in infrastructure, and corruption. This correlation was clearly present in every northern Italian municipality that was dissolved. There is thus the clear impression that the boundary between corruption and mafias has evaporated to the point that the two have established highly intricate links and networks. The mafias can exist without corruption, but only if it limits its activities to the illegal sphere; if instead it expands into the legal economy, it cannot thrive without corruption. On the other hand, corruption can exist without the mafias. But whenever the mafias enter into a corruptive system, they take on a central role and dictate the rules.

<sup>9</sup> Cf. par. 4.3. Interference with the economy

In any event, the mafias are not the cause for the increase in corruption in Italy: they only arrive once corruption is well established. In fact, corruption paves the way for the mafias. Corruption and the mafias are two issues whose roots lie deep in the past but that remain quite comfortable in the present. They are longstanding elements of Italian history that have maintained a striking degree of continuity and persistence into the present.

It is easy to see how corruption has replaced violence in certain typical mafia activities. Persuasion replaces intimidation. The *mafiosi* do not act the same in legal markets as they do in illegal ones. While the use of force and violence are the key characteristics of *mafiosi* when they compete in illegal markets, corruption is their weapon of choice in legal markets. Corruption does not exist in illegal markets; it only manifests itself in legal markets and activities. For this reason, when *mafiosi* enter legal markets they generally replace violence (which they bring to bear in illegal markets) with corruption. Broadly speaking, it is safe to say that in the legal market, corruption embodies the mafia method better than intimidation itself. Corruption is a system that facilitates mafia activity in the legal market. Without corruption, *mafiosi* would be forced to use violence in the legal market as well, and this would make it more difficult for them to conceal themselves and re-invest their profits. Therefore, without corruption it would be much more difficult for the mafias to enter the legal market and prosper therein. In legal markets, corruption is an umbrella that has facilitated the mafias' entry, as is the case with the construction sector, where habitual kickbacks to public officials and politicians has cleared the way for the mafias.

*Mafiosi* are involved in certain corruption cases, but not in others, since the 'regulatory' role can be played by other actors as well. The corruption market is a complex illegal market and thus needs to be regulated by people who enjoy a certain level of authority in terms of reducing internal conflict and preventing disgruntled individuals from exposing corruption. The wider and more complex the corruption network, the more resources are at stake, the higher the need for order and regulation: a unified command of the corruption mechanism is necessary. When corruption only involves two actors, things are much simpler. Formerly, this regulatory role was played by politicians particularly skilled at mediating between the various interests involved: a kickback to politicians ensured that the expectations of many stakeholders – bureaucrats included – would be met. The most blatant example is that of the “*Mani pulite* (Clean Hands)” scandal. With the crisis of political parties, other 'regulators' of corruption stepped forward to fill the vacuum: without coercive, authoritarian regulation, the world of corruption is crippled and vulnerable. There are times in which the regulators have been bureaucrats – such as the scandal surrounding major public works contracts involving ANAS and the Ministry of Public Works – or entrepreneurs as with Venice's MOSE. In other cases, when mafia-owned businesses or violent players are present in the corruption market, they become the regulators of reference; this was the case for the “*Mafia capitale* (Mafia in the capital city)” scandal. While the corruption market needs to be regulated, this obviously cannot happen in a legal manner; in the illegal sphere, *mafiosi* are highly sought after to perform this function, although they do not have a monopoly over it. Corruption thus constitutes an 'advanced criminal system', where the *mafiosi* are not the sole protagonists, but play an important function thanks to their ability to bring violence to bear. In the field of corruption, the mafia method consists of meeting a need for regulation, which other non-violent means have left unfulfilled. It is one of the regulatory principles for complex illegal markets that could not be satisfied via peaceful means, and a necessary instrument to bring order and intimidation into the corruption network. But while prior to 1992 the involvement of the mafias or other violent actors in the corruption network in central and northern Italy was nearly non-existent, after that year mafias and corruption began to intertwine, until they became a routine, albeit not exclusive, method. In the south, on the other hand, mafias and corruption belonged to the same operational sphere even before 1992.

Wherever the mafias operate, they end up running the corruption market. The *Aemilia* investigation showed how an entrepreneur who had paid a € 2 million bribe to win a € 25 million contract turned to the *ndrangheta* when things did not go as planned, in the conviction that organized crime had the ability to enforce the agreement.

Another thing that corruption and mafias have in common is impunity. Or better yet, they used to have impunity in common. Today, while repressive actions against the mafias are evident, the same cannot be said for corruption, which enjoys far more impunity. Impunity arises out of the corruption mechanism itself, and lies in the reciprocal interest of the parties. Both will benefit from it, unlike any other criminal activity, where there is a victim and a perpetrator. Corruption is a crime and a contract through which two parties agree to obtain a mutual advantage. While the mafias' historical impunity, at least until about the early 1980s, was essentially due to the ordering function they performed with respect to common criminals or other forms of crime detrimental to the elites and their assets, in the case of corruption impunity is due to the mutual interest that both parties in keeping the forms of transaction that involve them secret. With the mafias, impunity is an implicit agreement, but with corruption it is an explicit one. With corruption, silence is not imposed under threat, but it is convenient to both. The code of silence is thus more immediate with corruption than with the mafias. The fact that corruption is so rarely reported to the authorities even though it is perceived as being pervasive means that this agreement holds, and this 'alternative set of rules' works.

Corruption involves the economy that revolves around public administrations, namely businesses that have them as their main client. In a market society, actors cash in on their power, all the more so when the market is political, and does not depend on competitiveness so much as on political and administrative relationships. Corruption is the surcharge of the political market, and thus it is not met with great resistance since it is viewed as a natural aspect of that market. The political market is conditioned by corruption.

The market is not ontologically hostile to corruption; the two can co-exist without too many problems. It is thus fanciful to believe, as one often hears argued by business associations, that strengthening a culture of competition is all it would take to defeat corruption, while for businesses too corruption is the competitive tool par excellence in their dealings with public administrations. And it should not be forgotten that the economic sectors where corruption is rampant are largely the same as those in which the mafias pursue their legal economic activities.

It is now clear that the mafias – once a criminal phenomenon, albeit with institutional characteristics that made it a necessary partner for those holding political power – have inserted themselves into the broader and more indistinct circles of major economic crime, whose weapons are privileged relationships, corruption, money laundering, diffuse implicit intimidation, and the collusion that arises from this. Combined together, they make up a new and unprecedented economic-political-mafia system, which is destined over time to deform Italy's democratic structure.

Both in Italy and worldwide, the mafias have an 'archaic future', because the archaic method of using violence to get one's way, of accessing power and wealth through force and intimidation is working in increasing harmony with the modern economy, politics, and society.

### **From intimidation to collusion**

Mobility, organizational flexibility, an entrepreneurial bent, and the establishment of relations in the grey area are causing deep changes that are affecting the way in which we identify the mafias themselves: when the mafias favour re-investing their resources in the legal economy while abandoning their more explicitly violent and criminal traits, it is sometimes difficult to define the parameters of the mafia organizations, or the boundary between what is mafia and what isn't. The need thus emerges to focus not only on those elements that comprise the legal-judicial notion of mafia conspiracy, but also some of its more established interpretations in the political sphere, public opinion, and academia. Indeed, the changes in the mafias described above have also taken place at the institutional level, and have fuelled a debate on antimafia legislation, suggesting among other things that collusion and corruption should be indicated as the focal points of a 'new mafia method'<sup>10</sup>. As the evidence increasingly shows, this method serves as a vector through which "the mafias can

<sup>10</sup> Direzione nazionale antimafia e antiterrorismo, *Relazione annuale 2016*, p. 259.

induce subjection”<sup>11</sup>. On this point we should add some empirical evidence on the orientation of policies and judicial strategies for the repression of corruption, which seem to point in the same direction. Studies on circuits of corruption involving local, regional, and national politicians and administrators have shown that courts increasingly view instances of corruption – especially ‘systemic’ corruption - as relating to crimes of conspiracy, often mafia conspiracy. Out of all the sentences issued by the Court of Cassation related to corruption cases involving politicians between 1995 and 2015, as many as 45% have made recourse to crimes of conspiracy in the last decade. Narrowing this down to mafia conspiracy only, the percentage drops but remains high, around 27%. Especially in parts of Italy where the mafias have a traditional presence, instances of corruption can be incorporated in crimes of conspiracy due to the greater presence of structured criminal actors. And yet, such data should be interpreted in part as the outcome of specific judicial strategies targeting crimes of conspiracy as a way to make investigations more effective. Corruption (or the way in which it is represented by judicial authorities and prosecuted) is increasingly a crime committed in association.

While this debate includes traditional mafia organizations, it also encompasses newly-emerged organized crime groups in areas where the mafias are traditionally absent, and which have recently been prosecuted for mafia conspiracy, albeit with ambivalent outcomes in court.

One such case involving a newly-emerged organization – the so-called “Middle-earth” investigation into the business and criminal network revolving around public services contracts in the city of Rome – was the first major testing ground for the application of the charge of mafia conspiracy to fight the links between political-administrative crime, white-collar crime, and organized crime. The judgement at first instance, issued by the Court of Rome in July 2017 sentenced several of the defendants to very harsh sentences for the crimes of corruption and criminal conspiracy, but did not find them guilty of mafia conspiracy under article 416-*bis* of the Criminal Code or recognise the aggravating circumstance of using mafia methods. The verdict generated contrasting opinions among legal scholars and pundits, and fuelled a heated political debate. Many observers stressed the link between mafia and corruption as one of the case’s peculiar aspects. Some of them argued that because the mafia method rests upon intimidation, it falls outside the realm of corruption. Corruption and the mafia are undoubtedly two different phenomena, and this distinction must be acknowledged, but they are also quite clearly linked.

The mafias have long employed corruption in its traditional strongholds as well, capitalizing on their other defining characteristic in addition to the use of violence: the ability to accumulate and leverage social capital, or making the most out of relationships that revolve around proximity, collusion, or sometimes outright corruption. From this standpoint, the implied threat of violence – also in the north – contributes to defining the social capital that evolves in the presence of collusive and violent attitudes, which feed off one another.

Recent studies and research, especially in the sociological sphere, have shown that both intimidation and collusion-corruption fuel a context of shared interests that makes up the mafias’ social capital, which is at the basis of both the mafias’ emergence and vitality in its traditional strongholds and of their ability to expand into new territories. Having adopted this vocabulary, a future challenge for the anti-mafia will involve delving into the ongoing changes to the so-called ‘mafia method’ by monitoring the relative importance of its two structural components: one the one hand, the specialized and organized use of violence, whether explicit or implied; on the other, the ability to build social relationships, and of informally managing and mobilizing networks of relations in different institutional contexts. More specifically, attention should be focused on changes to the mafia method, which seem to increasingly rest upon social capital resources, or relationships, arising out of collusion, corruption, and ‘shadowy alliances’.

In this light, it is important to examine how relationships and business deals take shape in the ‘grey area’, and how – as hinted above – they vary depending on the actors in question, the sector of

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<sup>11</sup> Direzione nazionale antimafia e antiterrorismo, *Relazione annuale 2017*, p. 271.

activity, the local context, and the stakes. The grey area is not merely, as it is often described, a buffer zone of sorts for the mafias. It takes on the shape of a nebula, with mobile and highly variable boundaries: *mafiosi* operate within it, where they establish a series of mutually advantageous relationships. They are comfortable in this space, but are not necessarily its most important actors, or those that receive the greatest benefits. The grey area works as a ‘win-win game’, in which all participants come out ahead; as such, it is quite different from a ‘zero-sum’ game in which the winner takes all. *Mafiosi* are often depicted as being engaged in zero-sum games, which they manage to win thanks to their unique powers of intimidation. In fact, studies have brought forth a great deal of empirical evidence showing that *mafiosi* “put those powers in the service of others (in terms of protection, mediation, and regulation services); at the same time, they prefer to opt for win-win games, for which the relevant question is who is admitted and can participate in collusive exchanges, and who is instead excluded, while the costs are obviously passed on in whatever way to the community”<sup>12</sup>.

As we have said, the grey area tends to take on a different shape depending on context, the actors involved, and the sectors of activity in question. As such, it is exceptionally difficult to pin down. To this we must add the fact that once it is in place, it acquires its own autonomy and it runs under its own power, which arises out of the network of relations that comprise it.

In such a framework, future anti-mafia policies should be set with an eye towards the ongoing changes in the mafia method, focusing not only on the characteristics and operations of *mafiosi*, but also on their geographic contexts and spheres of action, thus identifying useful elements for eliminating or limiting their links with society, politics, and the economy. The idea is to target the external support networks and to undermine the mafias’ social capital through policies that discourage the mechanisms at the basis of the emergence and strengthening of the mafias’ social consensus. The core problem is that these networks of relations do not fold with the arrest of a *mafioso*; instead, they represent a form of social capital that is used by other social actors, since they are a valuable resource and a competitive advantage that helps them succeed in the political and economic spheres. In order to attack this type of capital, it is thus not enough to attack the internal structures of mafia organizations – against which judicial activities have achieved undoubted success in recent years – but their external support environment must also be targeted. We must thus strike at the grey area and sever the complicit relationships, the collusion and corruption, and the shadowy alliances that keep the grey area together.

In conclusion, anti-mafia policies must take greater account of the economic scope of the mafias and of their network of relations. In addition to promoting interventions for which the state is responsible (legislation, incentives, law enforcement, etc.), they must also harness variables connected to the market (institutional regulation, fiscal and accounting transparency, labour rights, etc.) and the socio-cultural sphere (corporate social responsibility, development models, styles of consumption, etc.). This will make it possible for policies to work alongside judicial actions – which aim to weaken criminal organizations by targeting their members and assets – in order to remove the conditions under which the mafias can take root and expand.

### **Instruments to fight grey area behaviours: the gradual adaptation of legislation to the evolution of the mafia method and the decreasing relevance of the offence of aiding and abetting**

Over time, the network of relationships established through the mafias’ new methods gave birth to a variety of behaviours that cannot always or necessarily be liable to criminal prosecution, at least in terms of typical felonies. What is more, in most cases criminally liable complicity occurs through a functional relationship which on the one hand ensures mafia organizations their sustenance or strengthening, including in a specific criminal sector, and on the other provides benefits – economic

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<sup>12</sup> For more on the aspects highlighted in this paragraph see the Fondazione Res study: “*Politica e corruzione. Partiti e reti di affari da Tangentopoli a oggi*”, edited by Rocco Sciarone (Rome, 2017), quote on page 22.

or not – to the ‘private contracting party’ – whether an entrepreneur, politician, or white-collar professional - in violation of rules, first and foremost market rules.

What is missing from the above is the so-called *affectio societatis*, namely the will to become a member of the ‘favourite’ criminal organization, which would constitute the felony of participation in a mafia conspiracy under article 416-*bis* of the criminal code.

Indeed, the will of the other contracting party is quite the opposite: they want to stipulate one or more pacts with a criminal organization for reasons of convenience, but they do not want to join said organization, which in turn does not generally want the other contracting party as one of its members.

These objective and subjective characteristics, which typify the most frequent form of complicity with criminal organizations, have led case law to include it in the felony of mafia conspiracy, under the term ‘external participation’ (*concorso esterno*) in a mafia-type organization, a felony committed by those who remain external to a criminal organization, without even the potential intention of joining its ranks. Over time, case law, particularly that of the Supreme Court of Cassation, has identified several profiles that are particularly susceptible to the offence of in a mafia-type organization, such as entrepreneurs, politicians, white-collar professionals, and public officials. In recent years, a growing chorus of voices has stressed the need to formally define forms of ‘external participation’ to prevent its excessively discretionary interpretation. This has also been the object of several reform committees, whose efforts however have not yet yielded any results.

While a formal definition of ‘external participation’ would certainly prevent convictions for such a felony from being overruled, especially by European courts, on grounds of lack of predictability and specificity, it would also run the risks associated with the analytical standardization of a crime that cannot easily be circumscribed to a limited number of easily-defined behaviours. In other words, there is the risk of adopting a pre-set model that does not include all possible permutations of criminally relevant behaviour, and in fact might explicitly exclude some of them. This would have even worse consequences than those that a formal definition would be meant to prevent.

This is perhaps the most fundamental reason why legislators have so far avoided adopting a formal definition; on the other hand, case law has not provided fully persuasive solutions either.

In recent years, additional issues have arisen that suggest it would be prudent to further analyse the problem before rushing to adopt changes.

The first issue is that ‘external participation’ in a mafia-type organization has been understood almost exclusively through the prism of traditional mafia organizations, in particular the Sicilian mafia.

Over the last ten years, however, new types of mafia organizations have arisen that fall under the purview of article 416-*bis* of the criminal code, either because they have been explicitly included within that purview by the legislator, or because they have been recognized as such by case law as the result of investigations conducted throughout Italy. One need only think of the presence of the ‘*ndrangheta*’ in central and northern Italy, foreign mafia organizations, or organizations that recent rulings of the Court of Cassation have defined as “smaller mafias”.

It is clear that while this phenomenon confirms the ability of article 416-*bis* of the criminal code to encompass and sanction a broader array of conducts than those originally envisaged by legislators in 1982, it also mandates further reflection on the specific offence of ‘external participation’, which could be construed somewhat differently than it has so far by case law and legal doctrine.

The second issue is that over the last ten to twelve years (we are referring here to the sentence issued by the joint session of the Court of Cassation in the proceedings against MP Mannino), legislators have significantly broadened the available tools to counter mafia associations both at the trial phase and in preventive terms.

Some examples include the norms against self-laundering, false accounting, attempts to throw investigations off-track, vote buying, the new regulations regarding corruption, and the new tools for putting enterprises under judicial supervision, introduced by article 34-*bis* of the anti-mafia code.

Other tools, which already existed but were only used rarely or in certain jurisdictions, are now being used more widely and effectively throughout Italy (such as the provisions set out in article 12-*quinquies* of law n. 356 of 1992 or article 34 of the anti-mafia code).

It is easy to see that all these instruments – especially if they include the aggravating factors set out under article 7 of law decree n. 152 of 1991 – also target those conducts that until today have fallen within the realm of ‘external participation’, and thus end up impacting the so-called ‘grey area’, which is the primary target of charges of ‘external participation’.

This underscores the need to better think through both the shortcomings of a formal definition of “external participation” and the actual necessity of it.

### 3. The mafias today

#### 3.1 *Cosa Nostra*

##### Background

During the course of its work, the Committee devoted particular attention to the Sicilian mafia, both as a general phenomenon and with regards to specific aspects that emerged during this effort. Indeed, the first investigative act of the parliamentary committee was to meet with the top brass of the Anti-Mafia District Directorate (*Direzione Distrettuale Antimafia – DDA*) of Palermo.

This meeting was followed up by a number of other missions throughout Sicily<sup>13</sup>, during which the Committee interviewed prefects, local police authorities, provincial commanders of the Carabinieri and Guardia di Finanza (Financial Police), several prosecutors and judges, local politicians, and representatives of volunteer organizations and civil society.

This made it possible to obtain, for each province, a snapshot of *cosa nostra*. Although it remains a unified organization, it shows local peculiarities related to the lay of the land and the history of its establishment in specific historical and environmental contexts.

Our research continued over the course of extensive hearings during plenary sessions<sup>14</sup>, which aimed to delve into a number of relevant aspects that typify the Sicilian mafia's current set-up.

In attempting to depict the outcome of these complex efforts, we do not intend to re-trace the history and structure of *cosa nostra* - it remains a hierarchical organization divided into 'provinces', '*mandamenti*' or local districts, and 'families' – or the contents of the numerous criminal procedures handled by Sicilian DDAs in recent years.

This is because *cosa nostra* is not a new phenomenon. After the introduction of the crime of mafia conspiracy with the Rognoni-La Torre Law of 1982, after the testimony of Tommaso Buscetta in 1984 and the completion of the so-called maxi-trial, this secret organization has come under increasing scrutiny, to the point that over time we have heard the history of the mafia being recounted by its own members, both through the hundreds of collaborators with justice and through the numerous wiretaps that have recorded mafia summits, conversations between associates, or even just the venting of individual members.

We are thus faced with a different situation than that of the 'ndrangheta, which while it is also a centuries-old mafia organization, has a more recent judicial history<sup>15</sup>.

<sup>13</sup> These missions took place on 26 November 2013 in Palermo, 2-4 March 2014 in Palermo, 24 March 2014 in Catania, 27-28 October in Messina and Barcellona Pozzo di Gotto, 4-6 March 2015 in Caltanissetta, Ragusa and Siracusa, 18-20 in Palermo and Trapani, 14-16 November 2016 in Palermo, Agrigento and Enna, 19-20 July 2017 in Palermo, and 13 October 2017 in Palermo.

<sup>14</sup> In particular, the following hearings were held: on 20 January 2014 with the Public Prosecutor at the Court of Appeals of Palermo, Roberto Scarpinato, the Public Prosecutor at the Court of Trapani, Marcello Viola, and the President of the Preventive Measures Section at the Court of Trapani, Piero Grillo, verbatim report n. 9; on 17 March 2014 with the Public Prosecutor at the Court of Palermo, Francesco Messineo, verbatim report n. 21; on 1 October 2014 with the Public Prosecutor at the Court of Appeals of Palermo, Roberto Scarpinato, verbatim report n. 56; on 26 November 2014 with the Acting Public Prosecutor at the Court of Palermo, Leonardo Agueci, verbatim report n. 67; on 4 November 2015 with the Public Prosecutor at the Court of Palermo, Francesco Lo Voi, verbatim report n. 121; on 12 January 2016 with the Public Prosecutor at the Court of Palermo, Francesco Lo Voi, verbatim report n.128; on 23 November 2016 with the Assistant Public Prosecutor at the Court of Palermo, Teresa Maria Principato, verbatim report n. 180; on 11 January 2017 with the Assistant Public Prosecutor at the Court of Palermo, Teresa Maria Principato, verbatim report n. 183; on 8 March 2017 with the Public Prosecutor at the Court of Appeals of Palermo, Roberto Scarpinato, verbatim report n. 194; on 9 May 2017 with the Public Prosecutor at the Court of Catania, Carmelo Zuccaro, verbatim report n. 203; and on 14 June 2017 with the Public Prosecutor at the Court of Caltanissetta, Amedeo Bertone, verbatim report n. 211.

<sup>15</sup> It was only in 2010 that the name of this criminal organization was included in the text of art. 416-*bis* of the criminal code, and in the same year, thanks to the work of judicial authorities based in Milan and Calabria, the nature of the

In essence *cosa nostra* – especially in light of the social alarm it aroused nationwide during its war against the State – is an association that has, on many occasions, been described and put under the spotlight of investigators and the media. For these very reasons, it has generated a firm backlash on the part of society as a whole, which not only staged demonstrations against the abuses and ferocity of the so-called ‘*viddani*’ clan from Corleone, but also gave birth to voluntary organizations that have provided concrete assistance to judicial investigations. Paradoxically, one of the consequences of the war against the State was to bring closer to state institutions a segment of the Sicilian population that overcame centuries of diffidence towards the State and of fear or complicity with *cosa nostra* and began to speak out against the mafia and ally itself with the judicial authorities and law enforcement, albeit through a slow and piecemeal process.

The fight against the mafia in Sicily has progressed to the point that there are now questions regarding potential tampering with civil society anti-mafia movements, both in terms of the mafia itself using them to gain currency with public administrations with a view to the assignment of public works contracts, and as a means to pursue the personal and career interests of certain politicians, professionals, and occasionally even judicial authorities, as detailed in other parts of this document.

It is thus not our intention to describe once again *cosa nostra* as a mafia organization with its own rules, business interests, and families. This would be both repetitive and excessive in light of the highly detailed annual reports of the National Anti-Mafia and Anti-Terrorism Directorate, which has always provided its invaluable support to the Committee’s work in keeping with its institutional role, and given what has already been detailed in thousands of judicial proceedings and studies on this topic and the findings of the previous parliamentary Anti-Mafia Committees.

It would instead be more worthwhile to delve into the current “state of health” of the Sicilian mafia in light of the latest data.

Indeed, as early as the period that succeeded the war on the State, after the arrest of the “boss of all bosses” Totò Riina and his replacement by Bernardo Provenzano as the leader of the mafia, there were already rumours of an underground, silent mafia.

In the years that followed 11 April 2006 – when the last of the Corleone bosses still at large, Bernardo Provenzano, was arrested at Montagna dei Cavalli in the Corleone countryside after nearly 43 years on the run - *cosa nostra* slowly began to be viewed as an organization in crisis and in search of an identity, which was able to survive but with leaders of an ever-more-diminished stature, and thus with the adoption of a lower profile.

The period in which this Committee was active saw the deaths of both Bernardo Provenzano and Salvatore Riina, the former on 13 July 2016 and the latter on 17 November 2017; both were incarcerated under the Article 41-*bis* strict prison regime. This makes an investigation into the current organization of the mafia and its possible evolution all the more topical.

### **The mafia in Sicily’s provinces**

An initial and crucial outline of what *cosa nostra* is and, perhaps, will be, emerges from the trove of data collected by the Committee over the course of its parliamentary investigation.

Generally speaking, an analysis of this material shows that: *cosa nostra* is present in every Sicilian province; it is principally active in extortion; it attempts to infiltrate the public and private economic sectors; it is constantly searching for direct or indirect contacts with institutional partners; it has expanded its business interests to include new opportunities related to the reception of migrants and any other sectors that may provide significant profit margins.

However, the data also shows that *cosa nostra* is facing constant arrests of its members throughout the island. Although this is partially mitigated by the release from prison of some of its

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<sup>1</sup>ndrangheta as a unified organization with a formal leadership structure was outlined for the first time (*cf.* par. 3.2 on the ‘ndrangheta).

associates who have served their sentences, it has led to a qualitative, if not quantitative, drop in its membership.

A careful analysis of each individual province reveals some new aspects pointing to a newfound vitality and providing additional food for thought.

In particular, the Palermo DDA, which also has jurisdiction over the provinces of Agrigento and Trapani, and law enforcement agencies throughout the island have been interviewed by this Committee on multiple occasions. Taken together, their testimony points to a set of constants for the three provinces in question, namely the existence of: a series of operations aiming to arrest a significant number of suspects of crimes included under article 416-*bis* of the criminal code and/or other aggravated crimes under article 7 of Law n. 152 of 1991; new instances of collaborations with justice, albeit of a lesser magnitude compared with those of the 1990s; continued criminal and preventive seizures of extensive assets owned by mafia members; mafiosi who have been released from prison after serving their sentences resuming their previous roles within the organization, or even being promoted to leadership positions; the subdivision of *cosa nostra* into *mandamenti* and families, although this type of structure, especially in Palermo province, lacks the type of centralized leadership that until recently established the territorial scope of each family; capillary control over economic activities with a significant number of entrepreneurs continuing to silently pay protection money; occasional mafia murders committed in order to shift the power balance within *cosa nostra* or for punitive purposes; and the central role of smaller towns (such as Corleone, Bagheria, Castelvetro, and Favara) in preserving the traditional aspects upon which the mafia draws its strength and which allow for its survival in spite of intensive repressive efforts.

With specific reference to the province of Palermo, *cosa nostra*'s core criminal activity continues to be the extortion racket. Protection money continues to be paid in every neighbourhood of the city, exactly as it was years ago. Almost every day, we find out that renowned businesses are subjected to mafia extortion, which they suffer in rigorous silence. While it is true that some shopkeepers have rebelled, and that anti-racket associations such as “*Addiopizzo*” continue to do extraordinary work, the number of those who are willing to speak out against the racket has not grown meaningfully.

Even though protection money – even within a modern economic system – remains at the core of the mafia's interests and targets small artisans as well, this does not mean that *cosa nostra*'s means of intimidation have remained archaic. It should be remembered that while extortion remains a significant source of income for the mafia's coffers (which need to be replenished in order to support the many families of incarcerated mafia members and the payment of their legal expenses), it is the main tool at the mafia's disposal to control the local territory and impose its primacy over the laws of the state.

Another sector that is receiving increased attention from the Palermo mafia is that of illegal gambling and betting. While it was once looked down upon as dishonourable (together with the prostitution racket) and left to the American ‘cousins’, it is now held in great esteem and ranges from control over slot machines to more ambitious activities, as shown by the Palermo Prosecutor's Office investigations into the dealings of the entrepreneur Bacchi.

Additionally, the Palermo mafia has shown renewed interest in the drug trade. While they were once world leaders in heroin trafficking, as early as the 1990s – when they understood that the heroin trade was highly risky in terms of arrests and the length of sentences for those convicted, while public works produced as much income with much lower risk – the Palermo mafia abandoned the heroin trade to the ‘ndrangheta. *Cosa nostra* limited itself to handling a few drug shipments and to operating through investments outsourced to other Italian and foreign organizations specialized in the international narcotics trade. Probably as a result of the economic crisis, signs are emerging pointing to the organization's return to the drug market. While the quantities in question are far smaller than the tonnes of narcotics that were handled during the era of heroin refineries and close ties with the American mafia and *cosa nostra* still depends on the large-scale operations run by the ‘ndrangheta, the situation appears to be evolving.

As concerns the number of mafiosi in Palermo province, the Public Prosecutor at the Court of Palermo Francesco Lo Voi<sup>16</sup>, during a hearing held on 12 January 2016, asserted that as of that date, and in spite of constant arrests, as many as 1,658 people were under investigation for mafia-related crimes in the province. In fact, the Committee was particularly struck by another statement made by the Public Prosecutor, in which he referred to a law enforcement operation carried out on the very day of the hearing and referred to the involvement of white-collar professionals: “the arrests that were made this morning are part of a particularly important and significant investigation, for a number of reasons. Not only has a harsh blow been dealt to the assets of a mafia group with deep roots in Palermo province, headed by the Graziano and Galatolo families, (...) but the investigation also targeted several white-collar professionals involved in the laundering of the enormous profits accrued by those families. They falsely registered assets in their own names and completed a series of financial operations that must be carried out by persons unknown to either mafia circles or law enforcement agencies and investigators, but who come instead from the white-collar sector. This is a sector that I personally felt the need to focus on, and I asked law enforcement to invest their best resources and energies in these investigations, because we are no longer in the era where the mafia re-invested its illicit profits by purchasing land or in construction activities. Instead, we are now in an era in which the way both society and finance have evolved mandates that certain illicit activities must inevitably be carried out with the help of professionals, accountants, engineers, lawyers, fiscal consultants, and experts in international transactions, who can both conceal these illegal activities and ensure that funds are laundered and reinvested”.

Although *cosa nostra* has been decimated by arrests, it thus still remains able to incorporate the white-collar sector and retain a *vis attractiva* over the middle and upper classes, while adapting to ongoing social and economic changes.

The province of Agrigento, on the other hand, has always been considered one of Sicily’s poorest areas, and of limited interest to the Sicilian mafia as a whole. In the recent past, *cosa nostra* in Agrigento province – where it operates in cahoots with the *stidda*, another minor mafia organization – seemed to have been holed up in the inland areas, engaged in small-scale trifling affairs, and still tied to the old traditions that the more evolved Palermo mafia has long since jettisoned.

However, numerous signals have recently emerged that force us to seriously re-evaluate that particular context.

In order to grasp its scope, we must begin with the traditional strengths of *cosa nostra* in Agrigento province, which make it an impenetrable stronghold of the old-school mafia. It has been related to the Committee that “in the province of Agrigento there are only 43 municipalities and 450,000 inhabitants. The entire province has fewer inhabitants than the city of Palermo. This implies that many members of *cosa nostra* in these small towns are blood relatives, which in turn makes it possible for the *cosa nostra* leadership to exert its control over its members at an individual level. Indeed, it is obvious that testifying against one of your blood relatives is extremely difficult. This explains why there have been no informants in Agrigento province for several years now, and why investigations are particularly intractable”.<sup>17</sup>

During this same hearing, it was also stressed that the Agrigento mafia has long enjoyed the same amount of respect bestowed upon the mafia in the nearby provinces of Palermo and Trapani: “the picture is of a lack of subordination to *cosa nostra* in Palermo. I could cite the example of a diatribe, which was discovered thanks to the *pizzini* [handwritten notes] found in Provenzano’s possession, between the old boss of Agrigento province Falsone and Matteo Messina Denaro. The relationship between Falsone and Matteo Messina Denaro in front of Provenzano, who had to settle the dispute, was a relationship between equals”.

<sup>16</sup> Cf. verbatim report n. 128.

<sup>17</sup> Cf. hearing with Maurizio Scalia, Assistant Public Prosecutor with the Court of Palermo, during the mission to Agrigento of 15 November 2016.

In this environment, the hearings highlighted several noteworthy events.

First of all, we have learned that the *stidda* - after the bloody war that ended in the early 1990s and a period of peaceful co-existence with *cosa nostra* – has partially been re-absorbed by the latter, with implications in terms of the strengthening of mafia organizations.

The hearings also provided a description of a province where old mafia bosses have been released from prison and where murders have shot up, with the launch of bloody wars extending abroad as well – such as in Belgium, where the mafia has weapon caches – and where the control of the local territory remains pervasive.

As an example of this control, we need only look at a quiet, touristic town such as Sciacca, a far cry from places such as Favara or Palma di Montechiaro. In Sciacca, dozens of property damage crimes are reported every day, yet even here, “needless to say, once the victims are heard by law enforcement, collaboration is practically non-existent and no one ever points to any suspects. (...) there is still a complete lack of openness on the part of civil society and the entrepreneurial sector”<sup>18</sup>. This gives us an idea of what is happening in other towns where the mafia presence is more deeply rooted.

Nevertheless, even in these very traditional areas *cosa nostra* is constantly searching for contacts with both public administrations – with municipal councils dissolved for mafia infiltrations, mayors convicted of mafia-related crimes, trials concerning the rigging of local elections to favour certain candidates<sup>19</sup>, and numerous acts of intimidation against local administrations, as reported by the prefect of Agrigento -, and with the white-collar world, particularly the banking sector<sup>20</sup>.

The scope of this newfound mafia vitality in the province of Agrigento – which, incidentally, was the setting for the barbaric murder of the judge Rosario Livatino – was already perceived by the Committee during its investigations, and can be fully grasped in the very recent, wide-ranging law enforcement operation against the so-called ‘*mandamento della Montagna*’. On 22 January of this year, it resulted in the arrests of over 50 mafia associates charged with vote-buying, tampering with public works contracts, placing their representatives in municipal administrations, extortions against immigrant reception centres, and more ‘traditional’ crimes related to the slot machine racket and the drug trade.

According to the Committee’s findings, *cosa nostra* in Trapani province is also particularly dangerous, since unlike in other places it has remained essentially unchanged, without new developments of note.

Although it has always reflected the more traditional aspects of *cosa nostra*, and has worked closely with the Palermo mafia led by the Corleone factions, the Trapani mafia has several specific characteristics that make it a modern organization more similar in certain aspects to the Catania mafia.

Indeed, tradition and modernity are the defining characteristics of head of the Trapani mafia, Matteo Messina Denaro, who is still at large.

First and foremost, the province has historically been a stronghold of freemasonry<sup>21</sup>, and the setting for several events that cannot be explained merely in terms of mafia criminality<sup>22</sup>.

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<sup>18</sup> Cf. hearing with Roberta Buzzolani, Public Prosecutor at the Court of Sciacca, during the mission to Agrigento of 15 November 2016.

<sup>19</sup> Cf. hearing with Maurizio Scalia.

<sup>20</sup> Cf. hearing with the Public Prosecutor at the Court of Agrigento, Luigi Patronaggio, during the mission to Agrigento of 15 November 2016.

<sup>21</sup> Cf. as revealed by this Committee in its report on the relationship between the Sicilian and Calabrian mafias and masonic observances.

<sup>22</sup> Cf. among others, the sentence issued on 16 May 2016 by the Court of Assizes in Trapani regarding the murder of Mauro Rostagno, which this Committee examined. Although the sentence confirmed the mafia nature of the crime, it also describes multiple underlying cross-cutting. Also consider the massacre that took place at the Alkamar Carabinieri station on 1976, which has recently returned to the spotlight after the retrial and acquittal, in 2012, of the defendants who had been wrongly convicted, and their subsequent request for compensation for wrongful imprisonment.

Additionally, the payment of protection money is not indiscriminately imposed in this province, since it is often entrepreneurs themselves who willingly enter into business partnerships with the mafia. In particular, for at least twenty years the fugitive boss Matteo Messina Denaro has run the Trapani mafia under solidarity rules that aim to acquire economic power while maintaining the support of both mafia associates and civil society. This is one of the reasons why entrepreneurs are not coerced, but instead willingly receive financial aid and support from the mafia, while offering in return a share in their businesses.

Given the amount and quality of confiscated assets, it is easy to infer that business is growing in the more modern sectors, such as tourism and alternative energy, which is all the more reason why extortion remains confined to more humble sectors.

In addition to contacts with the political sphere – which according to judicial decisions may theoretically be considered sporadic, but which nevertheless exist – of particular importance are the many criminal proceedings regarding tampering with public procurement processes, where public interests take a back seat to private mafia interests, and especially the many municipalities in Trapani province that have been dissolved pursuant to Article 143 of the Consolidated Law on Local Authorities (seven municipal governments between 1992 and 2012) in addition to the launch of numerous procedures to verify mafia infiltration over the years that did not result in dissolution. June 2017 finally saw the dissolution for mafia infiltration of the municipality of Castelvetrano, the birthplace of Matteo Messina Denaro.

This modern approach to business on the part of the Trapani mafia, which implies relations with different interlocutors than those of the traditional mafia, probably also affected the fact that, as the Committee was informed<sup>23</sup>, Messina Denaro has not felt the need to reside stably in Trapani province or to maintain constant ties with the association's rank and file, while remaining its unquestioned leader.

This modern, entrepreneurial mafia is flanked by a more traditional mafia, which Messina Denaro himself is able to embody and fuel, combining it with his more innovative methods<sup>24</sup>. Indeed, police operations in Trapani province have been nearly ceaseless, especially in light of the need to capture Messina Denaro. Investigations have led to dozens of arrests<sup>25</sup>, all united by a common threat: the persistence of a conservative mafia still held together by the chain of *pizzini* that allows the head of the Trapani mafia to run the criminal organization from afar. The more immediate and modern communications systems uncovered by the investigation concerned different types of relations, namely those between fugitives and their families, which enjoy more direct and immediate communication channels in spite of the fact that they are mafia families themselves. In such a circuit, trusted old-time mafiosi who have been released from prison quickly find a place in the communications system for fugitives, which remains secure, and endeavour to maintain open channels of communications, on behalf of their boss, between families, '*mandamenti*', and neighbouring provinces.

The number of collaborators with justice is extremely low. The Committee was recently faced with the emblematic case of the witness Lorenzo Cimarosa, a cousin of Matteo Messina Denaro and the only one of his relatives to have given information to investigators, undermining the family's intangibility for the first time. The reaction to his statements of some of his fellow citizens in Castelvetrano, who went so far as to vandalize his tomb in May 2017, a few months after his sudden death in January, takes us back to a mafia that was thought to have disappeared.

<sup>23</sup> Cf. hearings with Teresa Maria Principato, Assistant Public Prosecutor at the Court of Palermo, on 23 November 2016 (verbatim report n. 180) and 11 January 2017 (verbatim report n. 183).

<sup>24</sup>This can be inferred from, among other things, the text of the notes ('*pizzini*') he wrote to Bernardo Provenzano or his conservative stance regard the 2008 attempt to re-form the provincial commission of *cosa nostra* in the absence of Totò Riina, which will be discussed later in this report.

<sup>25</sup> Cf. the above-mentioned hearings with Teresa Maria Principato, Assistant Public Prosecutor at the Court of Palermo.

Hearings with the Caltanissetta DDA, which also has jurisdiction over Enna province, and especially the report written by the prosecutor at the time, Sergio Lari, his statements, and those of his successor Amedeo Bertone confirmed the continued existence of the mafia faction once headed by Piddu Madonia, along with the peaceful co-existence, despite some initial friction, between *cosa nostra* and the *stidda*.

Once again, the mafia maintains a pervasive presence in the area, uses extortion as a tool for dominion, infiltrates public tenders, and controls certain municipal administrations; on the other hand, numerous defendants have been incarcerated for mafia crimes.

The Caltanissetta mafia is on the upswing to a certain degree. According to recent investigations, the Gela *mandamento* seems to be expanding, and is active throughout Sicily (from Catania to Palermo and Trapani) as well as elsewhere in Italy (Rome and Milan) and with interests abroad (in North Africa). It maintains a network of relations with the mafia in other provinces, creating a coordination of sorts.

In addition to large-scale criminal business, the petty crime aspect also underscores the dangerousness of that area and its criminal protection. The Public Prosecutor at the Court of Gela informed the Committee<sup>26</sup> that car burnings take place in that area “more than once a day”, for a total over the last year of “about 600 such criminal episodes, meaning one or two a day in the Gela area. The other night, five automobiles were set on fire over the course of four hours”. These episodes take place side-by-side with another recurrent form of intimidation, that of “gunshots fired at shop fronts or front doors of private residences during the night”. In the face of this, the victims, which include white-collar professionals in addition to shopkeepers and entrepreneurs, do not collaborate as “the wall of *omertà* goes up”. This amounts to military control over the local territory and widespread intimidation, which continues to generate fear and a sense of oppression in the population. What is even more alarming is that according to the Prosecutor, the Gela area is a sort of testing ground for criminal youth, resulting in constant violence so that “grievous bodily harm offences are reported, on average, once a day”.

Even the landlocked province of Enna, which is more strongly influenced by Catania than Caltanissetta, is showing signs of criminal growth. The Public Prosecutor in Caltanissetta, Amedeo Bertone<sup>27</sup>, reported links with organized crime in Catania province, brutal murders committed in that province, and acts of vandalism against local administrators and law enforcement in certain municipalities of Enna province, and finally, the October 2016 murder in Pietraperzia of a well-known attorney who had just purchased a large agricultural estate. By the same token, the Public Prosecutor at the Court of Enna, Massimo Palmeri<sup>28</sup>, reported on extensive investigations that highlighted “overlap between petty crime and organized crime in a wide-ranging inquiry on fraud against AGEA, the agency in charge of disbursing EU funds related to agriculture, which agency operates at the local level with agricultural assistance centres, to which requests for funds must be submitted in order to be processed (...). Both farmers and members of criminal organizations thus had an interest in appearing as if they owned large tracts of land”.

The above describes a situation linked to the extensive and growing phenomenon known as the Nebrodi mafia (which includes parts of the provinces of Enna, Messina, and Catania), which will be discussed later in this Report, and whose profitable system of speculation is increasing in scope.

With regards to Messina province, which was once merely considered a transit area for the Catania and Calabrian mafias, the Committee has found that it is less innocuous than it had been portrayed in the past.

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<sup>26</sup> Cf. hearing with Ferdinando Asaro, Public Prosecutor at the Court of Gela, mission to Agrigento of 15 November 2016, verbatim report.

<sup>27</sup> Cf. hearing during the mission to Enna on 16 November 2016, verbatim report.

<sup>28</sup> Cf. hearing during the mission to Enna on 16 November 2016, verbatim report.

The perspective provided by Guido Lo Forte, who was the Public Prosecutor at the Court of Messina during his hearing with the Committee on 27 October 2014, led to a re-assessment of *Cosa nostra* in Messina province as a native and well-organized criminal organization and helped understand the extensive changes that took place in the city of Messina.

First of all, he explained that “in the past a slightly misleading narrative was presented (...), which led public opinion to believe that the province of Messina was not home to a native criminal organization, but was instead under the influence of other criminal organizations, such as those from Calabria or Catania, who passed through it. Nevertheless, this was not true in the past, and is not true now. Indeed, recent investigations have shown that the province of Messina has its own structured mafia-type criminal organization (by ‘structured’ I mean that it can systematically control the local territory and has a pyramid-like hierarchical structure) (...). Additionally, this province operates according to the traditional rules of *Cosa nostra*, on a par with the other provinces”.

Over the last decade, this mafia has shifted its centre of operations to the town of Barcellona Pozzo di Gotto (formerly it was in Mistretta), and although it has been hit with numerous arrests, the town remains a traditional *cosa nostra* stronghold (as shown even more recently by the arrests made by the Messina Public Prosecutors’ Office, now headed by Maurizio de Lucia).

Of particular interest is the situation in the city of Messina, which according to the prosecutor Lo Forte, “is a bit of an exception given that, for historical reasons, (...) had remained a sort of free zone for some time, after repeated attempts by both *cosa nostra* in Palermo and the Calabrian ‘ndrangheta to establish a presence in Messina all failed (...). A criminal organization thus developed that, unlike the one in Barcellona Pozzo di Gotto, is not an integral part of *cosa nostra*, even though it engages in all its activities (...). This criminal framework (...) is very similar to the one that was in place in Catania before Giuseppe Calderone’s *cosa nostra* family took over. (...) In Catania there were also local criminal organizations that were not part of *cosa nostra*. Then a *cosa nostra* family moved in during the mid-1970s – thus *cosa nostra* has a presence in Catania, but not in Messina – but even after this moment *cosa nostra* did not take on full control of crime in Catania, since it co-existed alongside various criminal groups that do not belong to *cosa nostra*, and that are sometimes even more notorious than *cosa nostra* itself in the local criminal underworld. Therefore, Messina has seen and is continuing to see an evolution of sorts that is similar to the one undergone by criminal organizations in Catania, albeit with significant advances”.

The mafia in Messina has thus shown a certain trend towards modernization “in the sense that in the last few years it has moved (...) from merely predatory behaviours based on extortion and control of the drug trade to money laundering and the creation of a mafia-run business sphere. We now have mafiosi who are themselves entrepreneurs, and not just mafiosi with links to entrepreneurs (...) and the trend is no longer to invest money in the traditional real estate sector, but rather in commercial activities, businesses, and so on”.

For this reason, the Barcellona faction of *cosa nostra* “has not directly sent its affiliates to Messina, but only its entrepreneurs. This is a modern version of an older phenomenon (...) when the Palermo faction of *cosa nostra* (and to a lesser extent the ‘ndrangheta) eventually decided against sending one of its mafia families to take over Messina, which would have created friction with both Catania and Reggio Calabria, and decided instead to send the mafia bourgeoisie to do business there”.

The prosecutor’s conclusion was that the mafia’s aim in both Messina province and the city of Messina “is to become entrepreneurs. Indeed, almost all of our collaborators with justice formerly ran small or medium enterprises. The leaders of the mafia in Barcellona were all entrepreneurs, some quite successful, in a variety of sectors. In other words, an entrepreneurial bent is a typical characteristic of the mafia in Messina province, so that by studying entrepreneurs closely we can arrive at much more”.

In addition to the above, Messina province has also recently seen the emergence of the so-called Nebrodi mafia, an expression of *cosa nostra*. Although it might appear to be a rural mafia of livestock farmers, very much bucking the trend towards greater entrepreneurship, it is actually anything but ancient if not in the methods it uses. Investigations are now shedding light on an

increasingly violent phenomenon, which also affects parts of the provinces of Enna and Catania, with numerous grave acts of violence, threats, damage to property, and even attacks and homicides, with the goal of taking possession of the area's agricultural estates and accessing the wealth of funds disbursed by the European Union.

This is a highly profitable sector, and as such is the object of great interest on the part of criminal groups. Press reports have linked these criminal groups to the worrying attack against Giuseppe Antoci, the president of the Nebrodi Regional Park on 17 May 2016. This attack, which is currently being investigated, took place along the road between San Fratello and Cesarò, where Antoci's automobile was blocked by an armed commando. Antoci may have been targeted because he had promoted a protocol that resulted in the suspension of funds for thousands of hectares of land located within the boundaries of the Nebrodi Regional Park.

An extremely interesting situation is emerging in eastern Sicily, which was historically part of the sphere of influence of the Santapaola and Ercolano families in Catania. Although the boss Benedetto Santapaola – now in his eighties – has been incarcerated since the early 1990s, Catania's *cosa nostra* continues to be the ultimate entrepreneurial mafia.

Often considered to be a step behind Palermo's mafia, it has actually proven to be better at infiltrating the economic and political fabric than the other Sicilian factions of *cosa nostra*.

Giovanni Salvi, the Public Prosecutor at the Court of Catania at the time, provided a very clear analysis: "In some ways, Catania can be said to have been a place where past experimentations took place with a method that is now spreading elsewhere, namely links between certain entrepreneurial and political sectors and criminal organizations, in which the nature of these relations is different than, say, in Palermo"<sup>29</sup>.

In this regard, he specified that "over time, Catania served as a testing ground for new forms of organized crime (...). The *cosa nostra* bosses in Palermo are old-time, traditional mafiosi. In Catania the *cosa nostra* bosses are not corrupt entrepreneurs or what we would call 'mafia entrepreneurs', they are entrepreneurs plain and simple. They are the Santapaolas, the Mangions, the Ercolanos. This has a meaning. This is not a weaker version of *cosa nostra*. Santapaola kills or has people killed. (...). It is an entrepreneurial mafia, but with a shotgun. Now we are in a situation where it is more difficult to tell white from black, the grey area is expanding".

By the same token, the 2016 report of the National Anti-Mafia and Anti-Terrorism Directorate discussed the relations between this entrepreneurial mafia "and certain local politicians and administrators, as shown in various trials that have proven instances of mafia-related vote rigging and the influencing of elections on the part of criminal groups, which brought significant numbers of votes to candidates who requested them, and who in exchange ensured that these criminal groups or enterprises related to them would win public contracts".

Much like elsewhere, the Catania mafia is also expanding its interests towards other sectors, such as the reception of migrants, the rapidly growing produce sector in Ragusa province, and European Union.

The fact that this mafia continues to shoot, as pointed out by the prosecutor Salvi, was further backed up by statements he made on 24 March 2014, during the Committee's mission to Catania, and during the hearing of 15 January 2015, in which he discussed recent homicides in the Caltagirone area, Biancavilla, and Vittoria, and noted that "one of the largest arsenals in the recent history of criminal organizations was recently confiscated in the Librino neighbourhood of Catania, comprising various AK-47s, various portable machine guns, about twenty brand-new handguns, and several pump-action shotguns".

### **The current state of *cosa nostra* and the outlook for the future**

<sup>29</sup> Cf. hearing of 15 January 2015 with the Public Prosecutor at the Court of Catania, Giovanni Salvi, verbatim report n. 77.

As is well known, recent years have seen the widespread perception that the ‘ndrangheta, in light of its criminal advancement, is now the most dangerous of the Italian mafias. By the same token, public opinion has increasingly seen the Sicilian mafia as an organization that has been wounded and decimated by the State’s repression, and which has gone underground and struggles to survive. According to this view, its range of action is quite diminished, and mafiosi whose authority is steadily slipping away limit themselves to petty crimes just to meet the association’s primary needs, with neither the capacity nor the aim to expand and recover *cosa nostra*’s historical power.

However, the framework that emerges from the Committee’s findings points to a different set of conclusions, which while not of an alarmist nature, nevertheless aim to rectify some of the superficial and almost triumphalistic interpretations often given in assessing the “bill of health” of the Sicilian mafia.

First and foremost, we are duty-bound to highlight the ceaseless commitment and hard work of the judiciary and of law enforcement agencies, which over time have tirelessly endeavoured to contain the mafia’s power, and have achieved such significant results in the process that we are now discussing the very survival of the mafia.

The mafia has undoubtedly undergone some momentous changes that have affected its nature as a subversive force that challenge the democratic system, and that availed itself of indiscriminate violence and bombings to do so.

Late 1994 marked the disappearance of the Corleone-based mafia faction that spearheaded the war against the State, and which through an escalation of violence became the protagonist – though not the only actor – of an era of political and mafia terrorism.

Indeed, the main players of that era, at least those on the mafia side of things, have been arrested, including the leaders of the most violent wing who promoted the war on the state, Riina and Provenzano, both of whom recently died.

The only leading boss still at large is Matteo Messina Denaro, who however is not thought to have any interest in launching new violent campaigns, as he has dedicated himself to ensuring his freedom and the peaceful overseeing of his economic empire.

In any case, there have not been any significant events so far that point to either the willingness or capacity on the part of *cosa nostra* to resume a war against democratic institutions, keeping in mind of course that since it is a secret organization undergoing constant change, it is impossible to make predictions that are completely reliable.

In addition to this widely acknowledged and extraordinary achievement, another proven change to the mafia’s strategies took place after the mafia’s war on the state and the 1993 arrest of Totò Riina, when *cosa nostra* opted for the so-called ‘going underground’ strategy. After being dealt a harsh blow by the firm repression of the state – which included numerous arrests, the sentencing of many mafiosi to the Article 41-*bis* strict prison regime, and extensive assets confiscations – the mafia, under the leadership of Provenzano, who remained at large until 11 April 2006, preferred to act under the surface and become almost invisible, so as to not raise social alarm and escape from the grip of investigators.

Nevertheless, we must reflect on the meaning of this ‘going underground’, which may erroneously suggest that *cosa nostra* has undergone a structural change.

First of all, it should be underlined that ‘going underground’ was a forced choice, since the mafia of the time, according to its own rules, could not have carried out extraordinary violent actions that had not already been approved by Riina, the formal head of *cosa nostra*, or at the very least needed to be authorized by *cosa nostra*’s provincial or regional commissions, which remained inactive due to Riina’s incarceration.

In fact, during his lengthy regency, Provenzano did not have the formal authority to make decisions of this scope, as documented in part through the *pizzini* that were found in his hideout at Montagna dei Cavalli in Corleone. One need only remember the matter of the return of the so-called ‘*scappati*’ (‘runaways’), about which Provenzano himself claimed to be unable to make decisions on

his own that would have contradicted those originally made under Riina's leadership. The existence of this rule was later confirmed by a series of wiretaps recorded in 2008 as a part of the Palermo DDA's 'Orfeo' operation. In their conversations, various mafia bosses in Palermo province stated that, in keeping with *cosa nostra's* principles, Bernardo Provenzano would formally provide advice and not issue orders during his regency and before his capture. They also confirmed that it would have been impossible to re-create *cosa nostra's* provincial commission as they could not be made aware of decisions made by the commission's head Totò Riina, who was incarcerated under the Article 41-*bis* strict prison regime.

The formal question notwithstanding, the Palermo mafia would not have been interested in continuing the war against the state anyway, as it had not achieved the hoped-for results, but had instead resulted in incalculable damage to the organization and its individual members.

Therefore, in keeping with the investigations carried out at that time, which demonstrated that the mafia was still in business and continued to resort to violence, including homicides if necessary, the conclusion is that 'going underground' did not mean that the mafia was becoming invisible or undergoing a substantial change, but was merely going back to what it was before the rise of the Corleone clan, and returning to its traditional sectors.

The historian Salvatore Lupo put it very well when he told the Committee that "from a historical perspective, this matter of the Corleone clan will be seen as a footnote, because the mafia hides by nature, it hides in the folds of social relations, and its worst defeat ever was self-inflicted, since it made it impossible for anyone to claim the mafia does not exist, because it was the mafia itself that revealed its unquestionable existence"<sup>30</sup>.

Perhaps it was Provenzano himself who put an end to the Corleone era of *cosa nostra* in order to return to its traditional co-existence with the state.

Later on, another major change took place in the Sicilian mafia. On 11 April 2006 Bernardo Provenzano was arrested, depriving *cosa nostra* of a universally recognized leader. Salvatore Lo Piccolo, who was still at large at the time, attempted to expand his powers and climb *cosa nostra's* ranks, but his arrest on 5 November 2007 put an end to that.

The absence of an acting chief obviously resulted in a lack of a unified strategy, severely limiting the criminal organization's growth.

This has been accompanied, thanks to constant arrests, by a general decrease in the quality of leadership for mafia families or *mandamenti*, as experienced and charismatic leaders are increasingly hard to find.

Nevertheless, this should not be interpreted with excessive optimism as the final decline of *cosa nostra*, with blows dealt to both its base and its leadership, since investigations have proven the opposite.

In every Sicilian judicial district, and with a certain frequency, precautionary measures are issued for the offences detailed under article 416-*bis* of the criminal code and related crimes, such as extortion, which are usually aimed at shopkeepers and accompanied by property damage and other acts of intimidation, thus continuing to attest to the mafia's invasive presence and interference at the local level. At the same time, the constant issuing of confiscation orders, either preventive or as a result of criminal conditions, testify to the fact that *cosa nostra* continues to enrich itself.

Additionally, and most importantly, the many Sicilian municipalities dissolved due to mafia infiltration, and the assets put under judicial administration pursuant to article 34 of the anti-mafia code (which included major enterprises and banks) provided additional proof that mafia infiltration into Sicily's public administration, politics, and economy continued unabated – indeed, two recent presidents of the Sicilian regional government have been tried for mafia-related offences.

The absence of a unified leadership and an authoritative base has probably resulted in *cosa nostra* no longer being able to deal with the political sphere as equals. Nevertheless, control over

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<sup>30</sup> Cf. sitting of 1 December 2015, hearing with Salvatore Lupo, full professor of contemporary history at the University of Palermo, verbatim report n. 124.

local municipal administrations has allowed the mafia, through minor public contracts and those awarded for emergency measures, to not only replenish its coffers, but also revive its ambitions of supremacy.

Neither can it be said that today's *cosa nostra* has given up on the idea of rebuilding its leadership structure or intends to renounce the use of violence. At the end of 2008, the leaders of Palermo province's *mandamenti* called a series of meetings to reconstitute *cosa nostra*'s provincial commission, because as some of those who were wiretapped were heard to say, this would allow them to once again do "grave things". This project, together with other attempts to recreate a leadership structure that law enforcement officials became aware of in subsequent years, was put to a stop after the subjects involved were arrested.

Although what has been detailed above suggests an organization that remains dynamic in spite of undergoing a crisis as a unified organization, one must also keep in mind the strengths that *cosa nostra* is still able to rely on.

When undertaking such an analysis we cannot forget that over half a century ago, just after the Ciaculli massacre of June 1963, the mafia had been thought to have been defeated, to the extent that some mafia leaders themselves proposed to permanently disband the organization, yet only a few years later the Corleone faction began its unstoppable rise to power. While the general framework today has profoundly changed, both in terms of society as a whole and in the system of prevention and repression, we must never overlook the fact that we are dealing with a secret criminal organization with a history that spans more than two centuries.

First and foremost, we must remember that the Sicilian mafia is an organization based upon precise rules that allow it to overcome tough times and survive even in the absence of a leadership structure. According to the 2016 report of the National Anti-Mafia and Anti-Terrorism Directorate: "During this particular historical phase, the mafia organization continues to resort to its 'constitutional' heritage and thus to the rules on its traditional structure of governance – which even in the lack of charismatic leaders at large on its territory – allows it to face, and unfortunately to overcome in many cases, crises such as the one it is currently and undoubtedly going through. It should be reiterated once again here that *cosa nostra* seems to be endowed with both a 'formal constitution' and a 'material constitution'. In some historical moments it has relied more on its material constitution, meaning that the organization's governance was driven by the decisions of its leaders, regardless of respect for the rules. When the state's investigative activities brought about the arrests of those leaders, it caused a crisis in the material constitution of the organization, at which point *cosa nostra*'s formal constitution resumed its important role and still allows the organization to survive despite the lack of recognized leaders still at large".

Another strength of the mafia that the judicial authorities investigating it have reported to the Committee is the striking "capacity for regeneration"<sup>31</sup> it has shown in recent years, when in the face of constant arrests of mafiosi big and small, the criminal organization has always responded with the immediate replacement of the arrested member, showing not only a ceaseless ability to continue operating, but also of being able to count on a vast number of associates, some of whom are of medium-high cultural backgrounds.

Because of this, and in spite of everything, the mafia has kept its control over many of Sicily's towns and villages, still enjoys widespread support, and continues to broadly exert its powers of intimidation while its victims, by and large, remain silent.

The qualitative change in today's mafiosi, who are less experienced and charismatic than in the past, can also be viewed through a different prism. Indeed, prosecutor Lo Voi stated that: "while it is true that *cosa nostra* has been dealt some harsh blows over the last two decades, it is equally true that we are seeing its ability to re-generate on a daily basis, perhaps not up to the qualitative levels of the mafia bosses of yore, but this does not mean that they are any less dangerous: on the contrary, in the absence of a rigid selection process for mafia members and associates, they may even turn out to

<sup>31</sup> Cf. sitting of 4 November 2015, hearing with the Public Prosecutor at the Court of Palermo, Francesco Lo Voi, verbatim report n. 121.

be more dangerous. We must thus pay close attention to moments of apparent calm with regards to security in general, which concerns both institutional officials and simple citizens who are the victims of *cosa nostra*'s varied illicit activities"<sup>32</sup>.

Still on the issue of the depth of Sicily's mafia, it is very important to remember that there is much about *cosa nostra* that we do not know.

It would be useful to understand what happened to the network of relations and contact persons during the time of the mafia's war on the state. It is essential to know whether those high-ranking accomplices are still on the scene, and with whom they interact; whether they had direct or indirect relations with the Corleone faction, and once the latter were no longer a factor, whether these relationships evaporated or whether there were also relations at another level that is still able to operate today.

There is also the question of what happened to the massive holdings that the old mafia had managed to accumulate and that have not yet entirely been identified.

As a mere example, the investigations that led to the capture of Provenzano showed that in the 1970s, together with two other longstanding mafia bosses in Corleone, Leoluca Bagarella and Salvatore Riina, he had purchased assets in the tourism and pharmaceutical sectors in addition to more traditional investments in construction. While in hiding, Provenzano was sent newspaper clippings that showed stock market trends, and in the 1990s, according to wiretaps, the alienation of an unknown building owned by the three bosses required about 200 million liras' worth of notary fees. Consider also Ciancimino's so-called treasure, which has only partially been traced, and whose proceeds were invested in Italy and especially abroad. Finally, there is the younger Matteo Messina Denaro who has invested in food retailing and, more recently, in the alternative energy sector.

It is thus worth asking the question of whether, in addition to the mafia rank-and-file who will settle for crumbs or the mere honour of belonging, there is still – as has always been the case in the past – a higher level, a mafia elite that manages these enormous and unknown assets, which have been laundered over time through series of investments and have ended up producing jobs and thus social consensus, and even more importantly, relations with the white-collar world, politicians, and major entrepreneurs, thus becoming full-fledged members of the democratic system.

Such a question is even more germane if we consider the context in which the mafia operates in the provinces of Trapani, Catania, and Messina, where alliances with entrepreneurs have made *cosa nostra* itself an entrepreneurial force; or the leadership style of Matteo Messina Denaro, who exemplifies the evolutionary model in which the leaders remove themselves from the affairs of those at the bottom of the pyramid to be closer to those at the top.

Another strength of the Sicilian mafia comes from the death of the Totò Riina, which marked the final chapter in the uneasy history of the Corleone faction's rise to power. *Cosa nostra* is now free to endow itself with a new central leadership structure, and thus a common strategy, which had been hindered by the existence of a boss who was incarcerated under the 41-*bis* prison regime, and thus could neither lead nor be replaced.

In this particular context, one must also take into account the recent release from prison of several leading mafiosi, and the return to Palermo of the so-called *scappati*, members of the former mafia aristocracy who survived the mafia war of the early 1980s, and who have important contacts on the other side of the Atlantic.

Also not to be overlooked is the co-existence of the two souls of *cosa nostra*: the conservative one, based in small provincial towns that enforce tradition (indeed, the first attempt to re-establish a provincial commission was mediated by mafiosi from Bagheria and Corleone), and the modern one, based in cities such as Catania, Trapani, and Messina, which represent a more advanced model in step with the modern mafias. These two souls make it possible for the mafia to take shelter in its reassuring, solid past in order to look to the future.

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<sup>32</sup> Cf. sitting of 4 November 2015, hearing with the Public Prosecutor at the Court of Palermo, Francesco Lo Voi, verbatim report n. 121.

Whatever happens next, it will undoubtedly be different from the mafia we have known over the last few decades.

### 3.2 'Ndrangheta

#### Background

From the outset, the Committee has devoted specific attention to the dynamics behind the evolution of the *'ndrangheta* in Calabria, elsewhere in Italy, and abroad. It is no coincidence that the Committee's first plenary sessions were held in Reggio Calabria on 9 and 10 December 2013, launching an intensive schedule of hearings (on mission and in Parliament) with top judicial and law enforcement authorities in the districts of Reggio Calabria and Catanzaro<sup>33</sup>. Inquiries also took place in other Italian regions where the *'ndrangheta* has now established itself and abroad<sup>34</sup>.

Helped by the extensive judicial investigations carried out in recent years, the Committee was able to appreciate the profound rootedness and the financial might of Calabrian criminal groups, together with their ability to work against the State without challenging it openly, instead infiltrating its nerve centres.

The awareness of the strength of the *'ndrangheta* and the danger it poses has only arisen recently. For far too long it was described as a secondary, subordinate, and backward mafia. This deformed image cast a shadow under which the *'ndrangheta* was able to grow and expand unnoticed, eventually crossing Calabria's borders<sup>35</sup>.

The criminal rise of the *'ndrangheta*, the reasons for which were analysed in part at the beginning of this Report, took place after the assassinations of Falcone and Borsellino, when it exploited the difficult moment that *cosa nostra* was going through as a result of having become the main target of State repression. The Calabrian clans invested the proceeds from kidnappings into the drug trade, and sent many of their men to South America. In time, the *'ndrangheta* became the main broker for the international drug trade, which at the time was shifting from heroin to cocaine, and established a privileged relationship with the leading Central and South American suppliers thanks to its economic reliability, the lack of high-ranking collaborators with justice - at least until recent times, when a few collaborators have provided investigators with important information<sup>36</sup> - and a much less conflicted relationship with representatives of the institutions than that of the Corleone faction of *cosa nostra*<sup>37</sup>.

<sup>33</sup> Missions to Vibo Valentia on 8 April 2014; Reggio Calabria, on 28-29 April 2014 and 31 March – 1 April 2016; Catanzaro on 23 February, 2015; Cosenza on 26 and 27 October 2015.

<sup>34</sup> For the full list of hearings and missions see annexes 1, 3 and 4.

<sup>35</sup> In this regard, see the remarks by the District Prosecutor in Rome, Giuseppe Pignatone, who had previously served as the District Prosecutor in Reggio Calabria: "The *'ndrangheta* was able to acquire its prominent role thanks to the characteristics that *cosa nostra* was no longer able to guarantee, beginning with complete economic reliability and security thanks to the lack of 'traitors', or high-ranking collaborators with justice. ... The *'ndrangheta* has a centuries-old history; it certainly has not come on the scene only in recent years. Yet it seems to me that everyone agrees on the fact that the Calabrian clans have replaced *cosa nostra* as the main broker for the global drug trade, thanks to their privileged relationship with major South American and Mexican suppliers of cocaine, thus further strengthening the significant role they already played". This quote is drawn from "*La fine di un'epoca*", in *Diritto penale contemporaneo*, 2017.

<sup>36</sup> Recent investigations by the Reggio Calabria DDA availed themselves of collaborators with justice who in recent years provided a key contribution in unveiling the structure of the *'ndrangheta* and the episodes at the heart of criminal proceedings; they made it possible to shed light on the structure, nomenclature, competences, ranks, and tasks of *'ndrangheta* members. These collaborators included Paolo Iannò, Giuseppe Costa, Consolato Villani, Belnome Antonino, Roberto Moio, Nino Fiume, and others, all with lengthy criminal pedigrees, and whose reliability was recognized in multiple definitive rulings.

<sup>37</sup> Sitting of 14 April 2014, hearing of the Assistant Public Prosecutor at the Court of Reggio Calabria, Nicola Gratteri, verbatim report n. 27: "Antonio Macri was the boss of Siderno, and held discussions with the American *cosa nostra* as an equal in rank. Totò Riina would visit him in Calabria dressed as a priest. Totò Riina would come to Africo dressed as a priest to speak with Don Stilo. Brusca, the guy who pushed the button that set off the remote-controlled bomb that killed Falcone, would come to Calabria to see Don Stilo and ask him for help in rigging trials at the Court of Cassation. That was the *'ndrangheta* back then, no one understood it and everyone underestimated it, and considered it a poor man's mafia. The philosophy of the *'ndrangheta* has always been to present itself as a rural mafia, which always sought agreement with representatives of the institutions rather than confrontation".

### The ‘*ndrangheta*’s unitary structure

Over the last few years, the ‘*ndrangheta*’ has been the criminal phenomenon that has dominated the media spotlight, and has been the focus of the most thorough inquiries on the part of investigators, who were able to provide judges with a systematic reconstruction of the phenomenon.

We can confidently state that the last decade has given us improved knowledge on the ‘*ndrangheta*’s structure and characteristics. Indeed, it was not until 2010 that the term ‘*ndrangheta*’ was legally recognized in the text of article 416-*bis* of the Criminal Code<sup>38</sup>, thus putting an end to the indiscriminate lumping of this criminal phenomenon with other organizations, and acknowledging its autonomous importance.

In 2014 and 2016 the Court of Cassation issued its final rulings on the investigations carried out by prosecutors’ offices in Reggio Calabria and Milan under the names “*Crimine*” and “*Infinito*”, and confirmed the investigators’ hypotheses on the unitary structure, the *modus operandi* and the expansionist strategies of the ‘*ndrangheta*’<sup>39</sup>. Already in the past, numerous elements that emerged from investigations carried out by the Reggio Calabria’s prosecutor’s office began to hint at the pieces of a mosaic that the judiciary would only put together much later: namely, that the ‘*ndrangheta*’ is a unitary structure with local organizations that all answer to the “*crimine*”, or Calabria, and which has a top management body, collegial in nature and with general authority, known as the “*Provincia*” (Province).

In other words, we now know that the ‘*ndrangheta*’ in Calabria is organized into three different ‘*mandamenti*’: Ionian, Tyrrhenian, and Reggio Calabria, each of which is in turn subdivided into ‘*locali*’; it also has ‘*locali*’ in various regions of northern Italy and abroad (in Europe, North America

<sup>38</sup> Art. 6(2), of decree-law n. 4 of 2010, enacted and amended by law n. 50 of 31 March 2010.

<sup>39</sup> The existence of a unified, top-down criminal structure called “*la Lombardia*” was definitively ascertained on 6 June 2014 by the Court of Cassation – section VI - when it upheld the sentences issued by the preliminary hearing judge on 19 November 2011 and by the Court of Appeals in Milan as part of the so-called “*Crimine-Infinito*” proceedings. The motivation for the ruling shows that the ‘*ndrangheta*’ in Lombardy is organized into a series of ‘*locali*’, which answer to a coordinating body known as “*la Lombardia*”, whose leaders have been as follows: Cosimo Barranca until 15.08.2007, Carmelo Novella from 15.08.2007 to 14.07.2008 (when he was murdered by Antonino Belnome, who then became a collaborator with justice), Pasquale Zappia from 31.08.2009; the presence of the following “*locali*” in Lombardy is deemed proven: Bollate, Cormano, Milano, Pavia, Corsico, Mariano Comense, Seregno-Giussano, Desio, Rho, Pioltello, Legnano, Erba, Bresso, Limbiate, Canzo and Solaro; the ‘*ndrangheta*’ has deep roots in Lombardy, where it is a constant and stable presence. It is no longer a matter of infiltration, understood as the sporadic presence of *mafiosi* in illegal activities; instead, Lombardy’s ‘*locali*’ are constantly in touch with Calabria. In fact, each ‘*locale*’ in Lombardy has a mirror organization in Calabria; within each ‘*locale*’, members have their own posts and charges, which determine their function and importance within the ‘*ndrangheta*’; the ‘*ndrangheta*’s rootedness in Lombardy has led to widespread subjugation and a code of silence, the fruit of the power of intimidation wielded by an armed mafia association with deep roots in the region; the meetings between associates, whose purpose is to confer rank and draft strategies for the association, take place during so-called ‘*mangiate*’ (large meals), which are veritable mafia summits; the purpose of the association is to commit crimes (extortion, usury, other crimes against property, murders, other crimes against persons, waste trafficking, aiding and abetting fugitives, arson, debt collection using intimidation), acquire business activities, tamper with elections in order to favour individuals who would then be willing to advance mafia interests and help them obtain unfair advantages; the conditions that characterize the context that allowed the ‘*ndrangheta*’ to take root in Lombardy include the willingness on the part of entrepreneurs, politicians, and white-collar professionals (the ‘*ndrangheta*’s so-called social capital) to enter into mutually profitable relationships with the mafia association (cf. doc. 1404.1).

The “*Crimine*” trial concluded with the Court of Cassation’s ruling of 17 June 2016. It ascertained, with the authority of *res judicata*, the existence of the ‘*santa*’, which characterized the ‘*ndrangheta*’s new course starting in the late 1960s. The ‘*santa*’ sidestepped the exclusivity of ‘*ndrangheta*’ bonds, making it possible to establish links with other organizations, especially the freemasonry.

At the same time, the “*Minotauro*” trial, which took place in Turin and whose ruling has also become final, reconstructed along these same lines the structure and the organization of the ‘*ndrangheta*’ in Piedmont.

and Australia), but each of these *'locali'* reports to the *'provincia'*, which serves as the top management structure of a veritable transnational organization. The *'provincia'* represents all of Calabria's *'ndrangheta'* families, and has the power to arbitrate internal disputes, open new *'locali'* or close existing ones, confer titles, and give the green light to murders of particular importance, even if they are carried out outside of Calabria. It would be mistaken to equate the *'provincia'* with *cosa nostra's 'cupola'*, as the two structures are not alike. In fact, the *'ndrangheta's'* decentralized structures have great autonomy: "The *'crimine'* of San Luca, which has been mistakenly likened to *cosa nostra's cupola*, is nothing but the custodian of the rules. The *crimine* is the custodian of the twelve tablets. The *crimine* exists to preside over compliance with the rules. The *crimine* intervenes when there is a feud within a *'locale'*, as was the case in Locri in 1989"<sup>40</sup>. Within one's own *locale*, "everyone is the absolute master, but they cannot do anything to damage the interests of other *locali*, under penalty of isolation. This holds true for the *'locali'* in Calabria, the rest of Italy, in Europe, and worldwide. The balance between choices that exclusively affect a *locale*, which no one has the right to question, and the choices that impact other *locali* implies that the most important decisions cannot be made by a single *locale*, but are instead the responsibility of the *provincia'*"<sup>41</sup>.

The *'ndrangheta'* was born as a unitary, horizontal organization, but it changed over time and acquired a more complex and hierarchical structure. This pyramid-like evolutionary process was made necessary to forestall new and bloody mafia wars like the one that led to over seven hundred deaths between 1985 and 1992; by the need to participate at the highest levels of the international drug trade; and in order to usher in the organization's entrance into public procurement processes through new links with high-ranking representatives of the public administration, institutions, and the white-collar and corporate worlds. The creation of the *'santa'* at the end of the 1960s was another new development, "a revolution within the *'ndrangheta'*", a semi-secret structure comprising " *'ndrangheta'* members authorized to join the freemasonry to establish contacts with senior public administration officials and also physicians, engineers, and attorneys"<sup>42</sup>.

With the creation of the *'santa'*, the *'ndrangheta'* frees itself from provincialism while strengthening its tendency to create a structure that limits the autonomy of individual *'locali'* to shift power towards the central level and boost the potential of the organization as a whole<sup>43</sup>.

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<sup>40</sup> Sitting of 14 April 2014, hearing of the Assistant Public Prosecutor at the Court of Reggio Calabria, Nicola Gratteri, verbatim report n. 27.

<sup>41</sup> Indictment deposited by the public prosecutors G. Musarò and A. De Bernardo as part of the "*Crimine*" criminal proceedings at the Court of Locri.

<sup>42</sup> Sitting of 14 April 2014, hearing of the Assistant Public Prosecutor at the Court of Reggio Calabria, Nicola Gratteri, verbatim report n. 27.

<sup>43</sup> The Milan DDA managed to film the awarding of the title of the *'santa'* during a ritual ceremony that took place in Brianza (Castello di Brianza in Lecco province) on 12 April 2014, in the presence of the head of the Giffone (Reggio Calabria) *locale*: "Good vespers and a holy evening to the *santisti!* Verily on this holy evening, in the silence of night, under the light of the stars and the radiance of the moon, I form the holy chain! In the names of Garibaldi, Mazzini, and La Marmora, with words of humbleness, I form the holy society! Repeat after me: I swear... to deny... all until the seventh generation... All of the criminal society I have recognized until today ... to protect the honour of my wise brothers! In the names of Garibaldi, Mazzini and La Marmora, I pass my vote onto the account of G. Buttà. While I once knew him as a wise brother, made but not loyalized, from this moment on I know him as a wise brother of mine! Under the light of the stars and the radiance of the moon, I break up the holy chain! In the names of Garibaldi, Mazzini, and La Marmora, with words of humbleness, the holy society is now dissolved! Until yesterday, you belonged to the criminal society. As far as the *'ndrangheta'* is concerned, until yesterday you were whole! Today, you are embarking on a new path! You must be armed! You must renege everything you knew until yesterday! There are two paths here: the mountain... the holy mountain... Today, from this moment forward, men can no longer judge you.... You judge yourself! There are two alternatives... should you commit a grave act of negligence in your life, it is not up to your brothers to judge you. It is you who must know you have acted with negligence and choose the road to follow! The oath of poison!! A pill, there is a pill... cyanide... either you poison yourselves or you take this firearm! Of the bullets in the chamber, you must always save one! That one is for you! Should someone ask you: 'excuse me, who are your parents? Who is your father?' You shall reply: 'my father is the sun and my mother is the moon!' Cf. Insubria trial" (doc. 388.2).

### The reasons for the *'ndrangheta's* success

This organizational model and its decision-making dynamics, which are functional to the accumulation of wealth, have proven to be effective at disciplining the activities of *'ndrangheta* clans throughout Calabria, elsewhere in Italy, and worldwide. In light of the branching out of its economic interests both in Italy and abroad, the *'ndrangheta* constantly needs to know who is in charge in the places where it wants to do business. Whether it needs to organize the arrival of a shipment of cocaine, acquire advantages (subcontracts, appointments, jobs) related to a public contract, or make a major investment, it needs to know “who is boss” there, with whom to enter into agreements, and whom to contact to solve any disputes that may emerge. It cannot afford to have any uncertainties about this. The *'ndrangheta's* structure and its internal hierarchy are necessary to control its men and ensure the necessary relations to manage the international drug trade and major public contracts; it is a matter of criminal legitimacy.

Many mafia families cannot directly be traced back to the traditional *'ndrine* of the province of Reggio Calabria, with which they have no blood ties, but if they want to belong to the *'ndrangheta* they must follow the rules and the authority of the bosses of the Reggio-based leadership. The upper level only intervenes if there are disputes between the various *'ndrine*, or when the unity itself of the *'ndrangheta* is at stake, as was the case with the murder of Carmelo Novella, who headed the *'ndrangheta* in Lombardy and had designs to get out from under the authority of the mothership in Calabria.

The strength of the *'ndrangheta* lies especially in its family-based structure, in the blood ties that ensure the close-knit nature of the clans, and by the *'ndrine's* ability to flourish even outside of Calabria<sup>44</sup>. This explains why so few members of relevance have become collaborators with justice: “no head of a major *'ndrangheta locale* has ever turned state's evidence”<sup>45</sup>. Much of the time, accusing a *'ndrangheta* associate means turning in a brother, a cousin, an uncle, or a father, and thus betraying an oath twice over, that of membership and that of blood.

The family structure of the *'ndrine* and the compartmentalization of the *'ndrangheta* allow it to better withstand pressure from law enforcement, and make it a highly reliable organization, both in its relations with other criminal organizations and with its business, institutional, and political partners.

Recent investigations have revealed the territorial and economic expansion of Calabrian clans and their ability to colonize large swaths of northern Italy by adapting their organizational model and criminal strategies to new contexts, as will be discussed in a dedicated chapter.

But both in Calabria and elsewhere, the *'ndrine* feed off of social consensus, they are not a body apart from society, even in places where this social consensus expresses itself in its most archaic form, that of subjugation induced by fear. Violence remains an essential resource, although it is used less and less and only in extreme cases, when no other form of pressure, intimidation, or delegitimization will do.

The *'ndrangheta's* support in its areas of origins is still in large part due to the State's shortcomings and delays. The graffiti “less cops, more jobs” that appeared in Locri during the National Day of Remembrance for mafia victims on 21 April del 2017 exemplified the terms of a

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<sup>44</sup> The *'ndrangheta* colonizes new territories, it exports its organizational structure and the mafia method, but most of all it exports its system of relations, which helps it infiltrate with great ease the white-collar sector, the public administration, and local politics, both in Calabria and elsewhere. This allows it to take root in a new territory and re-establish its families therein. See for example the statements of Paolo Iannò during the hearing of 17 May 2013 before the Court of Locri, as part of the “*Crimine*” trial: “unlike other criminal organizations, the *'ndrangheta* has its own culture and mentality (...) of transplanting the *locali*; this is in the nature of *'ndrangheta* members, it's in their blood. If a *'ndrangheta* member arrives somewhere (...) it is in his blood, his DNA, to take possession of that place, to grasp it in his hands”.

<sup>45</sup> Sitting of 14 April 2014, hearing of the Assistant Public Prosecutor at the Court of Reggio Calabria, Nicola Gratteri, verbatim report n. 27.

challenge that in southern Italy, and especially in Calabria, sees the mafias take advantage of the basic needs of local populations and offer core services (assistance, housing, security, employment) that public institutions struggle to guarantee.

The success of the *'ndrangheta* must be interpreted through this lens. It lies in its extraordinary ability to move between the lowest and highest strata of society, to be able to function at both the local and global scale, and to establish increasingly close relationships with sectors outside of the mafia realms, but that are essential in order for the mafia to achieve its criminal aims<sup>46</sup>.

### The *'ndrangheta* in Calabria

#### Economic interests

The *'ndrangheta* remains solidly established and very combative in its region of origin. Over the course of its missions to the districts of Reggio Calabria and Catanzaro the Committee collected extensive confirmation and new indications on the *'ndrangheta*'s criminal activities and interests in Calabria.

The drug trade remains squarely front and centre in these interests. Calabria is the driving engine of the *'ndrangheta*'s strategies in this illegal activities, with the clans from the Tyrrhenian and Ionian *'mandamenti'* of Reggio Calabria and those in Vibo Valentia maintaining a veritable hegemony on the global cocaine market<sup>47</sup>.

The heads of the Calabrian clans keep close and sometimes exclusive ties with the main drug cartels in Central and South America, where the *'ndrangheta* has established logistical and operational hubs that allow for rapid and constant re-supply, the organization of safe transport, and the direct management of business, with the clan's brokers and trusted associates present in all these countries.

The *narcos* consider the *'ndrangheta* a reliable partner flush with cash, and these characteristics have facilitated its globalization, which was made easier by the presence of *'ndrine* throughout the world. The international drug trade relies on solid contacts in the New World, in the United States and Canada, including partnerships with associates of *cosa nostra*<sup>48</sup>; and especially in Europe, from Germany to Belgium and from the Netherlands to Spain; the latter two in particular have always been among the favourite hideouts of Calabrian fugitives<sup>49</sup>.

In all these countries, *'ndrangheta locali* reinvest the massive profits of the drug trade in new businesses and consolidate their presence, thus multiplying the expansionary force of Calabrian clans.

The port of Gioia Tauro is one of the main crossroads along the South America-to-Europe drug route. The clans that rule over the plain of Gioia Tauro control the management of all of the

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<sup>46</sup> The *'ndrangheta* “enters into alliances with the upper echelons of society, those endowed with economic and political power. This is an indispensable system of relations with a world that is not part of the mafia (and does not intend to become so), but whose input is essential for mafia organizations to conduct business and pursue their criminal interests”. G. Pignatone, *La fine di un'epoca*, cit.

<sup>47</sup> Below are a few of the most important operations carried out by the prosecutors' offices of Reggio Calabria and Catanzaro: “Puerto Liberado”, “Porto Franco”, “Ulivo 99”, “Km 24”, “Columbus”, “Columbus2”, “Santa FÈ”, Terramara-Closed, “Due Mari”, “Buena Ventura”, “Acero”, “Siderno-Connection”, “Overing”, “Overloading” and “Stammer”.

<sup>48</sup> Operation “New Bridge” in the United States and Operation “Ontario” in Canada. Operation “Ontario” revealed synergies between associates of *'ndrangheta* clans, some of whom were residents of Canada (Antonio Ursino) and representatives of the Sicilian mafia (Rizzuto family).

<sup>49</sup> Between 2005 and the present, the following *'ndrangheta* fugitives have been arrested in the Netherlands: Sebastiano Strangio (2005); Rocco Gasperoni (2007); Giuseppe Nirta (2008); Gianluca Racco, Francesco Romeo, Giovanni Strangio (2009); Francesco Nirta cl. '74 (2013); Sebastiano Signati, initially located in the Netherlands in 2011 and subsequently arrested in Belgium in 2015; Rocco Mammoliti (2016). In the same period, the following *'ndrangheta* fugitives were arrested in Spain: Alessandro and Roberto Pannunzi (2004); Ippolito Magnoli (2008); Carmelo Gallico (2011); Rocco Piscioneri (2014); Antonio Gallace, Gianluca Landonio (2016); Domenico Lagrotteria and Davide Taher, both located in Spain but arrested upon their return to Italy (2016). Earlier, there had been the arrests of Domenico Paviglianiti in 1996 and Santo Maesano in 2002.

port's internal services, and can count on the complicity and support of technicians and workers for transshipment activities and offloading the drug cargo from the containers<sup>50</sup>.

In spite of intensive and constant law enforcement action, with numerous arrests and massive drug seizures (1,533.785 kg of cocaine only in the port of Gioia Tauro<sup>51</sup>), investigators themselves admit that it is still difficult to intercept the cash flows necessary for the handling of drug shipments. "If we do not intervene and do not block the financial mechanisms that allow drug traffickers to move drug shipments across the planet, we will never get at the heart of the problem. We must identify and strike the financial mechanisms upstream from the narcotics trade."<sup>52</sup>

While drugs are the core business of the global *'ndrangheta*, the Calabrian clans continue to exert stifling control over many economic activities in the region, to a greater extent in the province of Reggio Calabria, where the situation is particularly alarming.

The clans in Reggio Calabria province (in the city itself and along the Ionian and Tyrrhenian coasts) interfere heavily with every sector of the legal economy, from construction to commerce, from restaurants to transportation, and from the import-export of food products to tourism. This *'ndrangheta* has an increasingly strong entrepreneurial bent, and does not merely limit itself to racketeering and usury, or to extorting money from entrepreneurs and shopkeepers in a parasitic fashion. Instead, it has taken on the direct management of various businesses, including some very popular and emerging ones, such as online gambling and betting, where the risk of being discovered is very low while opportunities for laundering the profits from illegal activities abound.

The latest investigations have consolidated our knowledge on the *'ndrangheta*'s ability to infiltrate not only the private economic system, but especially the public administration. Thanks to a well-established network of relations with politicians, institutional officials, and white-collar professionals, the *'ndrangheta* – both through frontmen and complicit entrepreneurs and professionals – is able to win major public contracts, impose its companies and workers in sub-contracts – this was the case both for the million-euro public contract for the renovation of the National Magna Grecia Museum in Reggio Calabria and the renovation of a well-known bar in the city. This *modus operandi* does not need to resort to violence, but instead exploits a convergence of interests with much of the local and regional élites as a lever to maintain power and support and ensure its impunity.

In the Catanzaro judicial district, which also includes the provinces of Cosenza, Crotona, and Vibo Valentia, the *'ndrine* are just as cynical and aggressive. The Grande Aracri family in Cutro and the Mancuso family in Limbadi are the most important clans, with offshoots in northern Italy and abroad. Once again, the entrepreneurial model is dominant, with the clans expanding their range of action to encompass renewable energy, water treatment, and assistance to migrants. An important investigation in this regard was carried out by the Catanzaro prosecutor's office and concerned mafia infiltration in the management of the Sant'Anna immigrant reception centre in Isola Capo Rizzuto, where the local Arena clan had managed to win for many years the public tenders issued by the Crotona prefecture to supply restaurant services to the guests of the reception centres. It was able to do this in part thanks to the complicity of the local representative of the management body of the reception centre, *Misericordie*, and a parish priest in Isola Capo Rizzuto.

The white-collar sphere is essential to ensure the establishment and expansion of criminal activities. It would not be an exaggeration to say that no profession has remained immune from mafia infiltration: tax advisors, notaries, engineers, physicians, and attorneys have all put themselves in the

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<sup>50</sup> "The level of corruption is extremely high, especially with regard to technicians who work in the port area and the dockworkers, who are local people with deep roots in the area and intimate ties with the major criminal organizations operating therein". Mission to Reggio Calabria of 28 April 2014, hearing of the provincial commander of the Guardia di Finanza in Reggio Calabria, Alessandro Barbera.

<sup>51</sup> DNA, Annual Report 2016, Doc. 1404, p. 33.

<sup>52</sup> Mission to Reggio Calabria of 9 and 10 December 2013, hearing of the National Anti-Mafia and Anti-Terrorism Prosecutor, Franco Roberti.

service of the clans in a wide variety of contexts, including the delicate task of administering assets confiscated from mafia organizations; unfortunately, judges and law enforcement officials have not remained immune either.

### Relations with the political sphere

The Mafia's presence in local authorities is a major indicator of the *'ndrangheta's* chokehold on Calabria and of the solid relations between it and the political sphere at the municipal, provincial, and regional levels.

The impressive number of municipal councils dissolved due to mafia infiltration in Calabria, the last five of which in late 2017<sup>53</sup>, testifies to the fragility of local institutions, which are vulnerable to criminal infiltration not only through external pressure on municipal councils, but increasingly through the direct presence of mafia associates in local administrations. This represents a large and unsettling leap forward in the mafia's ability to interfere with democratic life.

The Committee has thoroughly monitored this issue, not only during the many municipal elections that took place in Calabria over the course of the parliamentary term, but also through an immediate inquiry into the situation in the municipality of Reggio Calabria, the first and so far only provincial capital to have been dissolved for mafia infiltration in October 2012. A chapter of this Report is specifically dedicated to a general analysis of this worrying phenomenon, and also contains a detailed illustration of the proposals made by the Committee concerning this issue. Nevertheless, the peculiar nature of the situation in Calabria is worth describing, including through the latest judicial information.

The *'ndrangheta* pursues the specific goal of subjugating the region where it originated and whence it draws its legitimacy, and keeping it isolated and backwards. In this light, relations with the political sphere are essential for consolidating the clans' power, as the assistant public prosecutor at the Court of Reggio Calabria, Nicola Gratteri, ably put it: "25 years ago it was the *mafiosi* who went hat in hand to the politicians to ask for favours or for a job with the forestry corps. Today, instead, it is the politicians who visit mafia bosses in their homes, and ask for the votes they control in exchange for public contracts ... Today, if politicians visit the homes of mafia bosses to ask for their votes, it means that public opinion sees the mafia as the winning model. Why would a mafia boss have a say in a sidewalk renovation project worth € 20,000? With all the money they have, do they really care about a sidewalk? They do, because it means twenty days of work for the heads of five households, and when it comes the time to vote, they will remember to vote for the candidate indicated by the mafia boss. In small towns, for example, it is very easy for the mafia to decide who will be elected mayor. *Mafiosi* are a minority... even in the towns with the highest mafia densities, but the difference is that they are an organized minority. They control about 15% of the vote, at most 20%, but by conveying that 20% to one candidate or another they can determine who will be elected mayor, and they can then demand to cash in the favour"<sup>54</sup>.

Operation "*Stige*" of January 2018, coordinated by the Catanzaro DDA – which involved to various degrees mayors, former mayors, municipal councillors, and aldermen in Cirò Marina, Mandatoriccio, Strongoli, Casabona, Crucoli, San Giovanni in Fiore and in the province of Crotone – disrupted a powerful clan with its base in Crotone province and branches in various other Italian regions as well as Germany, and Switzerland. The operation provided additional alarming confirmation of the genetic change undergone by Calabrian clans, which now directly place their representatives in local institutions, regardless of political affiliation.

<sup>53</sup> On 22 November 2017 the Council of Ministers, accepting a proposal by the Ministry of the Interior, deliberated the dissolution for mafia infiltration of the municipal councils of Cassano allo Ionio, Isola Capo Rizzuto, Marina di Gioiosa Ionica, Petronà, and Lamezia Terme.

<sup>54</sup> Sitting of 14 April 2014, hearing of the Assistant Public Prosecutor at the Court of Reggio Calabria, Nicola Gratteri, verbatim report n. 27.

On the other hand, the clans maintain their stranglehold even in places where local administrators have no intention of caving in. A telling example of this concerns the events that took place in the municipality of Rizziconi, which were described to the Committee by the Public Prosecutor at the Court of Reggio Calabria at the time, Cafiero de Raho. In the municipality of Gioia Tauro, the powerful Crea clan had interfered with and steered the public administration for years; indeed, the town council was dissolved twice, in 1996 and 2000. In 2010, however, a mayor was elected who was reluctant to come to terms the mafia, at which point the local mafia bosses spearheaded a campaign to discredit the mayor, and forced the resignation of the majority of town council members, thus putting an end to that council. “This was the will of the *‘ndrangheta*, which controls the territory in such a thorough and pervasive manner as to interfere with the results of the election”.<sup>55</sup>

Equally critical is the situation in the Locri area, where the Committee shined a spotlight on numerous cases of threats and veritable attacks against public elected officers. In this case, it is not always evident that the *‘ndrangheta* is behind these intimidations, but it is further proof of the serious problems affecting this crime-ridden area, as was reported to the Committee during its mission to Locri by the prefect of Reggio Calabria, the members of the extraordinary administration commissions of the municipalities of Bovalino and Africo, and several elected officers who were the targets of threats.

“In some cases, public elected officers turn out to be close to organized or common criminal circles, or else threats are made in a context that can be traced back to interests or disagreements that can then become evident in the shape of acts of intimidation or damage. We cannot rule out that certain episodes may originate in electoral agreements that were then violated or simply to promises that were not kept<sup>56</sup>” In other occasions such events arise in an unsettled or even conflictual political context. Finally, some of these episodes may be interpreted in a self-serving manner to gain standing or acquire legitimacy, or they may be unintended consequences of intentional acts whose purpose was to pursue more or less intentional goals of various types.

Often, attempts to redress sloppy and opaque administrative practices and cleanse public administrations of mafia infiltrations clash with the inadequacy of bureaucratic structures and the diffidence, if not open hostility, of the citizenry. In Bovalino, for instance, the Committee was told that when the extraordinary administration commission issued a call for tenders for the separate refuse collection service, the only company that submitted a bid was actually subject to anti-mafia interdictory measures<sup>57</sup>; or that not a single company was willing to demolish an illegal building, and the efforts of the commissioners to restore legality were fought through a petition signed by numerous citizens, using a typical *‘ndrangheta* strategy of delegitimizing those who obstruct their interests. In some municipalities that were dissolved for mafia infiltration it proved impossible to use the Regional Operational Programme funds made available for re-using the many confiscated properties located in their territories.<sup>58</sup>

The most emblematic episode – and one that had resonance at the national level – of the relations between *‘ndrangheta* and politics is the one that brought about the dissolution for mafia infiltration of the municipal council of Reggio Calabria, highlighting *‘ndrangheta* infiltration in public-private companies in which the municipality had a stake, in order to drain a massive amount of public funds and consolidate its power and support by assigning a great many public sector jobs.

Investigations by the Reggio Calabria DDA in 2016<sup>59</sup> shed new light on the criminal system that prevailed in the city. These investigations – which implicated leading local, regional, and national

<sup>55</sup> Sitting of 17 September 2014, hearing of the Public Prosecutor at the Court of Reggio Calabria, Federico Cafiero de Raho, verbatim report n. 54.

<sup>56</sup> Mission to Locri of 1 April 2016, hearing of the prefect of Reggio Calabria, Claudio Sammartino, verbatim report.

<sup>57</sup> Mission to Locri of 1 April 2016, hearing of the president of the extraordinary commission for the administration of the municipality of Bovalino, Alberico Gentile, verbatim report.

<sup>58</sup> Mission to Locri of 1 April 2016, hearing of Franca Tancredi, president of the extraordinary commission for the administration of the municipality of Africo, verbatim report.

<sup>59</sup> Operations “Fata Morgana”, “Reghion” and “Mammasantissima”.

politicians (including the former mayor and former president of the Calabria regional administration Giuseppe Scopelliti, the former regional councillors Alberto Sarra and Umberto Pirilli, who was subsequently elected to the European Parliament, and Senator Antonio Caridi), showed how the *'ndrangheta* interfered with administrative activities, including decisions regarding strategic public services such as the integrated water management system, drained public funds without any beneficial impact on the city's development, and steered a significant number of votes towards candidates of their liking over the last ten years. In the magistrates' opinion, a closed leadership structure took hold of the city of Reggio Calabria, which structure included senior associates of the De Stefano *'ndrangheta* family, leading white-collar professionals with links to the freemasonry, such as the attorney and former MP Paolo Romeo, and local and national politicians. In fact, this leadership structure was kept secret from local *'ndrangheta* clans and regular masonic lodges, but it constituted a "network of relations aimed at influencing municipal institutions, but also constitutional ones, if we consider relations with members of parliament"<sup>60</sup>.

"What I was referring to is the instrument through which, over the last 10-15 years, the *'ndrangheta* has maintained its relation with a grey area that had a presence in the freemasonry as well, so that the latter accommodated the *'ndrangheta*'s need to enter into relations with broader sectors of society without revealing itself. The confidential component comprises various parties, unknown to the freemasonry itself, because they are persons who - as their role is to conceal the organization and as their identities are known only to some of the organization's top leaders - cannot reveal themselves in any other way"<sup>61</sup>.

Thanks to this secret structure, over the last ten years the *'ndrangheta* has been able to benefit from relations with a grey area that had links to the freemasonry, and the freemasonry had to buckle to the needs of the *'ndrangheta*.

The longstanding relationship between the freemasonry and the mafias is discussed in more details in a report<sup>62</sup> by the Committee illustrating the results of a lengthy, in-depth investigation of *cosa nostra* and *'ndrangheta* infiltration in masonic lodges in Sicily and Calabria; these results are summarized in chapter 4.7 of this Report.

### **The *'ndrangheta*'s expansion in Italy and abroad**

We have already highlighted the transnational structure of the Calabrian mafia, who has leveraged its global leadership in the drug trade to export increasingly incisive methods to establish and solidify its presence abroad. Below we provide an overview of a topic that will be discussed in more detail in the chapter on the internationalization of the mafias and anti-mafia actions.

During its missions to Spain, the Netherlands, Malta, and Canada, the Committee noted good and improving levels of cooperation between judicial and investigative authorities in these countries, especially in the fight against drug trafficking. However, none of the authorities in these countries – including both political and law enforcement ones – have shown the necessary levels of awareness and attention to fight new criminal dynamics and the ability of the *'ndrangheta* – the most active and well-established organization – to identify legal loopholes and business opportunities to invest and launder the enormous cash flows generated by illegal activities.

Significant light has been shed on this matter by the "Acero-Krupy" investigation spearheaded by the prosecutors' offices of Reggio Calabria and Rome, coordinated by the DNA, with the

<sup>60</sup> Sitting of 13 October 2016, hearing of the public prosecutor at the Court of Reggio Calabria, Federico Cafiero de Raho, verbatim report n. 174.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Relazione sulle infiltrazioni di cosa nostra e della 'ndrangheta nella massoneria in Sicilia e Calabria* [Report on *cosa nostra* and *'ndrangheta* infiltration in the freemasonry in Sicily and Calabria] (Doc XXIII, n. 33), pages 22-25. "Regarding this latter aspect, namely the existence of a 'higher' level apart from the regular freemasonry and under certain aspects unrelated to the object of the present enquiry, we must of course await the outcome of trials in order to have a fuller and more reliable knowledge of the situation".

collaboration of Dutch and Canadian authorities. The investigation ascertained the presence in Canada and the Netherlands of historical *'ndrangheta* clans from the Ionian coast of Reggio Calabria province (Commisso and Crupi from Siderno and Aquino-Colucci from Gioiosa Ionica). These clans are now well established in certain strategic sectors of the economies of those countries, from the import-export of flowers from Amsterdam to Italy to real estate investments in Canada. Investigations evidenced the great entrepreneurial flexibility of the *'ndrangheta*, which is able to adapt to what the market offers while capturing emerging sectors and becoming the reference partner for money laundering activities. The *'ndrangheta*'s investments abroad are facilitated by national legislations that are less rigorous in carrying out controls on the origins of illicit cash and by the absence of criminal offences similar to Italy's mafia conspiracy, with its effective preventive confiscation measures. Indeed, it is quite difficult to seize and confiscate mafia assets in Europe, and mafia clans purchase hotels, prestigious buildings, restaurants, and tourism facilities in Spain, Germany, Switzerland, France, and Malta, where they launch new business activities and allow mafia families to operate legally and in the open.

By now, the *'ndrangheta* has established solid roots in the rest of Italy as well, in regions as disparate as Tuscany, Piedmont, Valle d'Aosta, Umbria, and Friuli Venezia Giulia. In particular, the methods the *'ndrangheta* has used to colonize northern Italy, which will be discussed in more detail in a following chapter, testify to the strength of a growing phenomenon.

The most significant investigations carried out in recent years paint the picture of a business-oriented, dynamic, pliable, and flexible *'ndrangheta*, which has deeply infiltrated the social and economic fabric of these productive systems, in which many entrepreneurs, white-collar professionals, public officials, and local administrators have proven remarkably pliant and accommodating with regards to the interests and appetites of the *'ndrangheta locali* that have established a stable presence in these new territories.

### **Strengthening the defence of legality**

The Committee's monitoring efforts on the evolution of criminal dynamics in Calabria showed that there is a constant, highly professional, and determined effort to prevent and counter mafia activities on the part of law enforcement and the judiciary. However, it also evidenced worrying logistical and structural shortcomings, and the insufficient staffing of courts and tribunals in the Reggio Calabria and Catanzaro judicial districts.

The Committee approved a report on this topic and shared it with the High Council of the Judiciary (CSM) and other interested institutions. The report contains a series of proposals to strengthen the system to fight organized crime in Calabria<sup>63</sup>.

The economic, social, and civic costs of the impact of organized crime on this part of Italy are no longer sustainable, and it is thus necessary and urgent to intervene in order to even the playing field in both quantitative and qualitative terms.

Indeed, significant differences have emerged regarding the degree of awareness and knowledge on the mafia phenomenon, in addition to the difficulties faced by local courts, which are often the first destination for newly-appointed judges, to hold trials for particularly complex criminal proceedings such as those involving the mafia, with a great number of defendants – most of whom are already incarcerated – and charges.

These trials inevitably drag out over time with many hearings, often past the date when young judges – who naturally prefer to be assigned to posts near their cities of origin – are eligible for being transferred. They often cannot even count on the experience of court presidents, who in small tribunals may find themselves in situation of incompatibility in light of the functions they perform.

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<sup>63</sup> Report on the situation of the courts in Calabria. Findings of the missions to Catanzaro, Reggio Calabria and Locri. Rapporteur MP Rosy Bindi, unanimously approved during the sitting of 27 April 2016. Doc XXIII, n. 14.

In this regard, the Committee suggested the possibility of attributing exclusive competence for hearings on matters related to organized crime to district courts. This would have the undoubted advantage of consolidating the natural specialization of district sections on complex matters such as the activities of criminal organizations. But the hypothesis of attributing mafia trials to district courts only would help overcome the dual approach to the fight against organized crime that emerges in many other contexts, especially regions with a limited mafia presence, and which sees on the one hand an efficient system of specialized law enforcement units and experienced magistrates with an intimate knowledge of the geography and *modus operandi* of mafia clans, and on the other the involvement of police forces, investigators, and judges who often struggle to see and understand the evolution of the mafia methods.

### 3.3 The Camorra

#### Background

Starting in the second half of the 1990s, the *camorra* has taken on an increasingly important role, and together with the Calabrian *'ndrangheta* it has stripped *cosa nostra* of the leadership role it had until the arrest of Totò Riina. The State's offensive against the Sicilian mafia, combined with the evolution of the drug market and the shift from heroin to cocaine, allowed the *camorra* and the *'ndrangheta* to fill the vacuum left by *cosa nostra*, which had been specialized in the trafficking of heroin thanks to its links with the U.S. mafia, and to become the favoured partners of South American drug cartels.

Once again, it is an illicitly traded good that provides social consensus and a social base for criminal organizations in Naples, which has thus become a 'narco-city' concerning the wholesaling and street dealing of drugs (much like in the past, when it had been the quintessential 'city of contraband'), and Scampia (and later other parts of the city and its hinterland) was known for decades as the ultimate 'narco-neighbourhood'. While in the past the *camorra* had used contraband in cigarettes to expand, followed by the sale of counterfeit merchandise manufactured abroad, the drug trade is now where it expresses its criminal and trading prowess.

Without the role it plays in the national and international drug trade, it would not be possible to explain the *camorra*'s ascent into the global criminal élite.

While the *'ndrangheta* expanded starting with small groups of Calabrian immigrants who reproduced the *'ndrine* model in northern Italy and abroad, the *camorra* never exported an organizational or lifestyle model, but only criminals, who occupied strategic spots along the drug production and trade chain or anywhere else they could make investments and trade counterfeit goods, without necessarily following traditional Neapolitan migration routes.

This is one of the reasons why the *camorra* should not be thought of as a single organization that criminals in Naples and Campania answer to. By the same token, the term '*camorra*' does not identify criminal élites different from common criminals. The various *camorra* clans have never had a *cupola* – not at the municipal level, let alone the provincial or regional one. The *camorra* lacks a top-down command and coordination structure that can have a say in criminal activities, or arrangements to solve disputes, or to provide a unified response to law enforcement. Every attempt so far to unify the *camorra* under a single leadership structure degenerated into a bloodbath, with the sole exception of the Casalesi clan, where a sort of criminal federation operated for years, based in the municipalities of Casal di Principe, Casapesenna, and San Cipriano d'Aversa. This characteristic is the main social danger of *camorra* clans.

What has allowed them to thrive for so long is not unified action, but rather their anarchic fragmentation, and especially their centuries-old ability in leveraging and organizing the social unease and marginalization of the poorest classes in the city of Naples and its province, where tolerance for illicit trade and survival activities is historically high.

The *camorra* should be considered the driving engine for all criminal and illegal activities and for much of the informal and underground economy of the city, which essentially revolves around commercial activities rather than industry or the service sector. It is here that the *camorristi*, who are specialized in acting as mediators, have found their opening, by leveraging violence as a competitive factor.<sup>64</sup>

<sup>64</sup> "Tolerance for illegality is a form of governance. If a city needs to make recourse to tolerance for illegality in order to be governed, then there are some major problems in Naples's history that must be reckoned with (...) support for the *camorra* always revolves around having the chance to survive. How many people live off of extortions, theft, robberies, and the drug trade in the city of Naples? What role does the illegal economy play in the economy of Naples? It plays a significant role. When we talk about support, we refer to social classes in the city of Naples that today find a lot more work in the illegal sector, as a way to achieve success in life, than in legal work". Sitting of 15 December 2015, hearing with Professor Isaia Sales, verbatim report n. 127.

Fragmentation has helped the *camorra* adhere to all of the widespread and stable forms of illegality that have characterized economic and social life in the city of Naples and its hinterland throughout history. And its reticular organization has allowed it to easily participate in all of the informal economy that characterizes a significant part of the economy in Naples and Campania.

The success of this criminality made up of ‘traffickers’ is due to the great number of consumers willing to buy counterfeit goods sold at lower prices than on the legal circuit (cigarettes, for example, or CDs) or because it makes available goods whose consumption is illegal, but for which demand remains high (such as drugs, prostitution, and other sectors that make up the so-called ‘vice economy’).

In this regard, as highlighted by the National Anti-Mafia Prosecutor Franco Roberti, the *camorra* in Naples and Campania is a “constituent element, a permanent structural fact, that has dragged along from Italian Unification until the present without having ever been challenged. This is the heart of the problem, because while judicial action is certainly needed, it can only be a part of the State’s efforts to revive these moribund areas”<sup>65</sup>.

## Overview

The Committee’s findings during its missions to the Naples and Salerno DDAs and to the Italian regions where *camorra* clans are operating, in addition to hearings with Neapolitan magistrates, the mayors of several towns in the region, and scholars of the mafia painted a picture of the *camorra* as a multi-faceted and complex phenomenon that cannot be easily defined in a unified manner. It is stronger and more aggressive than ever, exerts control over much of Campania, has close links with the political and institutional spheres in certain areas, and has extensively branched out elsewhere in Italy and abroad<sup>66</sup>.

According to some estimates, Calabria is the Italian region with the highest per capita crime rate. Naples instead has the highest murder rates and the most mafia clans and associates. Looking at arrest warrants issued between 1992 and 30 June 2017 for criminal offences under article 416-*bis* of the criminal code, 3,100 of them concern the *camorra*, 2,707 the ‘*ndrangheta*, 2,093 *cosa nostra*, and 751 the Apulian mafia.

In 2015 there were as many as 180 clans in Naples and its province, a record number compared to other Italian mafia-type organizations. And if we look at maps of mafia presence in central and northern Italy, Europe, and the rest of the world, it is easy to see how the ‘*ndrangheta* and *camorra* are more able to expand and take root than *cosa nostra*. In national and international criminal circles, Neapolitan and Calabrian dialects are heard more and more often than Sicilian ones.

Over the last forty years, the *camorra* has committed more murders than any other Italian criminal organization. For the last fifteen years, the *camorra* has committed murders at a higher annual rate than either the ‘*ndrangheta* or *cosa nostra*. In Campania the guns never went quiet, even in years when barely any murders were committed in Sicily or Calabria. In 2015, there were 45 *camorra* murders in Naples province alone, which rose to 65 in 2016, most of which were committed in the

<sup>65</sup> Sitting of 16 September 2015, hearing of the National Anti-Mafia Prosecutor Franco Roberti, verbatim report n. 111.

<sup>66</sup> Missions to Caserta on 13 December 2013, Naples o, 12 March 2014, Naples on 14-15 September 2015, Avellino on 6 November 2015, Salerno on 19 June 2017, and their verbatim reports. Sittings of 16 September 2015, 2 March 2016, 9 November 2016, 8 November 2017, hearings of the National Anti-Mafia Prosecutor Franco Roberti, verbatim reports n. 111, 140, 178 and 231; sittings of 16 December 2014, 29 July 2015 and 8 February 2017, hearings of the Public Prosecutor at the Court of Naples, Giovanni Colangelo, verbatim reports n. 72, 107 and 189; sittings of 15 December 2015 and 1 March 2017, hearings of Professor Isaia Sales, verbatim reports n. 127 and 192; sitting of 14 October 2015, hearing of the member of the High Council of the Judiciary Antonio Ardituro, verbatim report n. 118; hearing of 19 January 2016, hearing of the mayor of Quarto Rosa Capuozzo, verbatim report n. 131; sittings of 23 March 2016 and 13 April 2016, hearings of the prefect of Naples Gerarda Pantaleone, verbatim reports n. 147 and 150; sitting of 27 July 2016, hearing of the mayor of Battipaglia Cecilia Francese, verbatim report n. 167; sitting of 31 May 2017, hearing of the prefect of Naples Carmela Pagano, verbatim report n. 208; sitting of 27 July 2017, hearing of the mayor of Arzano Fiorella Esposito, verbatim report n. 219.

historic city centre and in the northern outskirts of the city. In the last two years, 52 murders were committed in five different neighbourhoods in Naples. Since 2010, only one *camorra* murder has been committed in Caserta province. This should not be interpreted as a military crisis for the Casalesi clan, but rather as a strategic choice to govern and control the local territory in a different manner. There have been four *camorra* homicides in the Salerno judicial district, a worrying sign of a trend reversal in an area traditionally thought to be less exposed to *camorra* influences.

What makes exceptional and complex the case of criminal organizations in Campania is the co-existence of phenomena that are quite disparate in terms of the methods they adopt, the economic sectors they operate in, and their social classes of reference.

### **The Naples judicial district**

The *camorra* in the city of Naples is quite similar to that in its immediate hinterland, while the clans that operate just 25 km away – the Casalesi clan and those that operate beyond Mount Vesuvius – are strikingly different.

The Neapolitan *camorra* clans is a form of diffuse mass crime, while *camorra* clans in Caserta province and in the Nola and Mount Vesuvius areas are run more like businesses. The former are more fragmented and gangster-like, the latter are more solid and deeply rooted. The former do not depend much on links with the political and administrative spheres, while the latter rely on permanent ties with these spheres. Due to these characteristics, *camorra* bosses from clans based outside of Naples – Nuvoletta in Marano, Bardellino in San Cipriano d’Aversa, Cutolo in Ottaviano, Alfieri in Saviano, Zagaria in Casapesenna, Fabbrocino in San Gennaro Vesuviano, Bidognetti in Casal di Principe, Moccia in Afragola, La Torre in Mondragone, or Galasso in Poggiomarino – have left much more of a mark.

*Camorra* clans in Naples have reacted completely differently from clans in Caserta province to the effective repressive actions on the part of law enforcement that have targeted these two provinces in recent years.

In Naples, we are seeing teenage killers attacking the criminal power of the old clans, which has been weakened by countless arrests, so that repression ends up creating new criminal gangs instead of eliminating them. The fragmented nature of these gangs creates a less organized power structure with unclear leadership, which is more exposed to attacks on the part of new players in the game, who aim to rise up the ranks as fast as possible. In this regard, the *camorra* is quite open, with low barriers to entry that can easily be overcome. At the same time, when law enforcement strikes the bosses, it does not deal a decisive blow to the organization, which can constantly renew itself thanks to the fluidity of command structure and the low barrier to entry for criminal elites.

Additionally, the more organized groups do not prevent or limit other criminal activities, so that the lines between *camorra* activities and street crime are very blurred. Some clans demand a share of the take from common criminals committing thefts, robberies, burglaries, and other street crimes – especially counterfeiting - in the areas they control. As a consequence, common criminals are constantly joining the ranks of *camorra* clans.

The new gangs that are attacking neighbourhoods traditionally controlled by long-established clans have not diminished the role of the city’s more solid criminal organizations, some of which have passed their dominion down through the generation. What emerges is a very peculiar power dynamic involving old clans and youthful criminal gangs. There is the forced co-existence between groups that interact in an unstable balance but with some points in common: they operate in densely populated areas with high concentration of poverty, marginalization, a shortage of households held together by shared values, and high truancy and dropout rates.

The drug market, which the *camorra* runs both in terms of imports and street-level dealing, remains the main source of profits for criminal organizations together with extortion and counterfeiting. All family members – from grandparents to grandchildren, from mothers to their kids

– play a part in activities related to the drug trade. The increasing involvement of teenagers, and even pre-teens, in the drug trade is particularly alarming: they provide a ‘pony express’ service of sorts by making home deliveries of drugs to customers who want to safeguard their privacy<sup>67</sup>. Another aspect that must not be overlooked is the active role, including in positions of command, played by women, especially in clans whose bosses are all incarcerated. As investigators have pointed out on a number of occasions: “we are seeing the phenomenon of *camorra* moms, women who replace male bosses and serve as ‘tsarinas’ of the *camorra*”<sup>68</sup>. The Committee has devoted a specific chapter of this Report to discuss these alarming, emerging aspects in detail.

The unrest in certain neighbourhoods at the heart of the city, with the violent clashes between rival groups in the historic city centre and the rapid transformation of young delinquents into more or less organized criminal gangs, must not shift attention away from the more sophisticated business circles that *camorra* clans are increasingly focusing on, both through increased investments abroad, which are used to launder profits from the drug trade, and through full-fledged entrepreneurial activities.

Especially in the area between the northern outskirts of Naples and the province of Caserta, and even after the dismantlement of the Casalesi clan, new *camorra* groups continue to maintain a solid grip on the local territory and have insinuated themselves into business management activities, following the same model of expansion based on ties with the political and administrative spheres.

The Moccia clan remains strong, and now operates in two different areas in Campania and in the city of Rome<sup>69</sup>; the Contini, Polverino, Mallardo, and Ferrara clans remain active. There has been a resurgent *camorra* presence in the Nola area, extending to the Vallo di Lauro, where a worrying development is the infiltration of local administrations. This is evidenced by the prefect of Avellino’s appointment, in October 2017, of a fact-finding commission to ascertain mafia infiltration in the municipal administration of Pago del Vallo di Lauro. The Cava clan is particularly active in that area, and signs point to a resurgence of its traditional rival, the Graziano clan, after the release from prison of its main leaders. These two clans engaged in a bloody, decades-long feud that culminated in the so-called “massacre of mafia women”.

*Camorra* clans have always been able to count on large weapons caches, as evidenced by the confiscation of veritable arsenals in 2016 and 2017: hand grenades, AK-47s, various types of machine

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<sup>67</sup> Sitting of 8 February 2017, hearing of the Public Prosecutor at the Court of Naples Giovanni Colangelo, verbatim report n. 189: “In this regard, the most significant aspect concerns minors who, in the absence of other adults, are sent by their mothers to deliver drugs to customers, or even – in the case of minors under the age of eighteen, but over the ages of fourteen or sixteen – to serve as couriers making home deliveries. This takes place in various ways: directly from the homes of dealers, on so-called ‘drug corners’ for habitual or occasional customers, and even directly at home for the most important customers who had an interest in safeguarding their privacy, so they would have the drugs delivered directly to their homes”.

<sup>68</sup> Mission to Naples of 14 September 2015, hearing of the President of the Court of Appeals in Naples Antonio Buonajuto, verbatim report.

<sup>69</sup> On 23 January 2017, after the conclusion of investigations coordinated by the Naples DDA, staff from the DIA Operational Centre in Naples, the Naples Police rapid response unit, and the investigative unit of the Carabinieri in Castello di Cisterna, with the support of the Guardia di Finanza (Financial Police), arrest warrants were issued by the Judge of First Instance of the Court of Naples against 45 suspects.

Evidence implicates these suspects in crimes of mafia conspiracy, unlawful possession of weapons – including war weapons – and ammunition, multiple counts of aggravated extortion, and the laundering of large sums of money.

This complex investigation aimed to reveal the organizational structure of the Moccia *camorra* clan, which has deep roots in parts of Naples province (Afragola, Casoria, Arzano, Frattamaggiore, Frattaminore, Cardito, Crispano, Caivano, and Acerra) and in Latium, starting in 2011 and continuing into the present. This activity took place through technical investigations combined with the monitoring of prison visits and the subsequent confiscation of manuscripts sent by inmates to trusted partners on the outside, in addition to testimony by numerous collaborators with justice.

The investigations reconstructed the latest organizational chart of the Moccia clan, the responsibilities assigned to its senior leadership, lieutenants, and local bosses; the ways associates – including those in prison – communicated with one another; the pervasive network of extortion; the imposition of suppliers for public and private contracts; the distribution of the illicit profits gained from the above-mentioned activities among associates both in prison and at large; and the clan’s attempts to infiltrate investigative efforts.

guns, semi-automatic weapons, large calibre and military-type handguns. These confiscations took place in the Barra-Ponticelli neighbourhood, on the southern outskirts of Naples, where the Police and Carabinieri operated jointly against two criminal clans that were fighting one another with gun battles, and in the area north of Naples and in Caserta province, where members of the Bidognetti and Schiavone clans were arrested.

In Caserta province, the Casalesi clan as we have known it no longer exists after the arrest of all its top bosses. Their children have inherited their leadership role, and in fact they continue to operate, but in sectors different from the traditional ones. The *camorra* in Caserta province remains very strong and violent, essentially organized around family ties, and which relies on the prestige that the traditional bosses – all incarcerated under the 41-*bis* regime – still enjoy among part of the local population. The clans earn significant income from their extortionary control over the street-level drug trade, with “the risk of the evolution of a once highly-organized *camorra* towards a more Neapolitan model, with a trend towards the increased use of violence”. But the clans also look to the new frontier of online gambling, which takes place on platforms that are mostly hosted abroad. The profits from this activity are two-fold, and include “the protection money paid by bars and other venues that house the gambling terminals and the profits from the actual gambling itself”<sup>70</sup>.

An important element is the presence in the area of old associates of the Bidognetti, Zagaria, and Schiavone clans, who have been released from prison after serving their sentences, while bosses such as Pasquale Zagaria – the brother of the notorious Michele Zagaria – will also be released soon. According to magistrates from the Naples DDA, this might mark a return to the conditions that allowed the Casalesi clan to develop into one of Italy’s most ruthless mafia groups in the early 1980s. The risk of the clan re-organizing to seize control over all illegal activities in that area must not be underestimated, especially considering the economic and human resources still at its disposal.

We know with certainty that most of the assets accumulated over time by the Casalesi clan are still in the possession of the entrepreneurs that served as the clan’s economic partners for years, through the use of frontmen and front companies. These assets have been reinvested in various legal markets, especially construction, shopping centres, tourism resorts, and public procurement. Additionally, many of the politicians whose careers were boosted by support from mafia bosses are presumed to still be operating and present in public administrations, and not only at the local level.

Our knowledge on the structure and operations of the clan has improved recently thanks to the testimony of Antonio Iovine, a former boss of the Casalesi, who was arrested on 17 November 2010 after fourteen years on the run, and who became a collaborator with justice in May 2014. The information gathered has helped launch new investigations, which may also prove useful in intercepting any signs of a possible attempt to re-organize on the part of the clan.

Iovine’s statements made it possible to reconstruct the clan’s evolution and its relations with entrepreneurs and public administration. The *camorra* had become ‘entrepreneurial’ by establishing stable ties with the private sector, and by infiltrating and imposing its presence in public procurement in an ever more shrewd and cautious manner. Its members underwent a transformation from extortionists to partners for entrepreneurs, or became full-fledged entrepreneurs themselves and supplied services to other companies. This transformation also led to a change in the Casalesi clan’s relationship with the political sphere.

There was no longer a need for fugitive *camorra* bosses to interact personally with politicians. These relations were outsourced to entrepreneurs who could act as mediators, and who took on the responsibility of establishing the necessary contacts for achieving the ultimate goal, namely the winning of public contracts. These entrepreneurs also established relationships with politicians, and if necessary bribed public officials or politicians – in addition to *camorra* bosses – in order to be able to participate in public tenders and win contracts. This is a role that they chose to play, once the opportunity had been given them, and which allowed them to strengthen their position on the market, defeat the competition, and achieve significant profits.

<sup>70</sup> Sitting of 8 February 2017, hearing of the Public Prosecutor at the Court of Naples Giovanni Colangelo, verbatim report n. 189.

On the strength of their ties to the camorra, these entrepreneurs can approach politicians as mediators with that world, and thus acquire a position of monopoly, since all of the parties are aware that no other entrepreneurs or companies will ever be able to play that role. This mechanism generates a number of shared interests: the *camorra* receives kickbacks from the entrepreneur; the entrepreneur bribes those who can then guarantee the awarding of public contracts and the latter gain support from their base. This triangulation evidences a new relationship based no longer on violence but on trust, and which develops over three different levels, from corruption to collusion and finally a joint interest in the association.

Corruption has increasingly become the general tool through which organized crime has succeeded in seizing control of economic activities and the local territory, ensuring connivance and loyalty over the long term and not merely for isolated episodes.

It has been noted that “if a bidder manages to win all calls for tenders because they are able to corrupt public administrators, they become a model for other entrepreneurs who must choose between adopting similar strategies or being destined to succumb. This thus becomes a negative behavioural model that propagates much like a contagious disease”<sup>71</sup>.

The investigations carried out over the years and the trials that were held, regardless of their outcomes, have evidenced how the partnership between *camorra* clans and entrepreneurs, thanks to the complacency of certain politicians and institutions, have made it possible for businesses directly controlled by Michele Zagaria to be awarded public contracts during the waste management emergency in Campania<sup>72</sup>; procurement of services at the Sant’Anna e San Sebastiano Hospital in Caserta, where “politicians decided who to hire, while public contracts were decided by Franco Zagaria”<sup>73</sup>, Michele’s brother-in-law. The same companies were also awarded public contracts for the management of the water supply network in Campania, through direct awarding procedures for works of great urgency. The *camorra* maintains a pervasive presence in the public administrations of many municipalities of Caserta province, and attempts to legitimize certain entrepreneurs – in order to avoid interdictory measures and continue to operate undisturbed – through fraudulent memberships in anti-racket organizations<sup>74</sup>.

The infiltration of institutions on the part of organized crime through friendly entrepreneurs becomes even more alarming when law enforcement officials are involved. Unfortunately, a number of criminal proceedings have uncovered links between organized crime and law enforcement<sup>75</sup>.

In this regard, the Public Prosecutor at the Court of Naples Giovanni Colangelo updated the Committee on the investigations into the worrisome question of the pen drive that Michele Zagaria allegedly handed over to a law enforcement officer who was present during the raid into the fugitive’s bunker that led to his capture, or immediately thereafter<sup>76</sup>.

### **The Salerno judicial district**

The complex and multi-faceted portrayal of organized crime in Campania cannot ignore the criminal dynamics in the southern part of the region. The Committee delved into this issue during the course of its mission to Salerno, and collected extensive relevant data from investigators and magistrates from the Salerno DDA. These elements put the lie to the conventional wisdom that holds that this area is sheltered from camorra pressure, or even completely exempt from it.

<sup>71</sup> Sitting of 29 July 2015, hearing of the Public Prosecutor at the Court of Naples Giovanni Colangelo, verbatim report n. 107.

<sup>72</sup> Sitting of 14 October 2015, hearing of Antonio Ardituro, member of the High Council of the Judiciary, and former assistant prosecutor at the Naples DDA, verbatim report n. 118.

<sup>73</sup> *ibid.*

<sup>74</sup> *ibid.*, and DDA Naples investigation Rg.Nr15858\2014, code name “Medea”.

<sup>75</sup> See, among others, the investigations referred to in footnotes 1 and 9.

<sup>76</sup> Sitting of 29 July 2015, hearing of the Public Prosecutor at the Court of Naples Giovanni Colangelo, verbatim report n. 107.

The public prosecutor Giovanni Lembo stressed the *camorra*'s "ability to penetrate the social, economic, political, and entrepreneurial fabric, with the creation in some cases of veritable crime cartels, which monopolized certain economic activities of primary – even strategic – importance for the economy of Salerno province"<sup>77</sup>.

Recent acts of violence (four *camorra* murders), the dissolution for mafia infiltration of the municipal councils of Pagani (2012), Battipaglia (2014), and Scafati (2017), with near total control of the municipal administration since 2008; investigations on the drug trade and on the illegal recruitment of farmworkers, the latter related to migrant arrivals in the port of Salerno, and the presence of associates of the Casalesi clan that have an interest in waste management and environmental clean-up efforts in the province as well as in the drug trade, combine to make Salerno province a worrisome hub of solid and entrenched *camorra* interests.

The Salerno prosecutor's office was one of the first to identify criminal infiltrations in online gambling, in which entrepreneurs allied with the *camorra* use and install, throughout Italy, gambling terminals whose servers are located abroad and which make possible massive earnings (operation "Jamm Jamm"<sup>78</sup>).

The situation in the Cilento area also appears delicate, where a worrisome criminal presence has been felt and where the murder of the mayor of Pollica, Angelo Vassallo, remains unsolved. This is a vast area, and anti-mafia magistrates point to an insufficient presence on the part of law enforcement, limited to a few small Carabinieri stations.

## Outlook for the future

It is likely that the very young criminals who have put the Neapolitan *camorra* in a permanent state of agitation in recent years will eventually seek to pursue criminal careers within better-established *camorra* clans, once they will have realized that their chances for survival as autonomous groups are limited. Indeed, they cannot afford to engage in daily acts of violence, which would attract unwanted attention towards the city and their dealings. In any event, recent initiatives on the part of the Neapolitan judiciary have dealt crippling blows to the business and money laundering activities to the *camorra*, which shows the judiciary's awareness of the *camorra* clans' ability to compete on legal and illegal international circuits.

The latest remarks by the Public Prosecutor at the Court of Naples Giovanni Melillo, on the responsibilities of white-collar professionals, lead us to believe that the recent focus on fragmentary *camorra* clans and on the new phenomenon of very young criminals will not take attention away from those clans that act as mediators for white-collar and entrepreneurial circles in Naples and its province, and which had not yet allowed themselves to be involved in criminal affairs on such a scale. In his concluding remarks for the States General of the Anti-Mafia in Milan on 24 November 2015, Melillo eloquently traced the evolution of criminal dynamics in the region: "The main *camorra* cartels now coincide with sophisticated business networks with which they establish invisible yet very solid relationships. If a company that furthers mafia interests achieves a dominant position, then this is enough for it to acquire the ability to control an even wider business, commercial, and entrepreneurial basin. The disappearance of representative bodies of society, in turn, leads to the tacit recognition of the *camorra*'s claim to a political and social representation role".

The Neapolitan *camorra* is not mere social deviancy, nor is it possible to limit its portrayal to that of a highly fragmented organization, although this is certainly part of the picture. It is part of a network of social and economic relations that are difficult to reduce to criminal offences. Its reticular

<sup>77</sup> Mission to Salerno of 19 June 2017, hearing of the Public Prosecutor Giovanni Lembo, verbatim report.

<sup>78</sup> See: *Relazione sulle infiltrazioni mafiose e criminali nel gioco lecito e illecito* [Report on mafia and criminal infiltration in legal and illegal gambling], Doc. XXIII n. 18, p. 39.

structure allows it to come into contact with a plurality of social milieus and interests, and with enterprises both legal and illegal. However, if we consider the *camorra* as a whole, and although there is no doubt that it prefers commercial and business networks, we must not overlook its social components and the context it operates in. By the same token, its impressive ability in re-investing the capital it acquires must not lead us to lose sight of its informal character as an organization. The *camorra* is a complex phenomenon and it should be approached as such, without simplifications or reassuring analyses.

We could debate at length whether the youth gangs currently feuding in the city of Naples can be considered part of the *camorra*. In any event, the danger posed by this development to public order in a city that is once again at the centre of international tourism flows cannot be underestimated. Has the focus on the ‘*paranze*<sup>79</sup> *dei bambini*’ or youth gangs (distracted public opinion from the real *camorra*? Perhaps. But it is unlikely – although not entirely impossible - that this distraction represents a conscious strategy on the part of traditional *camorra* bosses to shift the focus of investigators away from their activities and towards crimes committed by teenagers. The *camorra* is not able to implement such sophisticated strategies. The term ‘*camorra*’ is undoubtedly used, at least sometimes, to lump together different criminal phenomena, from a veritable and deeply-rooted criminal élite to young drug dealers to muggers, thieves, and other urban criminals. The boundary between the *camorra* and street crime is looser than it is with other mafia-type organizations, and it is easier for criminals to move from one to the other. So far, the teenage killers of the ‘*paranze dei bambini*’ have not been able to create their own centre of power as an alternative to those of the traditional *camorra* clans, but this mix of different forms of crime is a threat that should not be underestimated.

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<sup>79</sup> Translator’s Note: *paranza* means both armed group and small fry trapped in a net, as in R. Saviano’s book.

#### 4. The Antimafia today

##### 4.2 The internationalisation of the mafias and of anti-mafia action

Article 1, paragraph 1, letter e), of the law establishing the Committee entrusts it with ascertaining how the mafias are internationalising and forging partnerships with other criminal organizations in the pursuit of new forms of criminal activities directed at individuals, the environment, property, intellectual property rights and the security of the state, as well as at organising and exploiting illegal migration. In this regard, the law (article 1, paragraph 1, letter d) also entrusts the Committee with drafting proposals aimed at making State action better coordinated and more effective and strengthening international agreements on crime prevention or on judicial assistance and cooperation, also with a view to building an EU area of justice against the mafias and promoting new international agreements<sup>80</sup>.

These demanding tasks led the Committee, almost immediately after its establishment, to carry out specific fact-finding activities in view of the six-month Italian Presidency of the Council of the European Union, including through the establishment of an ad hoc sub-committee coordinated by MP Laura Garavini. Subsequently, the Committee endeavoured to delve into the internationalization processes affecting the mafias and the policies to fight this phenomenon through a series of missions and research visits abroad.

The goal was two-pronged. On the one hand, encouraging the dissemination of adequate regulatory tools, and on the other, promoting anti-mafia culture outside of Italy and the European Union. On the strength of the body of knowledge developed by Italy over decades of painful experience in fighting the mafias, the Committee thus undertook to draw attention to the risks associated with the expansion of organized crime – both at the European level and beyond – in the conviction that better awareness of such risks can be a powerful lever to boost cooperation between States.

The Committee has thus actively promoted an ‘anti-mafia diplomacy’ in order to provide the necessary political impetus for national, European, and international initiatives to counter the globalization of criminal organizations. If such organizations are internationalizing, this is all the more reason for anti-mafia efforts to do the same.

Indeed, the Committee is well aware that in the new millennium, anti-mafia efforts must operate on a broader horizon than in the past, across national borders, because this is the only way to get at the heart of the mafias’ ability to operate beyond their regions of origin and to understand how they benefit from the globalization of legal and illegal markets and the financialisation of the economy.

Internationalising anti-mafia action means, first and foremost, to look at the European Union as an integral part of national policies to prevent and fight the mafias.

First of all, it is necessary to bridge the gap that still separates Italy from other Member States in terms of anti-mafia policies. The EU’s institutions must be spurred to do more and better in the fight against the mafia, but it is also indispensable for Italy to make an effort to meet the EU halfway, by making its own anti-mafia legislation more ‘European’ without jeopardizing its efficacy.

Additionally, it must be remembered that at the European level – and in spite a certain degree of diffidence and scepticism towards EU institutions on the part of citizens – we are seeing a growing demand for security in the face of threats that appear to be increasingly complex and undermine the liberty of democratic institutions. This demand for security, which cannot be entirely met autonomously by individual Member States given the increasingly international nature of crime in all its forms, clashes with the natural tendency to protect national interests in each State, including the autonomy of national policies on criminal law and public security, and with the short-term economic

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<sup>80</sup> Law n. 87 of 19 July 2013, on the “Establishment of a Parliamentary Committee of Inquiry into the Mafias and other criminal associations, including unlawful foreign organizations”.

interests of the States, which may be impacted by the direct and indirect costs of more robust actions to prevent and fight organized crime.

In this regard, the Committee must continue its efforts to raise awareness among its European partners of the need to invest together in the security of citizens, and that the fight against increasingly internationalized mafias is at the heart of this goal.

With this in mind, the Committee went on two missions to the European Parliament Committee on Civil Liberties, Justice, and Home Affairs (LIBE) in Brussels on 3 December 2014 and 16 March 2016.

Over the course of the first mission, which included a meeting with the President of the European Parliament Martin Schulz, the Committee illustrated the contents of its report on “the fight against mafia crime on a European and extra-European basis”, approved by the Committee in June 2014 and subsequently adopted by the Senate<sup>81</sup> - with the unanimous approval of a resolution<sup>82</sup> transmitted to the European Parliament, the Council of the European Union, and the European Commission – and by the Chamber of Deputies<sup>83</sup>.

The European institutions were reminded that Italy is a country that has unfortunately gotten to know the mafia quite well, and that in addition to being the country in which the mafia and similar criminal organizations originated, it is also - and more importantly - the country of the anti-mafia. As such, it was bound – earlier and to a greater extent than other Member States – to adopt and refine over time efficient instruments to prevent and fight such criminal organizations, in compliance with the principles sanctioned by the Constitution and the EU Charter of Fundamental Rights, while constantly updating its legal tool kit to adapt it to the evolution of criminal phenomena.

In order to maintain this tool kit up to date and to verify the current status of EU policies to fight Italian and foreign organized crime, a specific survey on the internationalisation of the mafias was carried out, whose results reinforced the Committee’s opinion that in the 21<sup>st</sup> century, the fight against organized crime, including the mafias, cannot be left up to the initiative, responsibilities, and instruments of a single country, but is instead the ideal field in which to implement an effective European judicial area and to build an EU area of justice against the mafias, as called for by the law establishing the Anti-Mafia Committee. Indeed, as acknowledged by the European Parliament<sup>84</sup>, mafia organizations are an increasingly heavy burden for the European and global economy, with significant repercussions on the fiscal revenues of the EU and its Member States, and with an annual cost for businesses estimated at over € 670 billion, pointing to the extraordinary scope of the “negative wealth” that circulates in our economies.

The Committee also discussed with the European Parliament the need to foster and disseminate a European anti-mafia awareness and culture, not only in countries in which the mafias have a permanent presence, but also and especially in the countries into which it is expanding. Italy expressed its concern that what has happened within its borders – where until a few years ago many voices, including institutional ones, categorically denied the presence of the mafias in northern Italy and considered it merely a local or secondary issue - may take place on a broader scale.

In order to maintain a high level of attention on mafia-related issues on the part of the European Union, the Committee – as related in the report on the Italian Presidency of the EU Council – called for European institutions to adopt a series of actions and initiatives, including the re-establishment of the European Parliament’s Special Committee on Organised Crime, Corruption, and Money Laundering (CRIM), whose mandate expired on 30 September 2013, or alternatively, to launch similar initiatives to follow up on the valuable work carried out by the CRIM, and in particular to adopt a “European action plan against organised crime and criminal systems”.

<sup>81</sup> Doc. XXIII, n. 2. *Relazione sul semestre di presidenza italiana dell’Unione europea e sulla lotta alla criminalità mafiosa su base europea e internazionale*, approved by the Committee during the session of 17 June 2014.

<sup>82</sup> Resolution (6-00075) n. 1 approved by the Senate on 29 October 2014.

<sup>83</sup> Resolution (6-00099) approved by the Chamber of Deputies on 11 December 2014.

<sup>84</sup> European Parliament resolution of 23 October 2013 on organised crime, corruption and money laundering: recommendations on action and activities to be taken (final report) (2013/2017(INI)) of 23 October 2013, p. 6, lett. c).

Additionally, MEPs were informed that the Anti-Mafia Committee was fully aware of the fact that the EU had already adopted some very important measures in the fight against organized crime which at the time of our meeting had not yet been transposed by Italy. In this regard, the Italian Parliament and government had been urged to remedy these delays as quickly as possible, as indicated in the above-mentioned report. The Committee's appeal has already resulted in some reassuring developments, such as the inclusion in the EU Delegated Powers Act of the provisions for the transposition of the Council Framework Decision on the mutual recognition of confiscation orders<sup>85</sup>, of the directive on the harmonisation of procedures for seizing the proceeds of crime in the European Union, and the imminent transposition of the recently issued directive on the European Investigation Order in criminal matters<sup>86</sup>. The Committee also reiterated its commitment to ensuring that other EU directives and rules would be rapidly transposed, particularly the Council Framework Decision on joint investigation teams<sup>87</sup>, whose implementation in Italy was significantly delayed compared to other European countries. Although even in the absence of such rules, joint investigation teams could already be created in Italy on the basis of bilateral agreements (such as those with Spain, Switzerland, and Albania), the Anti-Mafia Committee related that this partial solution was not satisfactory for Italian investigators.

Finally, the Committee illustrated the measures that, as a result of its own investigations into the internationality of the mafias, it deemed should have been submitted to the attention of European co-legislators in order to strengthen operational and judicial cooperation in the fight against the mafias, and especially:

- establishing as quickly as possible the European Public Prosecutor's Office (EPPO), with the recommendation of extending its jurisdiction as widely as possible to all trans-national crime, with a view towards achieving in a reasonably brief period of time a veritable European anti-mafia prosecutor's office that can play a key role in coordinating at the European level all of the investigations into the mafia organizations active in the various Member States;

- promoting the issuing of a new directive on the freezing and confiscation of assets that overcomes the shortcomings of Directive 2014/42/EU of 3 April 2014<sup>88</sup>, applicable to extended confiscation, confiscation as a consequence of a criminal conviction, and in the absence of a conviction, only in cases in which the subject is ill or on the run from justice; in other words, the new directive should ensure the mutual recognition of all confiscation measures in the absence of criminal conviction, so as to allow the application and implementation throughout Europe of Italian anti-mafia asset-related preventive procedures;

- encouraging the European Commission to take the necessary steps for a legislative proposals that can overcome the shortcomings of the application of Council Framework Decision 2008/841/JHA of 24 October 2008<sup>89</sup> to establish a new, more fitting legal definition of organized crime, including the crime of mafia conspiracy;

- inviting the European Commission to rapidly submit, before the issuing of the new anti-money laundering initiative (the so-called 'fourth directive') a proposal to harmonize criminal law with regards to money laundering, and to provide a shared definition of the crime of self-laundering, to avoid the risk of offering areas of impunity within the EU to criminal organizations, including the mafias, that engage in self-laundering and could benefit from dissimilarities in national laws;

- attempting to solve the many problems related to telephone tapping and acoustic interception at the European level, including through the approval of the proposed directive on the European

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<sup>85</sup> Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

<sup>86</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.

<sup>87</sup> Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams.

<sup>88</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.

<sup>89</sup> Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organized crime.

Investigation Order (EIO), so as to streamline legal assistance procedures and boost investigative potential in sectors such as the fight against organized crime, in which swift action is essential;

- adopting at the European level harmonized – or at least mutually agreed upon – measures to prevent the penetration or infiltration of organized crime in high-risk economic sectors, especially remote gambling, notably electronic betting, video poker, and online casinos, in order to ensure that all gambling operators meet the necessary requirements of integrity and professionalism; ensure the exchange of information and intelligence on possible violations of the law; identifying anomalous or suspicious behaviours; and ensuring the full traceability of remote gambling operations and the identification of individuals who engage in such activities beyond a certain threshold.

For the other measures we submitted to the attention of European institutions, see the above-mentioned Committee report on the Italian Presidency of the Council of the European Union<sup>90</sup>.

The Committee's work to raise awareness among its European partners continued during the second meeting of the Anti-Mafia Committee with the European Parliament Committee on Civil Liberties, Justice, and Home Affairs (LIBE), which took place in Brussels on 16 March 2016.

On this occasion, chairwoman Bindi, in addition to bringing her European colleagues up to speed on the developments of the Committee's investigation into the ongoing evolution and internationalization of the mafias, also illustrated the evolutionary trajectories of the main Italian criminal organizations with a presence elsewhere in Europe.

With reference to the Calabrian *'ndrangheta*, now a global leader in cocaine trafficking, the massive profits from the drug trade are re-invested abroad, mainly in the tourism, restaurant, and real estate industries. The *'ndrangheta* has also shown to be quite dynamic in other sectors as well, such as the flower market in the Netherlands.

The *camorra*'s presence abroad is also increasingly frequent and operational, especially in certain European countries (Spain, Germany, France, and The Netherlands) that are considered to be drug trafficking hubs. In Eastern Europe, the *camorra*'s presence and interests are focused on the contraband of cigarettes, the exploitation of prostitution, and the laundering of money in real estate and retail activities.

There are also signs that Sicily's *cosa nostra* is returning to the international drug trafficking business, particularly with cocaine, and is establishing new direct ties with criminal organizations in North and South America.

Turning to drug trafficking, unlike in the past the wealthiest and most combative criminal organizations are not those that control drug production areas out of our borders, but European-based organizations whose military might and contacts in the banking and financial sectors allow them to serve as brokers between supply and demand and to manage the enormous cash flow arising from the drug trade. While these criminal organizations can still be 'ethnically' defined as Italian (*cosa nostra*, *'ndrangheta*, *camorra*) or from other countries (Albanian, Turkish, and Bulgarian mafias), they should more properly be called "European mafias", because they operate in the heart of Europe, where their decision-making centres are located, and benefit undeservedly from the freedoms guaranteed by the Treaties of the EU.

Another worrying phenomenon given its increasing globalization is that of counterfeit goods and agrifood products, which in recent years has reached staggering quantitative and qualitative proportions, to the extent that it has distorted free market rules. Counterfeiting is now a veritable, highly organized enterprise, with its own reference market and international production and distribution networks. It has invaded every commercial sector and now encompasses agrifood products as well, with very serious consequences for the health of consumers.

Investigations into the marketing of counterfeit goods are increasingly frequent, and they have uncovered illegal chains of production and distribution that encompass numerous EU and non-EU countries. According to the National Anti-Mafia and Anti-Terrorism Prosecutor, increased controls in one Member State – such as Italy in recent years – lead to a reduction in counterfeit traffic in that

<sup>90</sup> Doc. XXIII, n. 2. *Relazione sul semestre di presidenza italiana dell'Unione europea e sulla lotta alla criminalità mafiosa su base europea e internazionale*, approved by the Committee during the session of 17 June 2014.

State, which traffic however is merely transferred to other countries where controls are less stringent. It is thus urgent to raise awareness on this issue, so that its gravity may be perceived everywhere in Europe. EU countries should carry out shared, coordinated activities to harmonise and strengthen their laws – including criminal laws – on this matter.

The availability of extensive illicit financial resources has allowed the mafias and other highly organised criminal groups to resort to violence and intimidation much less than in the past. This has led to a change in the behaviour of modern mafias. They are not as violent not because they are any less present in our society, but because while they retain their capacity for violence in their tool kit, they are able to achieve the same illicit goals through the force of money and the consensus it buys: money can corrupt public officials without the need to threaten them; money can purchase businesses, the services of white-collar professionals, and any other asset necessary for the success of a criminal enterprise.

Finally, in heeding the warnings of the National Anti-Mafia and Anti-Terrorism Directorate, the Committee shared with the European Parliament its concern about a possible dangerous alliance between organized crime and international terrorism. Drug trafficking routes overlap almost entirely with the routes chosen by international criminal organizations for human trafficking. According to recent statistics, in 2010-2012 there were over 30,000 victims of human trafficking and 3,786 convictions for related crimes in the European Union. In a time of grave geopolitical conflicts and serious economic crises in many parts of the globe, we must keep in mind how the challenge of mass migration in the Mediterranean and Balkans can provide new business opportunities for organized crime and terrorist networks. Indeed, it has been shown that mafia organizations that can operate on a transnational scale can interact – either as allies or rivals – with other criminal groups, including international terrorism networks. The contraband of goods and the trafficking of weapons are the two sectors in which the illicit affairs of mafia and terrorism networks overlap the most.

In conclusion, chairwoman Bindi – in addition to reiterating Italy's commitment to bridging the gap in its transposition of the above-mentioned European legislation and renewing her invitation to the European Parliament to take into account the proposals illustrated during the Brussels meeting – expressed her appreciation for a report on crime and corruption drafted by Laura Ferrara, MEP<sup>91</sup>, whose contents dovetail with the position of the Anti-Mafia Committee, particularly with regards to the lack of sufficient awareness of mafia phenomena at the European level.

At the end of the 17<sup>th</sup> Parliament, the Committee is now able to draw conclusions and provide an initial overview of the outcome of its 'anti-mafia diplomacy' vis-a-vis European institutions.

First and foremost, the Committee has asked European institutions to urgently proceed with the establishment of the European Public Prosecutor's Office (EPPO), to be entrusted in the short term also with the fight against mafia associations.

In this regard, after about four years of negotiations, on 12 October 2017, the Justice and Home Affairs Council of the EU formally adopted the Regulation establishing the EPPO<sup>92</sup>. Twenty Member States, including Italy, are taking part in this initiative. Member States that have not adhered to this initiative include Denmark, the United Kingdom, Ireland, Malta, The Netherlands, Poland, Sweden, and Hungary.

In terms of its jurisdiction, the EPPO will only be able to investigate and prosecute criminal offences affecting the financial interests of the EU before the ordinary national jurisdictions of participating states and according to the latter's procedural rules. The scope of competence coincides with the one defined by the new directive on the protection of the EU's financial interests (the so-called "PIF directive")<sup>93</sup>. It will thus include not only criminal offences affecting these interests – both in terms of income and expenditure – but also active and passive corruption and embezzlement

<sup>91</sup> Ferrara report adopted by the LIBE Committee on 7 October 2016.

<sup>92</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283/1 of 31 October 2017.

<sup>93</sup> Directive (EU) 2017/1371 of the European Parliament and Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

affecting the EU's financial interests, in addition to participation in a criminal organization<sup>94</sup> when the latter's activities are centred on committing "PIF offences". In addition, the EPPO will have the right to exercise 'ancillary' competence in the case of offences "inextricably linked" to PIF crimes, albeit only under certain conditions as identified by the directive, notably where "the offence affecting the Union's financial interests is preponderant, in terms of the seriousness of the offence concerned".

In terms of structure, a collegial model was chosen – as opposed to the original proposal for a top-down model – with a central level, the College, directed by the European Chief Prosecutor and comprising one European Delegated Prosecutor for each Member State, and an unspecified number of Permanent Chambers composed of the European Prosecutors themselves. The European Delegated Prosecutors (EDP), at least one per Member State, are an integral part of the EPPO, but will also be able to continue to perform their function as national prosecutors. Additionally, over the course of the negotiations the decision-making powers of the EPPO gradually shifted towards the national level, so that within the College each European Prosecutor may direct only the cases that concern his or her Member State, and may supervise that Member State's EDPs, maintaining a constant dialogue with them. In summary, while the EPPO is certainly European in scope, its centre of gravity perhaps remains too centred on individual states. By the same token, according to some experts the rules to divide competence between the EPPO and national authorities also seem to tilt too much towards individual Member States. Indeed, in case of conflicts of competence – where both the EPPO and the relevant national prosecutor's office claim competence – the ultimate decision always rests with the competent national authorities in the Member States, with the EPPO being the losing party in many cases<sup>95</sup>.

Even in spite of the above shortcomings, the long-awaited establishment of the EPPO is at hand. It is a first, decisive step towards the hope expressed by the Committee to achieve judicial coordination of anti-mafia criminal prosecution at the European level as well.

Major steps forward have also been taken with regards to the potential for a new directive to improve the preventive freezing of mafia assets.

On 12 January 2018 the LIBE Committee of the European Parliament approved its report on the proposal for a regulation of the European Parliament and Council on the mutual recognition of freezing and confiscation orders, thus launching inter-institutional negotiations on the draft legislation<sup>96</sup>. The proposal aims to replace existing instruments for the mutual recognition of orders freezing property or evidence as well as confiscation orders, which have proven to be of limited use and efficacy, with a new instrument, directly applicable in the Member States since it will be issued as a Regulation, that extends mutual recognition to all freezing and confiscation orders issued within the framework of criminal proceedings, including extended confiscation, third-party confiscation, and non-conviction based confiscation<sup>97</sup>. Although this is a significant step forward, the expression "within the framework of criminal proceedings" would continue to exclude from mutual recognition the preventive confiscation of assets included in the Italian Anti-Mafia Code. Thanks in part to negotiations conducted within the Council and spurred by the Italian delegation, the text approved by the LIBE Committee of the European Parliament replaced the expression "within the framework of criminal proceedings" with "within the framework of proceedings in criminal matters", since anti-mafia measures, while not issued within the framework of criminal procedures, nevertheless have "a clear link with criminal activities"<sup>98</sup>.

<sup>94</sup> See Council Framework Decision 2008/841/GAI of 24 October 2008 on the fight against organized crime.

<sup>95</sup> Cf. I sub-committee, session of 31 March 2014, hearing with Lorenzo Salazar, verbatim report n. 1.

<sup>96</sup> European Parliament, Committee on Civil Liberties, Justice, and Home Affairs. Report on the proposal for a regulation of the European Parliament and Council on the mutual recognition of freezing and confiscation orders. A8 – 0001/2018 of 12 January 2018.

<sup>97</sup> European Commission. Report on a proposal for a regulation of the European Parliament and Council on the mutual recognition of freezing and confiscation orders COM(2016)819 final of 21.12.2016.

<sup>98</sup> Council of the European Union, doc. 12685/17 of 2 October 2017: "(...) However, the discussions in the Working Party have shown that some Member States, notably Italy, seem to have confiscation systems that, while being clearly linked

In the next Parliament, it will be essential for the Anti-mafia Committee to closely follow the approval procedure for the new EU Regulation on freezing and confiscation orders, in the hope that the preventive confiscation of mafia assets can finally be extended to all such assets and resources anywhere within the European Union.

No real news of substance concerns the adoption of a new, more effective definition of “criminal organization” at the EU level, one that would take into account the defining and structural characteristics of mafia associations.

In this regard, it is worth pointing out that in 2011 and 2013 the European Parliament had already encouraged the European Commission to submit a legislative proposal to reform the crime definition of participating in a transnational criminal organization to better reflect the specificities of mafia associations<sup>99</sup>. More recently, the above-mentioned report by Laura Ferrara approved by the European Parliament in 2016 called for such a reform<sup>100</sup>.

Generally speaking, we can thus say that from a strictly legislative viewpoint, the European Union is slowly bridging the gap that separates it from Italy’s anti-mafia legislation.

This slow pace underscores the real problem – which goes beyond legislative choices - of the insufficient awareness on the part of the EU and many of its Member States of the true danger of the mafias even outside of Italy’s borders. During its missions abroad (whose results are reported in Annex 5), the Committee was able to gauge first-hand how the problem is perceived by members of parliament, government representatives, and judicial and investigative authorities in the countries it visited. Overall, the impression is that we are still very far from the goal of building a robust European anti-mafia approach, let alone an international one. The concrete presence of the Committee, through its fact-finding visits, in these foreign countries was nevertheless useful, and provided some initial concrete responses both within and outside the European Union.

This awareness-raising process must not be interrupted in the next Parliament, but must instead be reinforced. The future Committee’s strategy must be centred on encouraging European institutions to follow up on the numerous commitments made by the European Parliament.

The world as seen by the mafias: vigilant countries, mafia countries, havens for fugitives.

Beyond the borders of the European Union, the level of awareness of the dangers of the mafias unfortunately remains even more insufficient.

Generally speaking the attitude of foreign countries towards mafia organizations, whether Italian or not, can be simplified as follows.

The first category includes those countries that consider themselves ‘paradises’ shielded from any risk of mafia infiltration or settlement, since they have not seen any signals of this. However, this attitude also reflects a lack of investigations (or of the willingness to investigate) into whether the

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to criminal activities, are not conducted in the course of criminal proceedings. As from the outset of the discussions, the Italian delegation, supported by some other delegations, observed that the proposed wording of the scope of the Regulation as defined in Art. 1(1), with the words “criminal proceedings”, posed a problem, since its system of so-called “preventive confiscation” would be excluded. Italy explained that under this system, confiscation orders are issued by a criminal court in procedures that are not aimed at convicting the person for committing a specific offence, but are based on proven facts that assets are derived from criminal activities, while also taking into account previous criminal behaviour of the person. The system is a ‘preventive’ system in the sense that confiscation orders issued under this system aim at preventing the re-use of property which is proved to have derived from criminal activities committed in the past. According to Italy, its system of confiscation would not fall, at least not entirely, within the notion of “*criminal proceedings*” as currently used in the proposed Regulation. However, Italy suggested using the concept of Article 82 (1) TFEU and referring to “proceedings in criminal matters”. This would allow to include its system of preventive confiscation, whereas freezing and confiscation orders issued within the framework of proceedings in civil and administrative matters would explicitly be excluded. Italy confirmed that fundamental rights and similar procedural safeguards as in criminal proceedings, notably foreseen by the six Directives on procedural rights, are adequately respected and that confiscation orders issued under its system of preventive confiscation have a clear link with criminal activities and therefore fall in principle within the framework of proceedings in criminal matters.”

<sup>99</sup> European Parliament resolution of 25 October 2011 on organized crime in the European Union (2010/2309(INI)) and report on organized crime, corruption, and money laundering of 26 September 2013 (2013/2107(INI)).

<sup>100</sup> Ferrara report adopted by the LIBE Committee on 7 October 2016.

absence of such signals is truly due to the absence of mafia organizations, or to the inability of their authorities to detect such complex signals.

The second category comprises ‘unaware’ countries, those that have picked up signals of a mafia presence but have been unable to recognize them as such, and instead misidentify them as ordinary forms of crime. This incorrect assessment means that the battle against mafia organizations is fought with inadequate instruments.

The third category is of countries that can be said to be ‘in denial’, namely those in which signals of a possible mafia presence or infiltration have been picked up by investigators or the media, but where the political sphere denies this for fear of a negative reaction on the part of public opinion, or worse yet, of a negative impact on the country’s reputation, with possible repercussions on markets and thus economic and financial hardship. In these countries, where the denial of a mafia presence is more or less evident, there is a lack of political will or expediency to tackle the problem seriously.

The fourth category comprises all those countries that lucidly acknowledge the mafias’ presence within their borders, and where the political authorities have fully realized the need to take adequate countermeasures, but are reluctant to adopt rules that are greatly effective against the mafias, such as the crime of mafia conspiracy or the application of non-conviction preventive confiscation measures.

Finally, ‘mafia States’ or so called ‘criminal havens’ are a category unto themselves. These are countries where high levels of corruption, institutional weakness, or institutional and political chaos – sometimes due to internal or external armed conflicts -, or the presence of government representatives who are complicit with criminal interests, are willing to set up opprobrious partnerships with local or international mafia organizations.

The varied framework described above on the ‘anti-mafia’ awareness of various countries may appear paradoxical in light of the fact that an international treaty against organized crime has been in force for many years, the United Nations Convention against Transnational Organized crime of 2000 (UNTOC), of which a great many countries are party to<sup>101</sup>. It is little use signing such an agreement if national authorities are unable or worse yet, unwilling to recognize the presence of organized crime within their borders, if they do not endow their judicial and investigative authorities with adequate human and financial resources, and finally if they fail to adopt the necessary legislative measures in support of the prosecutability of the offence of participation in a transnational criminal organization set out under the Convention and which ensure its effectiveness and efficiency. The fact is that today, almost two decades after it was adopted, we are still unable to assess the degree of implementation of the Palermo Convention (and its additional protocols) in the countries that signed it, and as a consequence we are unable to evaluate its efficacy or whether any updates or modifications to the Convention are necessary. Indeed, even the Convention-based letters rogatory promoted by Italian judiciary authorities have been unable to provide an accurate picture of the degree to which the Convention has been implemented in signatory countries. These efforts cannot account for the actions undertaken – or not undertaken – by signatory countries to fight organized crime autonomously and not after solicitation from a foreign authority.

In this regard, the Committee reports that UNODC (United Nations Office on Drugs and Crime) has recently launched a debate on the establishment of a formal monitoring mechanism for UNTOC and its protocols on human trafficking, the smuggling of migrants, and illicit trafficking in firearms. Italy has played a leading role in the negotiations for the adoption of this mechanism, which has nevertheless run into some difficulties in terms of financial resources<sup>102</sup>.

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<sup>101</sup> United Nations Convention against Transnational Organized Crime and the Protocols Thereto, adopted by the United Nations General Assembly on 15 November 2000, known as the Palermo Convention. So far, 189 countries are parties to the convention.

<sup>102</sup> On the need for a monitoring mechanism, see United Nations, Conference of the Parties to the United Nations Convention against Transnational Organized Crime, “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, of 4 July 2014 (CTOC/COP/2014/2).

The Committee strongly hopes that the initiative will receive the support it is due from international partners as well, and that the procedure may be completed as soon as possible.

Another United Nations instrument in the fight against organized crime that is perhaps overlooked is the U.N. Convention against Corruption, which was opened for signature in Mexico in December 2003 (Merida Convention), and which includes particularly effective measures in terms of confiscation concerning the criminal offences it covers in a much more stringent manner than the Palermo Convention.

Indeed, the Palermo Convention does not establish a single obligatory regime for the execution of confiscation requests, leaving the choice of the procedure to be followed up to the State that received the request. The procedure will thus have to follow the laws and decisions of the State that received the request, which may conflict with the modalities and the timetable of the State that issued it.

On the other hand, article 54(1) of the Convention against Corruption mandates that each State Party must introduce into their legal system a general mechanism to recognize and carry out confiscation orders, an *exequatur* of sorts, to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party, thus recognizing the validity of a measure legitimately adopted by another State, and making it easier to accept foreign requests even when the differences between the two legal systems in question cannot justify a refusal.

Additionally, article 54 of the Convention against Corruption mandates that State Parties must consider taking such measures as may be necessary to allow confiscation of property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence, or other appropriate cases. This codifies within a binding international instrument between State Parties the confiscation of property without a criminal conviction in case of the offender's death, which measure has not yet been transposed into the EU's directive.

These measures are important in the fight against the mafia as well. While the Convention is against corruption, it was adopted on the assumption of ever-closer ties between corruption and the evolution of organized crime, particularly economic crime<sup>103</sup>.

In spite of the difficulties inherent in operating in an international context that generally ignores the phenomenon of mafia organizations – both from a legal and factual viewpoint – it must be said that the hearings held by the Committee have shown that Italian authorities – first and foremost the National Anti-Mafia and Anti-Terrorism Directorate (DNA) – are successfully continuing to strengthen their network of cooperation.

As reported by Prosecutor Roberti, the DNA's approach builds upon the main difficulties in international cooperation identified by district prosecutor's offices to build new relationships – or strengthen existing ones – with the authorities in the countries where such shortcomings in cooperation have been reported. This is a veritable work of persuasion with foreign counterparts, which begins with raising their awareness – one could almost say in cultural terms – on the activities and the methods of the mafias, and subsequently provides specific investigative inputs on the presence of the mafias in those countries. This approach helped the DNA to re-establish a collaborative relationship with Canadian authorities by providing them with specific information on the *'ndrangheta* (see report on the mission to Canada in Annex 5); the same can be said for authorities in Australia and other countries<sup>104</sup>.

Over time, the DNA has underwritten memoranda of understanding with about fifty countries. Some of the most important ones include those signed in 2013-2014 with the Russian Federation, and particularly with the Prosecutor General and the Investigative Committee of Russia; the latter was established recently to fight organized crime and money laundering. New agreements are also expected with Argentine authorities.

<sup>103</sup> I sub-committee, session of 22 May 2014, hearing with Mario Carta, professor of European Union law, verbatim report n. 9.

<sup>104</sup> Session of 9 November 2016, hearing with the National Anti-Mafia and Anti-Terrorism Prosecutor Franco Roberti, verbatim report n. 178.

Concerning European countries outside the EU, the DNA has established preliminary accords instrumental to a formal agreement with Andorran authorities, who appear to be quite interested in establishing collaborative relations with their Italian counterparts. Indeed, the small Pyrenean country, a well-known tax haven, is updating its legislation to fight tax crimes and money laundering.

In the Balkans, there are plans to formalize a permanent conference (which de facto is already in place) with the authorities in these countries. During preliminary meetings the unanimous decision was made, on the basis of a declaration of intent signed in May 2016, to make such a conference permanent, as it plays a central role in fighting the smuggling of migrants, human trafficking, the trafficking of weapons, contraband, drug trafficking, and terrorism, all of which activities are present in the Balkans.

Finally, anti-mafia magistrates pointed to the close collaboration with Albania, as shown by the signing of a very advanced memorandum of understanding which makes it possible to establish joint investigation teams in spite of the fact that Albania is not a Member State of the EU.

In light of the above, the Committee is of the opinion that one of the main frontlines of international anti-mafia efforts that will have to be the focus of the next Parliament's efforts is the Mediterranean – increasingly a crossroads of illegal international trafficking – and the Arab countries. In addition to the well-known drug trade routes that cross the Mediterranean, criminal organizations are increasingly profiting from exploiting the routes used by migrants and human traffickers, and from petroleum products from conflict areas, such as Libya and the areas formerly under the control of the so-called Islamic State and not yet fully pacified. Certain countries, such as Malta, are located at the very heart of such activities, and the Committee did not overlook its strategic importance to “anti-mafia diplomacy”. In this regard, see the report on the mission to Malta on 23 and 24 October 2017 (annex 5).

The crucial importance of the fight against organized crime on this particular geo-criminal chessboard is evidenced by the DNA's intense activities to fight the smuggling of migrants and human trafficking in recent years, especially after the October 2013 tragedy at Lampedusa. Nevertheless, in spite of the efforts of the various district prosecutors' offices involved, coordination is often made vain by the difficulties in cooperating with the foreign countries in which such trafficking originates. As stated numerous times during hearings, the DNA is continuing its efforts to establish relations with all of the countries on the Mediterranean's shores, particularly but not limited to Egypt and Tunisia.

In this spirit, the DNA, on the initiative of the Ministry of Foreign Affairs and International Cooperation, is engaging in activities to set up a permanent structure for dialogue on judicial cooperation with North African countries, along the same lines as the conference with Balkan countries described above.

The relationship with the United Arab Emirates is particularly fraught. This country has become a refuge for numerous fugitives, including the former member of Parliament Amadeo Maticena, who was sentenced to five years in prison by the Court of Assizes of Appeal of Reggio Calabria on 18 July 2012 and permanently barred from holding public office after a conviction for external participation in a mafia-type organization, which sentence was then upheld by the Court of Cassation on 6 June 2013. On 21 June 2014 this same court, ruling on an extraordinary appeal, reduced the prison sentence to three years. The judges had ascertained the existence of serious, precise, and consistent evidence of the commitments made by the former member of parliament to the Rosmini *'ndrangheta* clan, the purpose of which was to facilitate his election to the Chamber of Deputies in the 1994 elections. By doing so, according to the judges, Maticena acted as a liaison between the Rosmini and Serraino clans. Additionally, Amadeo Maticena was sentenced in the first instance to four years in prison by the court of Reggio Calabria as a result of an investigation into corruption which found that he had promised money to the former president of the local Regional Administrative Court - who was himself convicted - in order to win an appeal filed by a company he owned for the release of maritime authorizations necessary for the company's activities. On 31 March 2015 the verdict was confirmed on appeal. Maticena's wife Chiara Rizzo, former Minister of Justice

Claudio Scajola, and the secretaries of Maticena and Rizzo, Martino Politi and Maria Grazia Fiordalisi, have been charged in connection with Maticena's flight abroad. Incidentally, it is worth remembering that the events surrounding Amadeo Maticena's flight and the delays in adopting an extradition treaty with the United Arab Emirates are the object of two resolutions submitted by the Standing Committee on Justice of the Chamber of Deputies<sup>105</sup> and numerous Parliamentary Questions<sup>106</sup> that aimed to shed light on the matter. Some of these investigations looked into a possible link between Maticena's flight abroad and the death of Omar Pace, an officer of the Guardia di Finanza who was serving with the DIA in Rome, who had collaborated with great investigative acumen to the investigations directed by the Reggio Calabria District Anti-Mafia Directorate.

According to the National Prosecutor during his first hearing of 9 November 2016, the failure to adopt a collaborative agreement with the United Arab Emirates was due mainly to legal matters, given the absence of a treaty between the two countries that could have constituted a legal framework upon which to base the letters rogatory. During hearings, DNA magistrates confirmed that they had duly filed the necessary requests and established direct contacts with senior officials in the Emirates' Prosecutor's Office. They also testified to the existence of longstanding negotiations carried out by the Ministry of Justice for the signing of a bilateral treaty on mutual legal assistance, including extraditions, but that these negotiations "ran aground due to a series of objective problems of a political nature that are obviously not within the purview of magistrates"<sup>107</sup>.

During a subsequent hearing, on 8 November 2017, Prosecutor Roberti, in response to two Committee members (Mattiello and Sarti), provided an update on this issue, and stated that the DNA's efforts to press their Emirati counterparts had continued and perhaps even intensified. For this purpose, Prosecutor Roberti himself, together with a magistrate from the Prosecutor's Office in Rome had travelled on mission to the United Arab Emirates as part of a ministerial delegation. The only result was the temporary detention of one of the fugitives in Dubai. With specific reference to the agreement with the Emirates, the National Prosecutor specified that the judicial problem that prevented the signing of the treaty was the fact that the death penalty is still in force in the U.A.E., "which does not preclude international cooperation, but the agreement is hindered by this situation in the Emirates"<sup>108</sup>.

Finally, during the final hearing held by the Committee on 6 December 2017, Prime Minister Paolo Gentiloni provided further details and updates on the matter. Responding to a question by MP Mattiello, the Prime Minister preliminarily said he agreed on the importance of signing a treaty with the Emirates that would make it possible to solve certain questions regarding persons under investigation. He pointed out that in 2016, in his previous capacity as Minister of Foreign Affairs and International Cooperation, such efforts were blocked by the stringent regulations governing the non-application of the death penalty in countries with which Italy stipulates international treaties. It had been authoritatively pointed out that the possibility of the death penalty must be more clearly and

<sup>105</sup> Committee Resolution (Ferraresi) n. 7/01070 of 29.7.2016 and Committee Resolution (Mattiello) n. 7/01121 of 14.10.2016.

<sup>106</sup> Question with written response (Lombardi) n. 4/04894 of 19.5.2014; Question with written response (Garavini) n. 4/04993 of 30.5.2014; Question with oral response (Turco) n. 3/01028 of 11.06.2014; Question with written response (Fava) n. 4/06408 of 15.10.2014; Question with response in Committee (Turco) n. 5/04238 of 5.12.2014; Question with written response (Mattiello) n. 4/07248 of 11.12.2014; Question with written response (Nesci) n. 4/07360 of 19.12.2014; Question with response in Committee (Turco) n. 5/04540 of 21.1.2015; Question with written response (Sibilia) n. 4/08396 of 12.3.2015; Question with written response (Albano) n. 4/03666 of 19.3.2015; Question with written response (Dieni) n. 4/08538 of 23.7.2015; Question with written response (Sibilia) n. 4/09953 of 23.7.2015; Question with written response (Parentela) n. 4/12545 of 16.3.2016; Question with written response (Pesco) n. 4/13035 of 28.4.2016; Question with response in Committee (Mattiello) n. 5/09675 of 5.10.2016; Question with response in Committee (Mattiello) n. 5/10155 of 20.12.2016; Question with written response (Turco) n. 4/16578 of 12.5.2017; Question with response in Committee (Businarolo) n. 5/11568 of 14.6.2017.

<sup>107</sup> Deputy National Anti-Mafia and Anti-Terrorism Prosecutor, Marco Del Gaudio. Session of 9 November 2016, hearing with the National Anti-Mafia and Anti-Terrorism Prosecutor, Franco Roberti, verbatim report n. 178.

<sup>108</sup> Session of 8 November 2017, hearing with the National Anti-mafia and Anti-terrorism Prosecutor, Franco Roberti, verbatim report n. 231.

explicitly ruled out by any such treaties. Prime Minister Gentiloni then specified that in keeping with this new orientation, an exchange of diplomatic notes with the Emirates is being prepared for a clearer and more restrictive interpretation of this issue, in compliance with the new norms in the code of criminal procedure, and which should become an integral part of Italian law concerning the ratification of bilateral treaties. Once this procedure has been brought to a conclusion, there should no longer be any obstacles to full cooperation with the U.A.E.

### **The factors behind the expansion of criminal organizations in the international context**

At the international level, several recent academic studies have highlighted a number of aspects that characterize the dynamics of criminal organizations in Europe. These studies have found that European criminal organizations are increasingly interconnected, highly opportunistic in terms of combining both legal and illegal activities, and have more flexible structures than in the past. They have also found an increase in the fragmentation of the most highly organized criminal groups, although this does not seem to have hindered the proliferation also of criminal gangs in EU countries<sup>109</sup>.

In the fluid and ever-changing framework of criminal organizations, one aspect remains the same: the internal flexibility of these organizations reflects – or better yet determines - their flexibility in operational and criminal terms. Indeed, criminal organizations are now able to operate simultaneously on several different illegal markets, benefiting from the economies of scale that arise from the exploitation of a single channel for multiple activities (for example, the drug supply pipeline is also used, when needed, for arms trafficking or the contraband of cigarettes, and vice versa).

The factors that encourage a criminal group to colonize new territories can be broken down into two main groups. On the one hand, there are the factors that provide incentives for a criminal group to put down roots in a given country, and on the other are those that discourage the continued presence of that group in its country of origin. Some of the incentives include: the ability to exploit new criminal markets; opportunities provided by the local social and economic fabric and legislation to easily launder criminal proceeds; the presence in the new destination of logistical support, often provided by fellow nationals from the country of origin; and the opportunities for ‘camouflage’ provided by the legislation and social structure in the destination country.

Factors that instead discourage a criminal group from remaining in its country of origin include: the need to escape reprisals on the part of rival clans, being the target of investigation on the part of local authorities, or being a fugitive from justice without the opportunity to draw sufficient protection from associates or family members. In any event, such decisions are always rational, strategic in nature, and based on a cost-benefit analysis, so as to allow for the rapid escape from the destination country should the incentivising factors or those that encouraged abandonment of the country of origin suddenly change.

## **4.3 Interference with the economy**

### **The new mafias in the new economy**

Over the course of the parliamentary term, the Committee has explored the current relationship between the mafia and the economy, and more specifically whether there have been significant changes in this relationship, which is certainly not new. Indeed, as early as 1982, the Rognoni-La Torre Law, under article 416-*bis*, introduced into the Italian system of criminal law the crime of mafia conspiracy, which defined control of economic activities as one of the typical aims of mafia associations.

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<sup>109</sup> I Committee, session of 31 March 2014, hearing with Ernesto Savona, professor of sociology of complex criminal phenomena at the Università Cattolica del Sacro Cuore, verbatim report n. 1.

Elsewhere in this report we have pointed out that the mafias have changed along with their criminal approach: the mafia method is now focused on strategies based on corruption underpinned by the implicit threat of violence.

On the other hand, the economy itself is undergoing profound changes. New technical and scientific disciplines (computer science, telecommunications, etc.) have developed and over time created a new culture, a new idea of business and of adding value. A new economy has thus emerged in which the market is increasingly losing its material and commodity-related aspects and is turning into a multimedia network through which, theoretically, goods can be bought and sold anywhere on the planet. In such a context, white-collar workers have also been affected by these shifts. Additionally, the new economy is seeing an increasing use in ‘virtual currency’, such as bitcoin, as an irregular payment method for transactions. In Italy as elsewhere, the economy has suffered a lengthy period of recession, with a crisis of liquidity for businesses and reduced credit; this has decimated the productive system, although a slow but gradual recovery is now in place.

Since both the mafias and the economy have changed, it is no surprise that these changes have been reflected in the relationship between the two.

### **The illegal economy, the grey area, and the mafias’ social capital: white-collar professionals and entrepreneurs**

Within the broader underground economy, social science draws a distinction between the ‘submerged’ economy (fiscal and social security offences, workers paid off-the-books, violation of rules governing competition) and the ‘criminal economy’, namely the wealth obtained through the perpetration of violent crime or theft. In light of the perpetrators, their content and the techniques used, these crimes are directly referable to a business enterprise or a professional activity. They include, among others, activities arising from illegal actions, such as the trafficking of narcotics or weapons, the exploitation of prostitution, contraband, extortion, usury, gambling, counterfeiting, trafficking in mineral oils, the winning of public contracts in violation of the law, crimes against property, corporate crimes, and more. In fact, there is even a third component separate from the criminal economy, which comprises economic activities that appear to be legal, but that arise from illegality, either because the owners are members of organized crime or because the capital invested originated from criminal activity.

This field includes not only “mafia businesses” in the true sense of the expression, meaning those that originated or were funded with mafia capital and that leverage the force of intimidation of criminal organizations, but also businesses “with mafia participation”, meaning businesses that originated as legal enterprises and only later were either forcibly taken over by the mafia or more simply opened their doors to partners with mafia affiliations. Such businesses do not necessarily imply the exercise of a violent action, but may simply reflect goals in common between ruthless entrepreneurs and *mafiosi*. They are a type of enterprise that appears to be outside the criminal milieu, and as such are ideal as front companies to further the interests of *mafiosi*, especially as a way to invest mafia capital legally<sup>110</sup>.

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<sup>110</sup> In this regard, it should be noted that case law, in various rulings, has ascribed the typical characteristics of “businesses with mafia participation” to the framework outlined in art. 12-*quinquies* of decree-law n. 306 del 1992, as enacted through law n. 356 of 1992. Among the type of activities that can be ascribed to this criminal offence, the case law of the Court of Cassation has examined:

- participation as a silent partner in the exercise of a pre-existing economic activity that results in co-ownership of the business and its proceeds (Court of Cassation, 2<sup>nd</sup> Section, Ruling n. 23131 of 8 March 2011, Rv. 250561, which specifies that ‘fictitious interposition’ applies even if it is referable to only a share of the asset);
- the fictitious creation of a new business firm “through assigning shares to individuals used as fronts for the real owners, who are the administrators and silent partners of another firm that has declared bankruptcy” (Court of Cassation, 2<sup>nd</sup> Section, Ruling n. 6939 of 26 January 2011, Rv. 249457; see also Court of Cassation, 1<sup>st</sup> Section, Ruling n. 39210 of 24 June 2013, Rv. 256771);

There are multiple ways and instruments for mafia capital to encounter and conceal itself within legal capital, but they fall into two broad categories: the interposition of a frontman or a direct, informal intervention on the part of a *mafioso*. In both cases, the presence of mafia interests tends to remain hidden to the enterprise's clients, except for situations – such as debt collection – in which it may prove necessary to reveal the company's ties to mafia interests.

At times, concealment may be more complex. Participation of mafia interests may be hidden behind a long string of front companies, including trust companies that may be located abroad, offshore companies with bearer shares, or the segregation of capital in a trust. In all such cases, the goal is to conceal the identity of the mafia-related partner, or at least to make it as difficult as possible to discover.

Globalization, improved communications, and new legal and financial instruments make such scenarios increasingly complex, and facilitate the concealment and dissimulation of reality.

The legal and illegal economy thus begin to blend together and co-exist, mutually accepting one another: if the laws that regulate the economy formally ban criminal participation, the same cannot be said for the mechanisms that regulate its functioning.

The rapid pace of change affecting the history of these last few decades, through globalization, monetary union in the EU, and even the recent economic crisis, has shifted the macro-economic and political balance in many countries. In Italy, this has particularly affected the relationship between the economy in the north and that in the south. These changes have not only significantly impacted the legal sphere, but the illegal one as well.

Even within the mafia sphere, new mafias are emerging – not as new organizations, but rather in terms of their approach – which are increasingly able to capture and satisfy the growing demand for illegal services on the part of the private sector.

In this new economic context – characterized by an unfavourable economic cycle, high competition, reduced credit, and lower profits – businesses tend to become increasingly 'irresponsible' in social and ethical terms, and have no compunction about creating a demand for illegal services if they are deemed essential for increasing profits, lowering costs, collecting debt, or solving liquidity problems through an injection of new capital. The mafias thus become veritable

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- “the conduct of those who serve as intermediaries for economic investments availing themselves of the connivance of other subjects who consent to becoming the formal owners of business activities that were established and are supported by the proceeds of the criminal activities of a mafia clan” (1<sup>st</sup> Section, Ruling n. 15797 of 16.3.11, Rv. 249975).

As underscored in relevant case law (cfr. the ruling issued on 28.3.2003 by the Court of Palermo in its proceedings against Di Pisa and others, in *Foro It.*, 2003, part II, col. 558), businesses with mafia participation were often established legally, but either immediately or at some point thereafter established relationships of mutual interest or mutual participation with mafia associates, whose capital was invested in a systematic and stable manner in the enterprise. There is thus the joint presence of both legal and illegal interests, partners, and capital.

The establishment of businesses with mafia participation is the outcome of the intensive and stable relationships that criminal organizations have established with a variety of sectors in the legal economy. These relationships are based not only on the threat of violence, but also on mutual interests and a sharing of capital and skills.

While businesses with mafia participation are not an exclusive expression of the criminal world, they nevertheless act in the service of mafia interests, and are businesses of reference for legally investing mafia capital.

*Mafiosi* can establish partnerships with other entrepreneurs through a frontman or in a direct but non-formalized manner by establishing a *de facto* corporation.

The establishment of such enterprises, which can be traced – either exclusively or as partnerships – to *mafiosi* who financed them with illegally-obtained funds or operate them through recourse to the force of intimidation of the partnership, makes the co-owners of such enterprises, even if they are not formally members of a criminal organization, liable to prosecution for participation in a criminal association. Indeed, whether they act as full partners or simply as frontmen, these subjects are performing functions typical of a mafia association, namely the conquest of economic power through the control of a significant range of activities that are formally legal, and that are not carried out simply as a front for other activities, but rather as the natural outlet for criminal activities. The principle affirmed by the case law of the Court of Cassation, according to which participation in a mafia criminal conspiracy includes the conduct of those who repeatedly engaged in the false registration of assets linked to the criminal enterprise, fully applies to businesses as well (Court of Cassation, 6<sup>th</sup> Section, Ruling n.13444 of 10 March 2016, Rv. 266925), Antonio Balsamo, deputy public prosecutor at the Court of Cassation, “Memoria per l’udienza delle Sezioni Unite del 30 novembre 2017” [Plea for the Joint-Sections Hearing of 30 November 2017] (doc. 1685.1).

agencies providing illegal services to the private sector, as they are ready and willing to put their capital – made of close ties to powerful interests, the threat of violence, and last but not least, the vast assets resulting from its criminal activities – in the service of the economy. In exchange, the mafias almost never settle for receiving money in exchange for these illegal services, but rather prefer to accrue a ‘credit’ with the entrepreneur in question, to be cashed in when necessary. At times, even the most reluctant of entrepreneurs have no choice but to give in to their fear of the mafia, which can then impose its own choices, which are functional to the mafia’s criminal strategies and often run counter to the company’s own interests. Such practices include the imposition of security personnel or the hiring of other staff imposed by the mafia as part of its strategy to boost social consensus, the imposition of suppliers allied with the mafia who may be less competitive than the company’s usual suppliers, or who provide goods of a substandard nature, and finally direct meddling into business decisions, which often run counter to corporate strategy and thus negatively affect the company’s productivity in the medium term.

This change in the attitude of the private sector is in keeping with anti-mafia magistrates’ findings regarding an alarming and generalized “change in the relationship between civil society and mafia organizations”, with a “vertical fall in social reproach for the mafia phenomenon and the consequent use of the services provided by criminal organizations or their individual members”<sup>111</sup>.

In summary, the mafias become a part of the private companies’ external sphere, with which they establish relations. Criminal organizations thus become full-fledged stakeholders of private businesses, together with their clients, competitors, suppliers, shareholders, and public bodies.

The ‘irresponsibility’ of businesses (which is directly opposed to corporate social responsibility) feeds off ‘weakly illegal’ phenomena such as fiscal and social security evasion, which are underground practices often most widespread in the sectors infiltrated by the mafia. Recourse to such practices means that entrepreneurs who initially may have wanted to eschew any contact with the mafia find it necessary to seek out ways to launder undeclared income or to adopt opaque methods of accounting.

The relations that the mafias are now able to establish with the private sector fall under the umbrella of that new and extraordinary source of power for criminal organizations known as the mafia’s social capital. The case law of the Court of Cassation has paid increasing attention to this concept. In particular, it has recently delved into the role of the so-called ‘bourgeois mafia’, comprising individuals above suspicion who are not members of a criminal organization, but bring their specific professional skills to bear for the benefit of the mafia, supporting it and promoting its interests not only in terms of protecting mafia associates and expanding their network of contacts with other influential members of civil society, but also in terms of strengthening the mafia’s economic power. In addition to politicians and public officials, this ‘bourgeois mafia’ also includes entrepreneurs and white-collar professionals, who according to the Court of Cassation are full-fledged members of a mafia association, as they play a precise, well-defined, and long term role in furthering its interests. Under article 416-*bis* of the criminal code, any entrepreneur, white-collar professional, politician, or public official who has put him or herself at the mafia’s disposal by playing a stable role as a liaison between the criminal organization and business, institutional, or political counterparts can be prosecuted for the crime of mafia conspiracy<sup>112</sup>.

<sup>111</sup> Cf. National Anti-mafia and Anti-terrorism Directorate – Annual report 2016 (1 July 2015 – 30 June 2016). Doc. 1404.1.

<sup>112</sup> See, Court of Cassation, 2<sup>nd</sup> Section, Ruling n. 18797/12 of 20 April 2012. Below is an excerpt from the opinion issued by the Court of Cassation in examining the problem of the difference between external participants and full-fledged participants in a mafia association, in which the Court frames the issue of the ‘bourgeois mafia’ in the following terms: “ (...) The difference between *intraneus* and *extraneus* regarding a mafia association is identified, in terms of objective elements, in the fact that the external participants – while they may provide a contribution that has causal relevance for the purpose of the preservation or strengthening of the organization – are not members of the criminal organization itself; in terms of subjective elements, in the fact that the external participants - unlike full members whose criminal offence consists of being a willing and able active participant in establishing a criminal agreement and course of action in a stable and permanent manner – are without *affectio societatis*”. In general, participating as a member in a criminal association

On account of increased oversight over the private sector, due in part to anti-mafia laws, the current *modus operandi* of criminal organizations in their attempts to win public contracts is the use of a third party between themselves and the public administration, either a frontman formally unassociated with the mafia, or a new subsidiary company administered by front persons on behalf of the mafia, yet formally unaffiliated with it. This takes place through the creation of: undercapitalized limited companies; cooperative companies established specifically for a given job, whose strength lies in the temporary duration of the relationship, which is limited to the duration of the contract; and temporary groupings of companies, established to conceal the presence of companies with direct ties to organized crime. Another significant way in which the mafias infiltrate the economy is by imposing the subcontracting of firms with ties to organized crime for the execution of minor contracts; this imposition applies to some of the largest regional and national enterprises as well (which are privileged partners in light of their economic and labour history).

The Committee did not fail to notice the decisive role that can dangerously be played by white-collar professionals as a bridge between the legal and illegal spheres, and between the legal and the mafia economies and vice versa. Unfortunately, numerous court cases involving such professionals are evidence of this<sup>113</sup>. In this regard, the Public Prosecutor at the Court of Palermo, during a hearing with the Committee, described the functional role of the grey area in the mafia context: “It (...) is a period in which, both due to the evolution of society itself and the evolution of finance and financial circuits, there is a need for certain illicit activities to be inevitably carried out with the contribution of white-collar professionals, accountants, engineers, lawyers, tax experts, and experts in international transactions, to allow for the concealment of these activities on the one hand, and on the other for the laundering and reinvestment of profits”<sup>114</sup>.

With reference once again to the grey area, a recent ruling by the Court of Cassation touched upon the thin line that separates the legal activities of an attorney as a ‘consultant’ for his or her client, even if a *mafioso*, with illegal activities as a “*consiglieri*”, or advisor, to the mafia. Indeed, while it is legal for an attorney to provide advice and assistance to his or her client, it is no longer legal for the attorney to become a “*consiglieri*”, or a trusted fixer within the mafia association whose task, in view of his or her expertise in financial mechanisms and legislation, is to “suggest fraudulent systems

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implies a dynamic and functional role “in fulfilment of which the subject provides a stable contribution and remains at the association’s disposal for the pursuit of shared criminal goals. The above-mentioned conduct can take on different and variable forms of contribution since, in order to achieve the organization’s ends, there is a need for a variety of skills and tasks, each of which – carried out by a different member – contributes synergetically to the achievement of the shared goal (...) Normally, in part because it makes it easier to fulfill the prosecution’s burden of proof, attention is focused on the more ferocious aspects of a mafia conspiracy, namely those crimes (extortion, usury, homicide, drug trafficking) that can be used as evidence for the underlying mafia association phenomenon. Nevertheless, for the purposes of achieving the criminal association’s goals, it is no less important to focus on all those activities that permit organized crime to infiltrate civil society, where the mafia presents itself with the face of individuals above suspicion, who avail themselves of specific professional skills to further the mafia’s aims, supporting it and advancing its interests in strengthening its economic powers, protecting its members, and expanding its network of contacts with other influential members of civil society (so-called bourgeois mafia). These subjects – whether they are politicians, public officials, entrepreneurs, or white-collar professionals – must be considered full-fledged members of a mafia association whenever they play a specific, well-defined, and long-term role within the association – largely linked and instrumental to their official functions – whose purpose is the furthering of the mafia association’s aims. (...). Therefore, any individual (belonging to the above-mentioned categories) who has put him or herself at the disposal of a criminal organization by taking on the stable role of a liaison between the criminal organization and business, institutional, or political counterparts will be liable to prosecution under article 416-*bis*. Indeed, such a role is no less relevant than the role played by other participants in the criminal association (offences related to extortion, usury, money laundering, etc.), and in fact it is even more essential for the existence and strengthening of the organization, since the creation – or facilitation and expansion – of the network of relations between the heads of the criminal organization and politicians, magistrates, entrepreneurs, health care personnel, etc. strengthens the criminal association’s ability to expand and infiltrate society”.

In similar terms, see Court of Cassation, 6<sup>th</sup> Section, Ruling n. 49757/12 of 27 November 2012.

<sup>113</sup> Session of 4 June 2014, hearing with the President of the Italian Bar Council (CNF), Guido Alpa, verbatim report n. 37.

<sup>114</sup> Hearing with the Public Prosecutor at the Court of Palermo, Francesco Lo Voi. Session of 12 January 2016, verbatim report n. 128.

and modalities to elude the law”<sup>115</sup>. In other words, these are professionals “who are willing to collude and betray their profession, thus giving a key contribution to the mafia’s efforts to gain strength and infiltrate the nerve centres of civil society”.<sup>1</sup>

On the other hand, there is also the awareness that the white-collar sector instead can and must be a barrier and not a bridge, and work as an obstacle to prevent economic and non-economic mafia interests from infiltrating the legal sphere and concealing themselves within the social fabric. This gatekeeper role for attorneys and other white-collar professionals, borrowed from the standards of the FATF (Financial Action Task Force) and from European and national anti-money laundering legislation, must be fully integrated into anti-mafia prevention policies.

In order to do so, strategies should be adopted that can foster the development of adequate ‘anti-mafia antibodies’ in the various white-collar sectors, especially those most at risk of mafia interference. Self-regulatory bodies, such as professional orders and other similar organizations, can play a key role in promoting adequate anti-mafia preventive measures among their members, ensuring compliance with professional ethics, and adopting adequate sanctions to safeguard the reputations of the organizations themselves.

In light of the above, and as part of the work of its 6<sup>th</sup> Sub-committee *Infiltrations in the legal economy: mafia, businesses, and white-collar professionals*, coordinated by MP Manfredi, the Committee carried out an initial investigation into the following five problem areas:

- The first concerns the applicable criminal law framework; both the general and abstract rules and court rulings bear out the main legal preconditions, but also the main constraints on exercising disciplinary powers (for example, with regard to the so-called “criminal-law preliminary condition”, which mandates that any disciplinary proceedings be pended until a final judgement has been reached in court over the guilt or innocence of a professional charged with a criminal offence);
- The second concerns the professional system, especially when professional orders and registers exercise their regulatory, administrative, and disciplinary autonomy, in keeping with the specific regulations in place;
- The third problem area lies in the role that the legal system attributes to the agencies and bodies that interact with professional orders, especially through the exercise of powers to provide guidance, to oversee, and to impose sanctions (competent ministries, public prosecutors’ offices, courts);
- The fourth concerns the effectiveness of the system for the collection and exchange of, and access to data on judicial and disciplinary measures and proceedings against white-collar professionals involved in mafia-related crimes;
- The fifth problem area concerns training and education, which should not only reflect professional ethics, but should also be included among the institutional responsibilities of universities, which could thus play a greater role in promoting the rule of law at the local level.

The Committee is of the opinion that this line of inquiry should continue during the next parliamentary term, building upon and updating the important findings acquired during the numerous hearings held as part of the 6<sup>th</sup> Sub-committee’s work, and examining in greater depth working

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<sup>115</sup> See Court of Cassation, 2<sup>nd</sup> Section, Ruling n. 17894 of 8 April 2014: “(...) professional activities in which professionals (in this case attorneys) merely provide clients with advice and assistance – both for activities already carried out and for future activities – that remain within the boundaries of the law and without getting involved in the activities of the client (even if a *mafioso*) are legal. If instead professionals become directly involved in the *mafioso* client’s activities, abdicate their role, and become partners in that activity; or if, even without direct involvement in the *mafioso* client’s activities, they provide advice or assistance outside the boundaries of the law, they are no longer a counselor but a *consiglieri*, a trusted adviser of the mafia association whose task – as experts in the law and in financial mechanisms – is to suggest fraudulent systems and ways to elude the law, and can thus be prosecuted for mafia conspiracy or external participation therein.”

hypotheses to strengthen the necessary anti-mafia preventive measures in the world of professions<sup>116</sup>

### **The relationship between the mafia and the economy**

Criminal investigations have shown that the reference markets for mafia organizations continue to be the traditional economic sectors subject to infiltration, such as construction, cement, earth moving, transportation, food and agriculture, and public contracts.

For instance, recent investigations have shown how all traditional criminal organizations are attempting to infiltrate or gain control of Italy's main produce markets, including those in Fondi (LT) and Vittoria (RG). There are also similar cases in the floriculture sector<sup>117</sup>.

The mafia continues to have a strong interest in public and private tenders. Recently, mafia associates have been shown to have been involved in the post-earthquake reconstruction efforts in L'Aquila (as part of the so-called "*Aemilia*" investigation), in construction work for the Milan Expo, and in the widening and modernization of the Salerno-Reggio Calabria motorway. A particularly worrying aspect is that the many anti-mafia interdictory measures issued by the relevant prefectures targeted, among others, enterprises of national relevance.

The many confiscations – both in Italy and abroad - of goods and services in the sectors of logistics, the leisure industry, and the restaurant and tourism industries show that the mafia's favoured ways to re-invest profits include the purchase of bars, pizzerias, restaurants, hotels, and resorts<sup>118</sup>.

The legal and illegal gambling and betting sectors also continue being of interest to the mafia. The Milan DDA's investigation of the Lampada-Valle clan – the representatives of Reggio Calabria's De Stefano - Condello clan in Lombardy – has shown how the '*ndrangheta* attempted to purchase a gambling concessionary in order to become one of the thirteen first-level concessionaries<sup>119</sup>.

There are many investigations and confiscations that highlight the mafia's significant investments in the supermarket sector and other retail activities: from the case involving Grigoli, who

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<sup>116</sup> In particular, the work of the 6<sup>th</sup> Sub-Committee highlighted numerous operational problems that over time may have helped create the conditions for violations of the law and of professional ethics, which violations have been facilitated by the lack of a homogeneous legal framework. An initial working hypothesis to re-organize this sector would be the adoption of a "Code for white-collar professionals".

While the current existence of different norms for different professions aims to reflect the specific characteristics of each, it also often creates unjustifiable differences. Although the Sub-Committee is aware of potential resistance or diffidence against a unified code, it theorized that parliamentary debate and dialogue with representatives from individual professional orders and relevant agencies may lead to new rules that ensure legitimate autonomy to professional orders and registers while guaranteeing standard definitions where necessary.

It has been remarked that it is no longer possible to delay a legislative action that builds upon what had been established for professional orders by DPR n. 137/2012 (Regulations on the reform of professional orders in accordance with art. 3(5) of decree-law n. 138 of 13 August 2011, amended and enacted by law n. 148 of 14 September 2018) which was merely limited to: separating, in the public bodies in question, disciplinary functions from administrative and management functions so as to more adequately ensure the impartiality of the disciplinary judge; defining certain conducts as specific disciplinary violations for all members of professional orders with the exception of professionals in the health care sector and notaries public; putting under the surveillance of the Ministry of Justice all district disciplinary councils subject to dissolution in case of repeated and ascertained violations of the law or whose functioning may be impossible (this measure does not apply to health care professionals and notaries public).

Ultimately, in order to overcome these irrational discrepancies in the regulations on professional orders, it is necessary to adopt a "Code for white-collar professionals" through the approval of an enabling Act that sets principles and criteria that are more in line with the precepts set out under articles 3 and 97 of the Constitution, with the subsequent approval of a legislative decree to introduce the separation of disciplinary procedures from criminal proceedings along the lines of art. 54 of the law on professions and art. 55-*ter* of legislative decree n. 165/2001 on public-sector employment.

<sup>117</sup> "Acero Krupy" investigation carried out by the District Anti-mafia Directorate of Reggio Calabria.

<sup>118</sup> Almost everyday, criminal investigations result in the confiscation, both in Italy and abroad, of restaurants that can be traced back to mafia associates. The criminal reach of the mafia extends beyond Europe to other continents. A prime example is the joint investigation by the Public Prosecutor's Office of Reggio Calabria and the FBI in 2015 that led to the confiscation of restaurants in New York City that were run by the '*ndrangheta*.

<sup>119</sup> Doc n. XXIII, n.18, *Relazione sulle infiltrazioni mafiose e criminali nel gioco lecito ed illecito*.

owned the Despar supermarkets in Castelvetro and was a front for Matteo Messina Denaro; to the Lidl case in Milan and the confiscation of the Reggio Calabria-based food company Soral<sup>120</sup>; to the very recent confiscation of thirteen GM “Gran Mangiare” supermarkets in the Catania area on 18 January 2018<sup>121</sup>.

There is a growing interest in the alternative energy sector<sup>122</sup>, and in the purchase and management of real estate firms, automobile dealerships, and pharmacies.

Criminal investigations have also uncovered worrying evidence of the mafia’s infiltration into the public and private health care sector, where mafia organizations have interfered with the proper management of public hospitals and retirement homes, in addition to purchasing shares or full ownership of laboratories operating within the national health service. In this regard, the Committee has launched a specific investigation into the infiltration of the *camorra* and *ndrangheta* into Local Health Authorities (ASL) in their respective traditional strongholds of Campania and Calabria; this investigation led to the dissolving of numerous such health authorities<sup>123</sup>.

Also in the public sector, the Committee has looked into the judicial administration of Società Italiana per il Gas - Italgas Spa, a wholly owned subsidiary of SNAM Spa, discussed in more detail elsewhere in this report, and into the incident that has led to receivership proceedings, pursuant to article 32 of decree-law n. 90/2014<sup>124</sup>, for the companies GESENU Gestione Servizi Nettezza Urbana Spa – a public-private company in which the municipality of Perugia has a 45% share - and GEST Srl (in which GESENU has a 70% share), which companies had already been the object of previous anti-mafia interdiction measures.

Turning to the illegal economy, the main source of profits for the mafias is the lucrative drug trade, which guarantees enormous profits; no other trade can produce so much added value<sup>125</sup>. These profits are so staggering that, as electronic surveillance has shown, in some cases profits aren’t measured so much in dollar or euro amounts, but in the total volume or weight of the banknotes involved<sup>126</sup>.

Extortion and usury continue to be classic activities of organized crime, although their form is evolving, as the takeover of the victim’s business is increasingly the main goal.

Extortion, in particular, shows no signs of slowing down, and instead seems to be on a dangerous upswing in certain parts of the country<sup>127</sup>. Entrepreneurs and business owners still remain reluctant to report such cases to the authorities. The economic crisis has caused a change in extortion patterns, with an increase in extortion demands in the construction and public works sectors and a decrease in the retail sector. The reduced extortion pressure on small businesses is due exclusively to the fact that many such businesses have had to fold or file for bankruptcy as a result of the economic crisis.

<sup>120</sup> Confiscation of various supermarkets and other assets, ordered by the Court of Reggio Calabria in July 2017.

<sup>121</sup> Confiscation of € 41 million on 18 January 2018, ordered by the Court of Catania, after an investigation by the local DDA.

<sup>122</sup> See the hearings with the magistrates from the Potenza DDA of 24 June 2014, verbatim report n. 44; and the hearings held during the mission to Palermo and Trapani of 18,19,20 July 2016, verbatim report.

<sup>123</sup> ASL Napoli n. 4 (dissolved in 2005); ASL Locri n. 9 (dissolved 2006); ASL Reggio Calabria n. 11 (incorporated into ASP n. 5 Reggio Calabria and dissolved in 2008), ASL Palmi n. 10 (incorporated into ASP n. 5 Reggio Calabria and dissolved in 2008); ASP n. 5 Reggio Calabria (dissolved in 2008 immediately after its establishment); ASP Vibo Valentia (dissolved in 2010).

<sup>124</sup> Decree-Law n. 90 of 24 June 2014, n. 90, as amended and enacted by Law n. 114 of 11 August 2014, on “Urgent measures for administrative simplification and transparency and for the efficiency of the courts”.

<sup>125</sup> For an idea of the cash flows that the drug trade produces, consider that a kilogram of cocaine, for which coca farmers are paid between € 1,000 and 1,500, can produce earnings of up to € 200,000. In each gram of cocaine, which amounts to a single market dose, the active ingredient only accounts for 24-25% of the total. This means that if properly diluted, 4,000 doses can be obtained from 1 kg of cocaine. Since each dose has an approximate street value of € 50, this means that out of an initial investment of € 1,000 to purchase one kilogram of cocaine, traffickers can earn up to € 200,000. According to law enforcement estimates, over 220 kg of cocaine are sold each day, for earnings of € 20 to 40 million.

<sup>126</sup> Two thousand € 500 notes, or €1 million, weigh 2.2 kg and easily fit into a briefcase. The equivalent in USD 100 bills weighs 11 kg, or five times as much.

<sup>127</sup> Hearing with the Public Prosecutor at the Court of Lecce, Cataldo Motta, during the mission of 22, 23 and 24 February 2016, verbatim report.

The mafias are also changing their approach to extortion, which is now focused more on demanding small sums from a vast array of business owners rather than large sums from a few. This new criminal strategy has led to new, relatively unprofitable sectors being targeted for extortion that were previously left alone. Giving in to extortion thus now appears like a reasonably sustainable cost of doing business, almost like an additional tax. Investigations have shown that it is often business owners themselves – shopkeepers, entrepreneurs, tourism operators, restaurant owners – who take the initiative. They spontaneously offer to pay protection money in exchange for being able to go about their business without fear of disturbance. In addition to the traditional forms of paying protection money, there are now new ones that testify to the pervasiveness of criminal organizations. Today, extortion takes place under the new and more pernicious form of imposing service providers, by forcing entrepreneurs to turn to suppliers with links to organized crime and imposing the purchase of goods, the hiring of workers, and the imposition of security guards. One such example is the extortion perpetrated against mussel farmers in Taranto who were forced to hire security guards<sup>128</sup>.

Usury, another traditional source of income for the mafias and other criminal organizations, has also been on the upswing, in light of the liquidity crisis engendered by the recession and the credit crunch that follows. This increase in usury is not sufficiently captured by official statistics that only include reported cases. This report has already amply discussed - in the section on the mafia's colonization of northern Italy - the phenomenon of the cannibalization of businesses by networks of usurers belonging to criminal organizations.

An additional economic sector in which organized crime has been proven to play a role is the illicit trafficking of waste. In addition to the *camorra*, the *'ndrangheta* and *cosa nostra* are also involved in this sector, albeit with different modalities, with their main interest lying in infiltrating the legal waste disposal cycle through the award of public contracts issued by local authorities in their regional strongholds, and participation in the waste collection, transport, and treatment cycle, and through the management of landfills.

Testifying to the gradual exploration and exploitation of other illicit sectors is the growing mafia presence in other lucrative markets, such as fraud and misuse of public funds, weapons trafficking, the contraband of diesel oil and other fossil fuels, the running of extortion rackets, and the illegal gambling and betting sector. Counterfeiting is another such sector, and it encompasses an exceptionally varied array of products, from items of clothing to spare automobile parts, and from toys to food products. The counterfeiting of pharmaceuticals is of particular concern. Investigations carried out by police forces have shown that this market is expanding particularly fast thanks to the significant profits it generates, in part due to growing demand, especially online.

### **Money laundering: the bridge between the legal and illegal economies**

This Report has remarked multiple times on the importance of money laundering in the mafia's strategies, on the techniques used by criminal organizations, and on their use of the 'grey area' to conceal the illegal origins of the capital they employ.

Criminal organizations pursue a dual goal. On the one hand, they aim to make it impossible to trace back the source of assets to a mafia context to prevent them being confiscated; on the other, they want to retain the ability to access and use said assets. In essence, the mafia attempts to exploit every loophole and opportunity to keep the legal and actual property of assets separate, and by the same token, to keep separate the legal and actual ownership of a business or bank account.

This process can be carried out directly by the *mafioso* who produced or helped produce the illegal profits – so-called self-laundering – or it can be assigned to a third party, the launderer, who handles these concealment activities on behalf of the *mafioso*. As noted earlier, businesses with mafia participation then allow the criminal organization to further conceal the channels through which it

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<sup>128</sup> "Piovra [Octopus]" and "Piovra 2" operations, respectively from 2016 and 2017, conducted by the Lecce DDA. Hearing with the Public Prosecutor at the Court of Lecce, Cataldo Motta, during the mission of 22, 23 and 24 February 2016, verbatim report

launders and re-uses its illicit profits, to diversify investments, and to have at its disposal business structures that are able to operate as normal market agents thanks to their respectability and experience. In addition, these processes blur the lines between the legal and mafia economies and make them difficult to separate, and allow the mafia to regulate the local market and solidify its control over the local territory.

Fighting a complex criminal phenomenon such as money laundering requires a three-pronged approach: repression, prevention, and self-prophylaxis.

Concerning repression, in addition to the criminal offences under articles 648-*bis* and 648-*ter* of the criminal code, which have long been part of the Italian legal system, it should be noted that the Seventeenth Parliament closed a loophole that had long been lamented by investigators and international anti-laundering organizations (in particular the FATF) through the introduction of article 648-*ter*.1 of the criminal code<sup>129</sup>, which now recognizes self-laundering as a criminal offence of its own, while it was previously only partially included in other offences listed under article 12-*quinqüies* of decree-law n. 306 of 1992, enacted by law n. 356 of 1992 (fraudulent conveyance)<sup>130</sup>. Other relevant laws in terms of repression and the strengthening of transparency were adopted over the course of the parliamentary term, including rules on false accounting and corruption.

Concerning the prevention of money laundering, in 2016 Parliament tasked the government with transposing the fourth anti-money laundering directive. Ten years after the adoption of the third directive, it strengthens the money laundering prevention system in Member States in keeping with the FATF Recommendations of 2012. The new European directive promotes an approach focusing on the level of risk as a fundamental criterion for assessing how rigorous preventive measures and controls should be; it improves the transparency of information on the effective ownership of enterprises and trusts, it confirms full confidentiality of data related to suspicious operations; it denies specific sanctions for the violation of obligations related to the prevention of money laundering and the funding of terrorism. The transposition of the fourth directive into national legislation was also an opportunity to adopt the guidelines drafted by the FATF following the mutual evaluation of the Italian anti-money laundering system carried out in 2014-2015.

Legislative decree n. 90 of 25 May 2017, which transposed the fourth European directive, profoundly modified the fundamental piece of legislation on the prevention of money laundering in Italy (legislative decree n. 231 of 2007).

The Committee is particularly interested in the decree's measures to improve the transparency of the ownership structure of enterprises and trusts, and especially the establishment of reserved-access special sections in business registers through which investigative authorities will be able to acquire important information on the effective ownership of the legal entities under investigation. This will make it possible to bridge the gap between legal ownership and effective ownership which, while legal, is exploited by the mafia to its advantage in order to hide mafia participation in an enterprise or conceal the re-use of illegally-acquired assets in the legal economy. The Committee is obviously aware of the intrinsic limits of a measure that is based on data provided by the legal entities in question themselves, and that for it to be fully effective, it would need for registers of 'effective owners' to be interconnected at least at the European level. This would make it easier to identify those situations in which effective ownership is concealed by a chain of companies, some of which headquartered abroad, especially in countries that are reluctant to collaborate in the fight against tax evasion and money laundering.

In the Committee's opinion, an even more advanced way to fight money laundering lies with the business and white-collar sectors themselves developing the necessary antibodies to reduce the risk of mafia infiltration or involvement in money laundering schemes. In this regard, the private

<sup>129</sup> Introduced by article 3 of law n. 186 of 15 December 2014 on "Provisions on the repatriation of capital from abroad and on the strengthening of the fight against tax evasion. Provisions regarding self-laundering".

<sup>130</sup> Court of Cassation, Criminal Jurisprudence, Joint Sections, 27 February 2014 (deposited 13 June 2014), n. 25191 – Iavarazzo: "self-laundering and re-use are prosecutable, if the grounds for it are in place, pursuant to art. 12-*quinqüies* of decree-law n. 306 of 8 June 1992, as amended and enacted by law n. 356 of 7 August 1992 (...)".

sector itself does not seem to fully appreciate the value of legislative decree n. 231 of 2001 on the administrative responsibility of companies and entities. As discussed in more detail later in this Report (see *infra* §. 4.4.1), the private sector fails to fully see the mafia and money laundering first and foremost as risks to be defended against through appropriate self-protection mechanisms; instead, they see these aspects as a matter of bureaucratic compliance with laws that are more or less imposed. As a consequence, preventive compliance – about which even the executive management may be sceptical – becomes merely a perfunctory filling out of forms, often with certifications outsourced to licensed professionals or issued by competent administrations. In addition, if the staff person in charge of oversight is only apparently acting autonomously, it is easy to see that legislative decree n. 23 of 2001 as a whole is insufficient as a first effective barrier against mafia influence and infiltration in the economy.

Of relevance to this is the information acquired by the Committee on the events tied to Italgas Spa being placed under judicial administration and subsequently judicial control pursuant to article 38(4) of the anti-mafia code (see *infra* §. 4.9.2), in which the court that issued these measures found that Italgas was permeable to possible infiltration on the part of companies with organized crime ties in strategic sectors such as procurement, contract management, and the completion of works, even though Italgas had adopted the organizational model set out in legislative decree n. 231 of 2001.

The fight against money laundering must thus continue to follow a longstanding strategy in Italy, which calls for the constant updating of regulations to counter and prevent this phenomenon, the strengthening of instruments to ensure the transparency of enterprises and of financial transactions, and closer international cooperation, while remembering that much remains to be done to boost the resilience of the private and white-collar sectors when faced with threats from mafia organizations and their economic and financial tentacles.

### **The role of the Bank of Italy and its Financial Information Unit (UIF)**

In order to effectively fight organized crime as outlined above, it is necessary to tackle the problem at its root and provide incentives for the actors involved by creating an institutional context that is adverse to the infiltration of organized crime, especially in the banking and financial sectors. The Bank of Italy plays a highly essential role in this regard.

In addition to analyzing the impact of organized crime on the economic and financial system, the Bank of Italy also directly carries out activities to ensure compliance with the law and to fight criminal penetration in the legal economy through its Financial Information Unit (UIF).

The first line of defence against crime in the banking sector is represented by the supervisory activities carried out by the Bank of Italy (regulation, acquisition of information, analysis, inspection, management of banking crises, and sanctions) to ensure the “sound and prudent management of the parties under supervision”, the efficiency, overall stability, and competitiveness of the financial system, and compliance with credit regulations. Compliance with the law in financial activity is a pre-requisite for the sound and prudent management of financial institutions. In turn, sound and prudent intermediaries are a barrier against criminal penetration in the legal economy. Adopting conducts in compliance with the rule of law is a fundamental element in evaluating intermediaries. Banking supervision rules, in line with European and international ones, provide for specific tools to ensure compliance with the law on the part of financial intermediaries. Each intermediary must establish a compliance function to prevent the risk of violating rules and to promote a corporate culture that revolves around integrity, propriety, and compliance with norms beyond mere formality.

The second line of defence is tailored more specifically to fight money laundering. The Bank of Italy and UIF are part of the national system to prevent money laundering, through which national authorities collaborate (under the aegis of the financial security committee) to prevent and identify the infiltration of the legal economy on the part of criminal assets. In this regard, the supervisory activities of the Bank of Italy and UIF play complementary roles in ensuring an efficient line of defence against laundered funds transiting through the financial system and other operators.

It is worth remembering that UIF began its operations on 1 January 2008, when it replaced the Italian Foreign Exchange Office as the central anti-money laundering authority. The organizational solution adopted by Italy is in keeping with international standards, which identify the following essential characteristics for all Financial Intelligence Units: management and operational autonomy, being the sole authority at the national level, specialization in financial analysis, and the ability to exchange information in a direct and autonomous manner.

The UIF receives reports of suspicious operations on the part of financial intermediaries, professionals, and other non-financial operators, and analyses them for evidence of money laundering or the funding of terrorism. The number of reports went from 12,500 in 2007 to over 101,000 in 2016. In 2016 alone reports went up by 22.3%, due mainly to the over 21,000 reports directly or indirectly related to voluntary disclosure.

Categories that were initially less active in this field are finally responding to encouragement with a growing increase in awareness. Part of this change was thanks to the memorandum of understanding with the National Council of Notaries that guaranteed the anonymity of notaries making reports. Similar effects are expected from the memorandum of understanding that was signed in 2016 with the National Council of Accountants.

There have also been improvements in terms of the actual criminal relevance of the operations being reported. In 2016 the foreign exchange police unit of the Guardia di Finanza, which together with the DIA is responsible for receiving the UIF's reports, considered over 70% of the reports analysed to be worthy of investigation. Of even more relevance is the fact that about one-third of such reports (31%) involved parties thought to be 'clean', about which no cause for suspicion was previously voiced.

In spite of this significant progress, there remains a non-negligible share of reports that continues to be of limited use. This is due in part to operators who sometimes fail to adequately assess possibly suspicious transactions. In many cases, transactions are reported as 'suspicious' not because of the likelihood that they conceal criminal activity, but rather due to the intrinsic opaqueness of the legitimate financial instrument being used – chiefly cash – even for relatively limited amounts. In such situations, reports are often filed for precautionary purposes in order to avoid the risk of criticism should additional investigations show that the transaction in question could indeed be traced back to criminal interests.

Collaboration between UIF, the judiciary, and the public administration is becoming increasingly intensive and complex. In 2014, UIF and ANAC signed a memorandum of understanding that sets the stage for improving the fight against the laundering of funds acquired through corruption, and UIF signed a memorandum of understanding with the Agency of Revenue for access to the tax register. In light of the longstanding relationship with judicial authorities and the results achieved, in early 2017 UIF signed memoranda of understanding with two of Italy's main Public Prosecutor's Offices (Milan and Rome). These agreements regulate the exchange of information of mutual interest under the law, identify thematic areas for joint analyses and training initiatives, and encourage closer cooperation.

The Bank of Italy's supervisory units also intervene directly in anti-money laundering efforts, through oversight – both remotely and through inspections – over credit agencies and financial intermediaries to ensure compliance with anti-money laundering rules and the effectiveness and reliability of the procedures to fight this phenomenon. Remote oversight takes place through the analysis of a vast array of sources of information: examining anti-money laundering reports transmitted by intermediaries and the communications sent by oversight bodies pursuant to article 52 of legislative decree n. 231 of 2007<sup>131</sup>; direct communication with the parties under surveillance<sup>132</sup>; communications from judicial authorities and other supervisory bodies<sup>133</sup>. Wide-ranging inspections focused on fighting money laundering and the funding of terrorism. In 2016, the Bank of Italy's

<sup>131</sup> In 2016 a total of 92 reports were examined.

<sup>132</sup> The Bank of Italy held 24 meetings with company representatives and sent 119 letters of intervention (year 2016).

<sup>133</sup> 76 communications in 2016.

supervisory activities included targeted anti-money laundering verifications on two major intermediaries and carried out inspections at 153 bank branch offices.

In compliance with the most recent international standards and with European legislation, the Bank of Italy calibrates the intensiveness of its anti-money laundering supervision in terms of risk sensitivity. In 2016, in collaboration with UIF, the Bank of Italy developed an analytical model to assess the sensitivity of banks to money laundering risk. This model combines quantitative data – taking into account size, operational characteristics, and level of compliance of the subjects under surveillance – with qualitative information from the Bank’s storehouse of knowledge. The model makes it possible to rate the risk profile of each party under surveillance; this is useful for tailoring surveillance activities to the risk level of each actor.

Other activities carried out by the Bank of Italy fall outside the scope of supervision, but are also important lines of defence against illegal activities. These include controls on specialized services companies to which intermediaries have outsourced cash processing functions. Another area of great importance is the counterfeiting of euro banknotes, in which organized crime has specific interests. Here, the Bank of Italy is the ‘national centre of analysis’ for the counterfeiting of euro banknotes in Italy.

In 2016, the Bank of Italy also carried out inspections on the authentication and selection of banknotes on the part of one bank and fourteen service companies. Unfortunately, the results were surprisingly poor. In just over half of the cases, the Bank’s stringent standards were not met due to shortcomings in the operators’ internal control systems. Overall, however, four years after such activities were launched and thanks in part to the Bank’s intensive training activities, the results of the inspections show an overall improvement in procedures and organizational systems, and more incisive steering on the part of executive management, thus strengthening the line of defence against counterfeit banknotes<sup>134</sup>.

Staying in the field of the fight against counterfeiting, it is worth pointing to data that underscores the extent of criminal interest in this sector. According to analyses carried out by the European Central Bank (ECB), almost 90% of counterfeit banknotes worldwide are manufactured in Italy, especially in Campania. The most widely counterfeited are € 20 and € 50 banknotes, amounting respectively to 40% and 38% of the total. Lombardy is the Italian region in which the largest number of counterfeited banknotes have been seized, followed by Latium and Campania. Liguria, Tuscany, and Latium are the regions with the highest number of such banknotes in circulation and the highest ratio of counterfeit banknotes to resident population.

### **The use of cash and virtual currencies**

Cash continues to be the favoured means for illicit transactions – at least on a retail scale – thanks both to the ease of exchange and the lack of traceability. In western Europe, Italy is still the country that uses cash the most.

The 2016 stability law raised the threshold for cash transactions from € 1,000 to € 3,000, while maintaining the € 1,000 threshold for transactions through money transfers, by modifying article 49 of the “anti money-laundering law” (legislative decree n. 231 of 2007) that bans cash transfers or other bearer instruments, for any reason, when the value of the transfer is equal to or higher than the threshold established by the law. The ban also applies when such transfers are made in a number of instalments each individually lower than the threshold.

The Anti-mafia Committee expressed its concern over this development, and pointed out that criminal organizations – which have the necessary expertise to carry out sophisticated and untraceable foreign-to-foreign financial operations, including on the international level – continue to use cash payments at the national level. Raising the threshold on cash transactions may thus favour them.

<sup>134</sup> When irregularities are found, operators are asked to adopt corrective measures and/or sanctions are issued against them. In 2016 two sanctions procedures were launched, which the Ministry of the Interior was informed about; since 2012 the Bank of Italy has imposed 23 penalties for a total of € 499,000.

The street trade in drugs run by the *camorra*, for instance, generates daily profits of hundreds of thousands of Euros. Sooner or later, this amount of cash needs to be laundered into the legal circuit. Raising the threshold from € 1,000 to € 3,000 means reducing by two-thirds the smurfing operations necessary to introduce this cash into the banking circuit.

Criminal organizations also launder extensive amounts of cash arising from illegal activities into the cash flows of companies working in sectors where the use of cash is widespread. This explains, at least in part, why the mafia increasingly invests its capital to purchase supermarkets, shopping malls, hotels, and other tourism infrastructure.

In the Committee's opinion, it is necessary to promote policies that discourage the use of cash, as is being done in many other countries both within and outside the Eurozone. These include the improvement and promotion of electronic payment systems and the discouraging of non-traceable payment systems of any nature, with the exclusion of micro-transactions and without prejudice to financial inclusiveness.

The risks associated with cryptocurrencies such as bitcoin, which are increasingly used in online transactions, should not be underestimated. Virtual currencies are digital stores of value, used on a voluntary basis as a means of exchange to purchase goods and services. They are not issued by central banks or public authorities, they are not legal tender, and are not comparable to e-money. As they are easy to transfer, store, and trade online, virtual currencies make possible the online exchange of assets between subjects that are not easily traced and that may be operating in different countries, including those that do not ensure effective judicial or police cooperation, or whose anti-money laundering legislation falls short from a preventive and repressive point of view.

As part of its investigation into mafia infiltration in the gambling and betting sector discussed elsewhere in this report, the Committee described to Parliament how the anonymity that characterizes the use of bitcoin and other virtual currencies in online gaming or betting transactions can also be exploited more widely for illegal purposes by the mafia and other criminal organizations. In this regard, the Committee suggested several regulatory proposals that were quickly included in the implementation procedures for the fourth anti-money laundering directive (see *infra* §. 4.5.1). These initial preventive measures deserve to be further strengthened in coordination with initiatives at the European and international level.

### **The mafia and collusion in the business sector: the case of Lombardy**

Organized crime - especially *'ndrangheta* clans now well established in Lombardy – has understood that controlling business enterprises has a series of advantages: it is a source of immediate income; it makes it possible to launder profits from illegal activities in the legal economy; it ensures the availability of jobs that can be assigned to create social consensus and support for the mafias; the depletion of the company's capital serves to fuel the illegal activities of the mafia organization, to provide income for the families of incarcerated *'ndrangheta* associates, or to fund *'ndrangheta* associates in hiding. Therefore, control over a private sector firm allows criminal organizations to fictitiously hire some of its associates – especially those under investigation or indictment, or those with previous convictions – so that their salaries may justify their ownership of assets to prevent them from seeming out of proportion to their earning ability. Additionally, this boosts their social status as it makes entrepreneurs out of them, at least on paper.

The presence and deep roots of criminal organizations of Calabrian origin had been confirmed by many investigations carried out by the Milan DDA and at the local level. After many years in Lombardy, the local *'ndrangheta* has achieved some degree of independence from the Calabrian *'ndrangheta*, with which it nevertheless continues to have ties. As its members have resided in northern Italy for several generations, they have gradually acquired total familiarity with the local territory, forging close ties with local communities and establishing relations with local politicians and institutional representatives.

The existence of a unified, top-down criminal structure called “*la Lombardia*” was definitively ascertained in June 2014 by the Court of Cassation when it upheld the sentences issued as part of the so-called “*Crimine-Infinito*” proceedings. The Court highlighted the strongly market-oriented nature of the ‘*ndrangheta* in Lombardy (with goals of acquiring businesses in addition to perpetrating crimes such as extortion, usury, waste trafficking, and debt collection through intimidation) and its reliance on a particular form of social capital, in which one of the main drivers for its successful establishment in Lombardy has been the willingness of local entrepreneurs, politicians, and white-collar professionals to enter into mutually beneficial relationships with the mafia<sup>135</sup>.

Indeed, the existence of the ‘*ndrangheta* in Lombardy has been judicially ascertained by subsequent sentences as well. The sentences handed out to the 41 defendants tried under ordinary proceedings as part of the above-mentioned “*Crimine-Infinito*” trial, which reiterated the unitary nature of the ‘*ndrangheta*, became definitive in 2015. The sentence issued by the Court of Appeals of Milan on 13 May 2016 as part of the Insubria<sup>136</sup> investigation became definitive in 2017. This investigation demonstrated the presence of three more ‘*locali*’, or ‘*ndrangheta* clans, in Lombardy<sup>137</sup>, in addition to the sixteen already identified by the *Infinito* investigation<sup>138</sup>, and the staging in this Lombardy of veritable mafia summits known as “*mangiate*”<sup>139</sup>, including rituals for the attribution of high-ranking positions within the criminal organization<sup>140</sup>.

Having said this, the highly business-oriented goals and the relationships with local entrepreneurs are aspects of the ‘*ndrangheta* in Lombardy that have been the object of close attention on the part of the DNA, including its latest annual report<sup>141</sup>. It acknowledges that of all the mafia organizations, the ‘*ndrangheta* is the most geared towards exporting its criminal activities outside of its region of origin, in part to pursue business interests and influence the administrative system.

Thanks to the economic crisis and the resulting credit crunch, the ‘*ndrangheta* has successfully positioned itself as the preferred partner for entrepreneurs looking for unconventional lines of credit. This has allowed it to go into business with many companies, often assuming their control by ousting their previous owners, facilitated by the silence of the victims themselves, who are motivated not just by fear, but also by previous compromising relationships with ‘*ndrangheta* affiliates (requests for loans, requests for debt collection, and other favours).

Numerous investigations have shown how – in an economy characterized by shrinking public contracts, a credit crunch, and cost cutting - entrepreneurs have sought contact with the ‘*ndrangheta* in order to do business with it and benefit, at least temporarily, from this relationship. Potential benefits include accesses to enormous capital; effective methods for debt collection, even of large sums; and taking on a dominant position over the local competition. This in turn allows the

<sup>135</sup> Cf. the above-mentioned ruling of 6 June 2014 in which the Court of Cassation - section VI, upheld the sentences handed down in the “*Crimine - Infinito*” proceedings in the first and second instances by the Court and the Court of Appeals of Milan.

<sup>136</sup> Doc. 388.1-2. Crim. Proceed. n. 45739/2012 RGNR.

<sup>137</sup> Calolziocorte (LC), Cermenate (CO), Fino Mornasco (CO).

<sup>138</sup> Bollate (MI), Bresso (MI), Canzo (CO), Cormano (MI), Corsico (MI), Desio (MB), Erba (CO), Limbiate (MB), Milano, Mariano Comense (CO), Legnano (MI), Pavia, Pioltello (MI), Rho (MI), Seregno-Giussano (MB), Solaro (MI).

<sup>139</sup> Regarding the “*mangiate*” [‘big meals’], the Insubria proceedings note that : “The fact of eating together, and especially eating goat meat together, has ceremonial significance in confirming the values of mutual friendship and solidarity (...) and is an integral part in an important moment for the life of the organization. For example, a ceremony to bestow a mafia title must necessarily end with a ‘*mangiata*’ in which the mafia associate upon whom the title was bestowed will participate, so as to express his new status for the first time” (drawn from sentence n. 1743/98 issued by the Court of Milano – so-called “Flowers of the night of Saint Vitus” trial). The collective dimension of ‘eating together’ is expressed through highly communicative gestures steeped in social meaning.

<sup>140</sup> Probably for the first time, authorities were able to witness first-hand the conferring of the “*santa* (holy one)” to Giovanni Buttà, on 12 April 2014 at Castello di Brianza (LC), and on 31 May 2014, to the conferring of the “*vangelo* (Gospel)” to Raffaele Bruzzese, Luciano Rullo, Bartolomeo Mandaglio and Antonino Panuccio, clearly recording the formulas recited by those who received the titles.

<sup>141</sup> Doc. 1404.1. Annual Report of the National Anti-Mafia and Anti-Terrorism Directorate (period 1° July 2015-30 June 2016).

*'ndrangheta* to assume direct or indirect control over companies operating in various sectors (construction, transport, gambling, waste disposal, etc.) and to win public contracts, thus laundering criminal profits in the legal economy.

This is the scenario that frames the *'ndrangheta* attempted to infiltrate the works carried out for the Milan Expo 2015, and its current attempts to acquire private sector businesses and companies through corruption, in violation of the rule of law and the principles of transparency, free competition, and free economic initiative.

As mentioned earlier, among the conditions that allowed such as scenario to play out, a key role is played by the *'ndrangheta*'s social capital, reflected in the willingness of entrepreneurs, politicians, and white-collar professionals to enter into mutually advantageous relationships with the mafia. Of particular significance in this context is the twelve-year prison sentence for external participation in a mafia association handed down to the former director of the Local Health Authority (ASL) in Pavia during the "*Infinito*" trial. In addition to taking care of mafia affiliates' health problems, the former director also offered the votes controlled by the *'ndrangheta* in local elections to the best buyer.

Once again, the public contracts sector is one of the main spheres in which the interests of mafia organizations, entrepreneurs, and politicians align.

On account of increased oversight over the private sector, due in part to anti-mafia laws, the current *modus operandi* of criminal organizations in their attempts to win public contracts is the use of a third party between themselves and the public administration, either a frontman formally unassociated with the mafia, or a new subsidiary company administered by front persons on behalf of the mafia, yet formally unaffiliated with it. This takes place through the creation of: undercapitalized limited companies; mutual companies established specifically for a given job, whose strength lies in the temporary duration of the relationship, which is limited to the duration of the contract; and temporary groupings of companies, established to conceal the presence of companies with direct ties to organized crime. Another significant way in which the mafia infiltrates the economy is by imposing subcontracting firms with ties to organized crime for the execution of minor contracts; this imposition applies to some of the largest regional and national enterprises as well (which are privileged interlocutors in light of their economic and professional background).

More recently, as shown by the events around Expo, infiltration in public construction works takes place in the form of "de facto intrusion". This consists of having de facto control over the construction yard and its activities by imposing the capillary and active presence of mafia associates, especially in earth moving activities, or through the imposition of irregular workers.

Numerous criminal proceedings, which are currently at least at the hearing stage, have uncovered relations between the *'ndrangheta* and local entrepreneurs in Lombardy. Some of the most noteworthy include the following:

- the "*Caposaldo*" investigation targeting members of the Flachi *'ndrangheta* family (convicted after final judgement; crim. proceed. n. 33364/2011), who had infiltrated various sectors of the economy in Lombardy, including earth moving, the management of municipal sporting facilities, transportation, and procurement, in addition to interfering with local elections;
- The "Blue Call" investigation, which showed that a major call centre with over 1,000 employees and a large business volume had fallen under the complete control of the Bellocco *'ndrangheta* family following an initial request for help and protection on the part of the call centre's owners themselves; the trial ended with final convictions for false registration of assets and aggravated extortion pursuant to article 7 of decree-law n. 152 of 1991; one of the victims was the owner of an accounting firm (crim. proceed. n. 35322/2012);
- Criminal proceeding n. 12053/2011 against an organization headed by a *'ndrangheta* associate who was then the boss ("*reggente*") of the Desio (MB) "*locale* (local clan)", which was active in contraband, usury, and extortion and the laundering of the resultant

profits. It availed itself of a veritable underground bank to accumulate and manage the substantial assets accrued through criminal activities, so as to strengthen its power not only in economic terms but also in terms of mafia influence and to assume control of a number of highly valuable companies and real estate assets<sup>142</sup>;

- The “Valle-Lampada” investigation, which ended with a final judgement (crim. proceed. n. 46229/2008) conviction of numerous affiliates of this *‘ndrangheta* clan, various entrepreneurs and white-collar professionals, and several rogue magistrates and Guardia di Finanza officials on charges of mafia conspiracy, usury, extortion, and aiding and abetting. The Court of Milan accepted the DDA’s proposal to put various professionals (tax advisors, a revenue agency official, entrepreneurs) under special surveillance who, while not participating in or aiding and abetting the mafia association, objectively ended up favouring the *‘ndrangheta* through their actions, and especially the Valle-Lampada clan.

Trial documents from these and other similar criminal proceedings concerning crimes committed in Lombardy show that the private sector is not merely a victim of the *‘ndrangheta*, but also a willing business partner that often takes the initiative in seeking out contacts, and that draws benefits, albeit of a temporary nature, from these relationships.

If this is the outcome of the criminal investigations conducted by the Milan DDA, it follows that – as pointed out to the Committee by magistrates at the local public prosecutor’s office – entrepreneurs who enter into relationships with the *‘ndrangheta* would have a hard time presenting themselves as victims. This is in keeping with case law according to which “in terms of participating in a mafia association, an ‘entrepreneur guilty of collusion’ is someone who has entered into a synallagmatic relationship with the association that produces benefits for both parties, which for the entrepreneur means taking on a dominant position in the territory of reference, and for the mafia association receiving resources, services, or profits”<sup>143</sup>.

This is not the only example of the ambiguous relationship between the mafia and the business sector in Lombardy. In addition to the facts ascertained in the above-mentioned Insubria case, another investigation by the district prosecutor’s office<sup>144</sup> has uncovered a system of corruption revolving around the zoning plan for the municipality of Trezzano sul Naviglio, with the aim of changing the designated use of certain areas to the advantage of two entrepreneurs. In addition to these two entrepreneurs, this corruption case also involved municipal councillors, local politicians, and the local chief of police. Significantly, the criminal proceedings applied the provisions set out under legislative decree n. 231 of 2001<sup>145</sup> against the companies headed by the entrepreneurs charged with corruption and against a certified accountant who was engaged in smuggling cash abroad for money laundering purposes on behalf of one of the entrepreneurs. This is the first time in Italy that the rules on the administrative liability of entities were applied to a professional firm. The defendants opted for shortened proceedings and have been convicted with irrevocable sentences.

<sup>142</sup> The proceedings against defendants who moved for summary judgement have already been completed. As of the approval of this Report, the defendants facing full trials are now at the hearing stage.

<sup>143</sup> Court of Cassation, Sect. 5, ruling n. 39042 of 1 October 2008. In this case the Court, after specifying that “victimized entrepreneurs” are instead those who, when faced with intimidation, do not attempt to reach an agreement with a mafia association but give in to the imposition and thus suffer unjust damage, limiting themselves to pursuing agreements aiming to limit such damage, rejected the appeal against the ruling of the Court of Review, which had found the defendant to be “in collusion” with a mafia association, with which he had shared attempts to infiltrate business activities in the waste collection sector. For a similar ruling see C. of Cass., Sect. 6, ruling n. 30346 of 18 April 2013, where the entrepreneur in question worked in the management and assignment of public contracts through illicit interference, which benefited the entrepreneur in terms of contracts, and the mafia association in terms of strengthening its ability to influence the economic sector and in public contracts awarded to associated enterprises; Cass. Sect. 2, ruling n. 49093 of 1 December 2015; Cass. Sect. 5, ruling n. 47574 of 7 October 2016.

<sup>144</sup> Crim. Proceed. n. 35867/2012. Doc. n. 892.1.

<sup>145</sup> Legislative decree n. 231 of 8 June 2001, on “Regulations on administrative liability for legal persons, companies, and associations, including those without legal personality, pursuant to article 11 of law n. 3000 of 29 September 2000”.

The *'ndrangheta* is not the only criminal association doing business with the private sector in Lombardy. *Cosa nostra* has also shown an unexpected vitality in the private sector in Lombardy, particularly as concerns initiatives related to the Milan fairgrounds. A prime example comes from a Milan-based investigation<sup>146</sup> that has discovered the illegal activities of a criminal association whose purpose was to commit a series of tax evasion offences, aggravated by their favouring of *cosa nostra*. These crimes were committed through a complex fraudulent mechanism and implemented through a series of front companies whose ownership and management structures were quite murky, the most important of which was Consorzio Dominus, a limited liability consortium working in the organization of fairs with a longstanding commercial relationship with Nolostand Spa, a wholly-owned subsidiary of Fiera Milano Spa. The true head of this consortium, hidden behind a frontman, was an entrepreneur who was an associate of someone accused of belonging to the Pietraprazia (EN) mafia family<sup>147</sup>. Numerous tax violations were documented that made it possible to accumulate a large slush fund, through the classic system of issuing invoices for non-existent operations, in which the issuer of the invoice returns the money to those who paid it, with a small commission as compensation for 'legal risk'.

The main characteristic of this criminal case, as underlined by DDA magistrates during the hearings, is the fact that such a fraudulent mechanism was made possible in part by a series of omissions and superficial mistakes, and, importantly, by connivance on the part of certain entrepreneurs and white-collar professionals: notaries, executives of some reasonably large firms, tax accountants. This "grey area" of entrepreneurs and professionals essentially "refused to see" what was going on around them<sup>148</sup>.

Another similar case concerns criminal proceedings by the Milan DDA related to infiltration of the business sector in Lombardy on the part of the Catania-based Laudani ("*mussi ri ficurinia*") mafia clan. Charges against the defendants include criminal conspiracy, embezzlement, influence peddling, and tax violations, all aggravated pursuant to article 7 of decree-law n. 152 of 1991<sup>149</sup>. A series of cooperatives run by frontmen in a very unscrupulous manner in terms of tax and social security obligations were liquidated after a brief span of time. In accordance with a tried-and-tested criminal scheme, other parties issued invoices for non-existent services, cashed them, and finally returned the money to those who paid them, with a small commission as compensation for 'legal risk'. Part of this money was used to support the Laudani mafia family and thus taken to Sicily in person and directly handed over to them. The criminal organization also perpetrated acts of corruption among private parties: bribes were paid to representatives of Italian branches of a major foreign supermarket chain (Lidl) to obtain contracts or construction work. The investigations looked at a number of companies, and the provisions used to target the alliance between the mafia and businesses included the measures pursuant to legislative decree n. 231 of 2001, preventive confiscation, and the measure under article 34 of the anti-mafia code against three Lidl branch offices. The preliminary investigations magistrate in Milan, upon request from the Milan DDA, issued an order for immediate trial against the defendants.

Finally, there is the evidence that emerged in criminal proceedings against defendants who had provided logistical and financial support to *cosa nostra* associates from the "Pagliarelli" clan<sup>150</sup>. The defendants were charged with aiding and abetting fugitives belonging to *cosa nostra* in addition to crimes related to the exploitation of illegal workers and false invoicing. In this case, the relationship

<sup>146</sup> Crim. Proceed n. 44309/14. Doc. n. 1121.

<sup>147</sup> The existence of this mafia clan has been ascertained numerous times in case law, the last being the ruling of the Court of Cassation of 11 November 2015.

<sup>148</sup> All defendants were convicted in the first instance, and orders have been issued for the confiscation of company shares, real estate, registered movable assets, and significant sums of money. Some of these measures were issued after shortened proceedings (Preliminary Hearing Judge sentence of 3 February 2017), others with the sentence of 3 February 2017, and for others, upon conclusion of court hearings with the sentence of 5 dicembre 2017. The measure pursuant to article 34 of legislative decree n. 159 of 2011 targeted Nolostand Spa first, followed by its parent company Fiera Milano Spa.

<sup>149</sup> Crim. Proceed. n. 23876/2015. Doc. n. 1474.

<sup>150</sup> Crim. Proceed. n. 11665/08 Doc. n. 840 and Crim. Proceed. n. 12915/2012 Doc. n. 477.

with local entrepreneurs was an extortionary one. The criminal organization, through a number of service cooperatives managed by the defendants, facilitated the sojourn in Italy of undocumented foreign citizens who worked for the cooperatives, and more generally the acquisition of control over local businesses through infiltration in Lombardy's social, economic, and financial fabric. A portion of the profits thus achieved was used to provide logistical and financial support to the families of incarcerated *mafiosi* in Lombardy.

### The mafia as a brand in the economy

A phenomenon noticed by the Committee over the course of the parliamentary term and which has also been a source of concern in the media regards the use of the mafia 'brand' for marketing purposes, or more generally speaking, the use of names, brands, or logos that reference the mafia or infamous mafia criminals. Unfortunately, this approach has often been used to promote certain food products abroad to emphasize their Italian origin.

In fact, this is not exactly a new phenomenon, at least in certain sectors of the economy. For quite some time now, certain musicians have exploited the legend of the mafia and criminal sub-culture for marketing purposes. A non-negligible part of the narrative around which the music of the so-called 'neomelodic' singers revolves around these themes, and there are even some collections available for sale under the heading of "mafia music". In other sectors, there are products that are marketed around brand names that allude to the mafia presence in their region of origin<sup>151</sup> and a slew of merchandising items (t-shirts, gadgets, video games, "pizza mafia", and so on) that revolve around symbols evoking stereotypes that link Italy and Italians with the mafia, and vice versa.

In the Committee's opinion, the social repercussions of this type of marketing have been underestimated. Regardless of what else one thinks about the phenomenon, it risks being a surreptitious way to promote and support mafia sub-culture in Italy and abroad. By the same token, the degree of 'social irresponsibility' of such legal enterprises has not been sufficiently explored, especially when they openly resort to exploiting mafia tropes for commercial purposes. Finally, from a purely economic standpoint, it should be kept in mind that the supply of mafia-inspired products is underpinned by a demand that fuels it, comprised of consumers for whom the mafia is obviously not a negative value.

Of particular concerns are situations in which entrepreneurs not only use the word 'mafia' for marketing purposes, but actually register it as a trade mark to be able to legally exploit it and protect themselves from potential competitors. In Italy, about twenty such trademarks are registered with the Italian Patent and Trademark Office, although they remain unpopular. At the European level, there are about thirty trademarks containing the word 'mafia' or explicit mafia references registered with the European Union Intellectual Property Office (EUIPO)<sup>152</sup>.

The Committee decided to delve into the issue, and focused on a particularly glaring case, that of the Spanish restaurant chain "*la mafia se sienta a la mesa*" (the mafia sits at the table).

Following up on reports in the Italian press that highlighted the presence of various restaurants throughout Spain under the name brand "*La Mafia*", decorated with grim and highly inopportune references to mafia stereotypes and *cosa nostra* bosses<sup>153</sup>, the Committee brought the issue to the

<sup>151</sup> For example, the liqueur known as "Amaro del boss".

<sup>152</sup> Formerly Office for Harmonization in the Internal Market (Trade Marks and Designs), or OHIM. On 23 March 2016, with the entry into force of Regulation EC 2015/2424, it changed its name to EUIPO, the European Union Intellectual Property Office. It is endowed with judicial, administrative, and financial autonomy and was established as a decentralized agency of the Union to protect the intellectual property rights of private firms. Since its establishment in 1994 it has been located in Alicante (Spain) and is in charge of registering Community trade marks and designs.

<sup>153</sup> The European brand "*la mafia se sienta a la mesa*", registered by a Spanish company headquartered in Saragozza, has been used to market a chain of restaurants and gadgets of various types. The advertising strategy exploits the imagery of notorious *mafiosi*, and it builds brand loyalty by presenting the mafia as a reference model. Examples include menus and restaurant items using terminology that references well-known events in the history of mafia crime, such as the Saint Valentine's menu (referencing the 1929 Valentine's Day massacre in Chicago), the "*piccolinos en la mafia se sienta a la*

attention of Acting Foreign Minister Emma Bonino so that the competent diplomatic authorities could launch the necessary procedures to issue a judgement of invalidity against the brand – due to its running counter to public decency and public order - and to order its cancellation and prohibition in every EU Member State<sup>154</sup>.

The competent European authority for trademarks, the OHIM (now EUIPO) quickly issued a ruling on the matter. It accepted the arguments of the petitioner – the Italian state – while acknowledging the illegitimate nature of the registered trade mark as “contrary to public order and public decency”, and noted that the semantic content of the registered trade mark “*la mafia se sienta a la mesa*” is “deeply offensive for every person in Europe with a normal level of sensitivity and tolerance, and who is conscious and aware of the operating methods and threats that originate from mafia phenomena”.

Although the ruling does not solve the issue in and of itself (it removes protection as a European trade mark but does not prohibit its exploitation for commercial purposes<sup>155</sup>) it is nevertheless a significant achievement on the part of the Commission and the Italian authorities. It lays the groundwork, including in terms of European case law, to chip away at a general attitude that seems to be taking root in Italy and especially abroad. This attitude both tends to minimize the negative character of mafia organization and to promote an idealized and romanticized view of the mafia, fuelled by imagery and literary and film representations that could end up concealing, altering, or sugar-coating the true nature of mafia organizations, whether they are Italian or foreign.

### **The impact of the criminal economy: should the mafia be included in the GDP?**

Quantifying the wealth of illegal and mafia origin circulating in the Italian economy is an exercise that has long occupied leading academics, study centres, and public and private research institutions. In previous parliamentary terms, this matter was also touched upon during the Anti-mafia Committee’s debates.

This is a particularly complex exercise, with different studies coming to highly divergent conclusions. Indeed, it can only be based in part on objective data (such as the number of crimes committed, or the value of confiscated assets) and must largely rely on qualitative data on the ‘perception’ of criminal phenomena, through which estimates can be attempted for the ‘obscure’ value of unlawful and mafia-related activities that fail to emerge - directly or indirectly – from investigations.

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*mesa*” menu, black candy wrapping with the words “*la mafia*” emblazoned on it; and furnishings and decorations that include portraits of famous mafia bosses and scenes from the film *The Godfather*; on the backs of the chairs are the names of famous mobsters: Vito Cascio Ferro, Lucky Luciano, Al Capone, and Giuseppe Genco Russo. Brand loyalty is also built through the issuing of the ‘mafia loyalty card’ that gives access to discounts and special services.

<sup>154</sup> On the basis of the Committee’s report, the Italian government had initially filed a diplomatic request with Spanish authorities to revoke the trade mark from the company that manages the restaurant chain. The request was not accepted by the Spanish government, who argued that the word ‘mafia’ was now of common use in the European civil consciousness, and had become a widely used and generalized term no longer automatically linked to the original Sicilian criminal organization, so that no negative connotations could be attributed to its use. The need to reaffirm the principles of morality and public order underpinning the entire international community, recognized as a primary value by the United Nations Universal Declaration of Human Rights (art. 29), led the Italian government to authorize the Italian Embassy in Spain to file the above-mentioned petition with the EUIPO to obtain the cancellation of the brand.

<sup>155</sup> The cancellation of the trade mark “*la mafia se sienta a la mesa*” ordered by EUIPO does not prohibit its use, nor does it force its owners to change the name of their restaurants. It only applies to the protection of the trade mark at the Community level, with the consequence that the company that uses the trade mark will no longer be afforded protection, in terms of civil law, in case a competitor should also use the same brand name.

An authoritative contribution in this regard comes from a 2012 study by the Bank of Italy<sup>156</sup> that attempted to measure the underground economy by analysing the ratio between GDP and the demand for cash: the study's estimates are based on the demand for cash and information on reported drug- and prostitution-related crimes compared to GDP in each Italian province. On average, the criminal economy was estimated to amount to 10.9% of GDP between 2005 and 2008, increasing to 12.6% in 2008. The report did not make any distinctions between organized crime and ordinary crime, as this fell outside the scope of its analysis. More precisely, it only took into account voluntary criminal activities (essentially prostitution and drug trafficking) and left out violent ones (such as extortion) or those where there is no agreement between the parties (such as theft).

So far, the quantification of the criminal economy, albeit with the above-mentioned shortcomings, has almost exclusively been aimed at informing public opinion on the extent to which crime is polluting the economy. The scenario has now changed in light of an important decision on the part of European statistical authorities, which are now including the proceeds from criminal activities – and thus from mafia activities as well – at least in part into national GDPs. For this reason, in September 2014, when ISTAT published its revision of Italy's GDP in accordance with the guidelines of the European System of Accounts, it estimated the illegal economy – comprising only drug trafficking, prostitution, and cigarette contraband – to account for about 1% of GDP.

This assessment only includes illegal activities when carried out voluntarily by all parties concerned (such as the relationship between drug dealers and drug users, prostitutes and their clients, and sellers and buyers of contraband goods). According to the debatable approach of European institutions, this would exclude any links with organized crime.

The Anti-mafia Committee discussed this in a hearing with ISTAT President Giorgio Alleva, who pointed out that the inclusion of illegal activities in the GDP is a possibility that the EU granted to statistical institutes in Member States, and that this decision was made to better meet “the exhaustiveness criterion” and with the “aim of improving the international comparability of estimates”<sup>157</sup>.

Although in keeping with decisions made at the European level, the scope of these estimates does not encompass the entire turnover generated by criminal organizations or the entirety of legal and illegal economic operations that can be traced back to them, the Committee notes that the new GDP does include some facets of the criminal economy that are relevant to ‘mafia enterprises’, such as drug trafficking, prostitution, and contraband in processed tobacco products.

In other words, this is akin to Italy grudgingly admitting that, from a statistical point of view, at least a part of the mafia economy also ‘counts’, and as such, it can contribute to national wealth, and indeed increase it by 0.9%<sup>158</sup>. The mafia would thus become a part of Italy's wealth.

The Committee strongly rejects such an interpretation. If anything, the criminal economy, and especially the mafia economy, always produces ‘negative wealth’, since it is an obstacle to clean and transparent economic and civil growth in Italy, in other Member States, and for their citizens.

In reality, it would have made more sense to take into account not only the proceeds from criminal activities, but also the value of what was not produced due to the distortions generated by crime. In other words, the costs of the illegal economy to individual citizens, businesses, and society as a whole should be included in these estimates in addition to its turnover. The Committee is of the opinion that such analyses or statistical compilations should also evaluate negative effects in terms of the greater burden and expenses, as well as the overall losses to the state, that the illegal economy produces.

<sup>156</sup> [http://www.bancaditalia.it/pubblicazioni/econo/temidi/td12/td864\\_12/en\\_td864/en\\_tema\\_864.pdf](http://www.bancaditalia.it/pubblicazioni/econo/temidi/td12/td864_12/en_td864/en_tema_864.pdf)

<sup>157</sup> Session of 8 October 2014, hearing with the President of the National Institute of Statistics, Giorgio Alleva. Stenographic report n. 57.

<sup>158</sup> According to ISTAT estimates, the illegal economy – defined as the narcotics trade, prostitution, and contraband in alcohol and processed tobacco products – amounted to 0.9% of GDP in 2011, about the same as in Spain and slightly higher than in the United Kingdom (0.7%).

Session of 14 January 2015, hearing with the Governor of the Bank of Italy, Ignazio Visco. Verbatim report n. 76.

It must also be clearly understood that the revenue produced by the illegal economy subtracts an equivalent amount of resources from legal activities, and as such it impoverishes the economy. It also unleashes a negative chain of events that create additional costs.

For instance, entrepreneurs who are the victim of extortion have fewer funds available to dedicate to their work, thus negatively impacting their firm's ability to invest. If they have to pay protection money, that money is taken away from the firm. Not being able to invest then means not being able to grow and to create new jobs.

The Governor of the Bank of Italy himself, Ignazio Visco, during a hearing with the Committee, pointed out that satellite activities and consequences of the criminal economy have clear repercussions on Italy's overall economy: for example, the criminal economy can prevent the establishment of 'healthy' companies in certain sectors, and thus prevent economic growth in areas where it is sorely needed<sup>159</sup>.

In this regard, and with specific reference to southern Italy, the Bank of Italy, as supervisory authority, has carried out a number of studies to quantify what the southern Italian economy would have been, had the obstacle of the mafia not been present. These studies, based on statistical and econometric analysis, quantify the aggregated impact of organized crime on GDP. A first analysis, carried out during the previous Parliament under the impetus of the Anti-mafia Committee, estimated that the presence of organized crime in two regions – Apulia and Basilicata - where such a presence is not as high as elsewhere in Italy, has generated a loss of 16% of GDP – or one-sixth – over the last thirty years compared to the situation had the mafia not been present. Using a similar methodology, the Bank of Italy compared economic trends in Friuli Venezia Giulia and Irpinia after the earthquakes that struck these two areas respectively in 1976 and 1980, and which led to a strong influx of public funds. Statistical estimates showed that where organized crime was not present, as in Friuli Venezia Giulia, per capita GDP grew by 20% more over the following 30 years compared to a control region. On the other hand, in Irpinia, where organized crime had deep roots, per capita GDP grew by 12% less than in the control region<sup>160</sup>.

Finally, the mafia negatively impacts Italy's competitiveness at the international level. Using the Doing Business indicator, which measures the quality of the institutional environment, and considering the degree of criminal penetration, it has been estimated that all other things being equal, if Italian institutions were qualitatively similar to those of the Eurozone, foreign direct investment in Italy between 2006 and 2012 would have been 15% higher – nearly € 16 billion – than what it actually was<sup>161</sup>.

In conclusion, however you look at it, the impact of the mafia on the economy is always negative. This conclusion is strongly at odds with the new methods used to calculate Italy's gross domestic product.

The Committee hopes that the next Parliament will undertake a serious political reflection to prevent Italy from further succumbing to the temptation of re-calculating GDP - for the sole purpose of making national accounts look better - in a way that would seem to statistically 'legalize' those mafia profits that the judiciary and law enforcement agencies are constantly engaged in taking away from organized crime as they only pollute the economy.

<sup>159</sup> Session of 14 January 2015, hearing with the Governor of the Bank of Italy, Ignazio Visco. Verbatim report n. 76.

<sup>160</sup> Session of 14 January 2015, hearing with the Governor of the Bank of Italy, Ignazio Visco. Verbatim report n. 76

<sup>161</sup> Banca d'Italia, *Questioni di Economia e Finanza*, n. 230, September 2014, "Investimenti diretti esteri e qualità delle istituzioni".

#### 4.12 The theft of Caravaggio's *Nativity*: the mafia and traffic in stolen art

Over the course of the term, the Committee came across the matter of the role of mafia-type organized crime in the illegal traffic in works of art and in the attack on Italy's artistic heritage in numerous judicial investigations.

Nevertheless, the incident to which the Committee devoted particular attention, in light of its symbolic value, and for which it closely collaborated with the Carabinieri Unit for the Protection of Cultural Heritage (TPC) within the remit of the special powers attributed to it under article 82 of the Constitution, was the theft of Caravaggio's *Nativity*, which was stolen in Palermo in 1969 and never recovered. Responsibility for the theft has always been attributed to associates of *cosa nostra*.

#### The role of mafia-type organized crime in the international trafficking of works of art and archaeological items

The scope of crime against Italy's artistic heritage and the trading of its works of art continues to be significant, as shown by data on the activities of the Carabinieri Unit for the Protection of Cultural Heritage (TPC) in 2014-2017, with over 90,000 recovered books, antique items, and items from archives and over 130,000 confiscated archaeological items, for a total value of about € 270 million.

Recent investigations show that the final destination of stolen works of art and cultural items is increasingly channelled towards wealthier foreign countries, especially as concerns works of great artistic or historical value, and that the presence of joint economic interests with leading members of criminal organizations, including the mafia, is a proven reality.

With regards to the theft that took place at the Civic Museum of Castelvechio (VR), where 17 masterpieces, including works by Mantegna, Rubens, Tintoretto and Pisanello were stolen, investigations that included complex negotiations and letters rogatory with Moldova and Ukraine very rapidly resulted in the following:

- The issuing of 18 precautionary injunctions, including international arrest warrants in Italy, Moldova, and Ukraine against 18 subjects (Italian, Ukrainian, and Moldovan citizens) suspected of criminal conspiracy aggravated by its transnational nature for the purposes of aggravated theft, kidnapping, receiving stolen goods, and the illegal exportation of works of art of high cultural, artistic, and historic value;
- The extradition of a Moldovan citizen from Romania to Italy in compliance with a European arrest warrant issued by Italian authorities;
- The recovery of all 17 stolen paintings in Ukraine.
- Evidence collected against the suspects allowed the Court of Verona to quickly sentence the perpetrators of the theft to a total of 31 years in prison.

With regards to the interest that the mafia and other criminal organizations have in the world of art, one example is the preventive confiscation<sup>162</sup> that took place in November 2017 in Castelvetrano, in Trapani province, of several million Euros' worth of assets from a well-known trafficker of archaeological items originating from Sicily. The confiscation order was issued in part on the basis of preliminary evidence collected during the "Teseo" investigation, which allowed, among other things, the return from Basel (Switzerland) of 5,361 extraordinary archaeological items

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<sup>162</sup> Court of Trapani, preventive measures section, measure for the confiscation of assets belonging to Giovanni Francesco Becchina, 3 July 2017, proceed. n. 52/2017 RGMP (Doc. n. 1613). As requested by the Palermo DDA, the confiscation was made by the DIA in November 2017. The target, Giovanni Francesco Becchina, was considered close to both the Campobello di Mazara and the Castelvetrano mafia clans. The latter in particular has long been active in the illegal trade of archeological items from clandestine digs in the area of Selinunte, on behalf of the notorious fugitive mafia boss Matteo Messina Denaro, and earlier still his father Francesco.

from the 8<sup>th</sup> century BC to the 3<sup>rd</sup> century AD originating from clandestine digs carried out in Apulia, Sicily, Sardinia, and Calabria.

International investigations uncovered a tried-and-tested mechanism in which the stolen works of art were first restored, after which false certificates of origin were issued, made possible in part by fictitiously attributing ownership to companies run by associates.

The increasingly trans-national scope and nature of this phenomenon, and the growing role of organized crime in it, is also evidenced by the *Guardia di Finanza* (Financial Police) discovering several paintings by Vincent Van Gogh that had been stolen 14 years ago from the Van Gogh Museum in Amsterdam. The paintings were found in September 2016 in a camorra hideout. This discovery was made during an investigation that targeted a criminal group devoted mostly to drug trafficking, so that the camorra's acquisition of these paintings may have been a way to invest its illegal profits and to show off its power.

The same reasoning applies to the recent confiscation of 97 works, mostly of contemporary art, that took place as part of the investigation known as 'Mafia Capitale' conducted by the Carabinieri's Special Operations Group (ROS). Of these, 38 were shown to be forgeries after an expert appraisal by the TPC Unit.

Not as recent, but equally relevant, is the confiscation order carried out in Milan in 2007 against an Italian citizen who was a close associate of the leadership of the Italian-Canadian mafia. As part of this operation, 340 paintings by famous artists (Guttuso, De Chirico, Morandi, Campigli, Guidi, Boldini, and Sironi) were recovered, in addition to bronze works, sculptures, and vases. Eighty of these works of particular artistic interest were then turned over to the Milan city museum system.

By the same token, in 2012 the Court of Reggio Calabria confiscated from an associate of the *'ndrangheta* 110 paintings of great value, including works by De Chirico, Sironi, Guttuso, Ligabue, and Dali. These paintings were exhibited to the public for the first time upon the re-opening, after renovation, of the Magna Grecia Museum in Reggio Calabria<sup>163</sup>.

The counterfeiting of works of art also attracts organized crime, including the mafia. While forgeries require only a limited investment in terms of time and resources, their sale is potentially highly profitable. Expert appraisals to assess authenticity are often difficult to carry out and sometimes have contrasting outcomes, and sanctions are not very harsh. All of this makes forgery a particularly profitable criminal activity.

Statistics show that forgery is on the upswing: a total of 43,853 forged works of art were confiscated last year, for an estimated value of over € 218 million, versus € 57 million in 2016. Out of the total number of items confiscated, 43,814 are works of contemporary art, which remains the most affected sector.

It is important to keep in mind that the illegal art trafficking sector depends significantly on the international scenario, especially as concerns crisis areas that are affected by the constant looting of archaeological items, which are then sold abroad and indirectly contribute to funding international terrorism networks,<sup>164</sup> while giving criminal organizations an ample reserve of works of art to be used in commercial exchanges.

The criminal groups that operate on the international market show certain specific characteristics, such as flexibility, a high level of organization, and the ability to take advantage of all the opportunities provided by market globalization and new communication and information technologies. This allows them to make the most of the available opportunities while minimizing the

<sup>163</sup> The Court of Reggio Calabria's section for preventive measures put Gioacchino Campolo under special surveillance for public security reasons, and confiscated assets worth about € 330 million. Campolo had a monopoly over the distribution of videopoker machines thanks to his ties with the De Stefano, Tegano, Libri, Audino, and Zindato mafia families, and was sentenced to 18 years in prison for extortion aggravated by the mafa method and money laundering. The confiscation order has been carried out and the paintings were exhibited to the public for the first time on 3 August 2013, when the Magna Grecia Museum in Reggio Calabria re-opened after being closed for renovation. In addition to the paintings, Campolo's confiscated assets included extensive real estate holdings, including a large villa on Rome's Aventine Hill and a building in Faubourg Saint Honoré in Paris.

<sup>164</sup> Cf. United Nations Security Council Resolution n. 2199 of 12 February 2015.

risk of being identified, arrested and convicted and/or of seeing their illegally-gained proceeds confiscated.

This explains the abiding interest that organized crime has in illegal art trafficking, in the awareness that the risks are very low while the potential profits are enormous.

This is due in part to the fact that the main legal instrument underpinning the complex investigations, which are almost exclusively carried out by the above-mentioned Carabinieri unit for the protection of cultural heritage, is the code on cultural heritage and landscape<sup>165</sup>. The limited sanctions in this special law make it less incisive than the criminal code, which is paradoxically better suited to investigations on cultural heritage.

In order to fight the national and international traffic in cultural heritage, it would be more efficient to endow the judiciary and police forces, and particularly specialized police units, with instruments that can adequately stay abreast of the evolution of the crime in question, and/or whose implementation phase has been perfected, with better solutions identified.

Unfortunately, the Seventeenth Parliament did not manage to complete the examination of a draft law on the matter (Senate Document 2864), in spite of its approval by the Chamber of Deputies; we express here our hope that the next Parliament will quickly resume this examination, which would help judicial authorities and specialized police units in fighting an increasingly transnational phenomenon.

Indeed, the protection of cultural heritage is playing an increasingly key role in the international field as well: testifying to the growing awareness of the importance of protecting cultural heritage are the “International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences” adopted by the United Nations General Assembly with Resolution n. 69/196 of 18 December 2014, which was proposed by Italy.

The primary goal of this document is to encourage Member States to adapt their legislation to reflect shared principles and rules, and to strengthen international cooperation and legal assistance, particularly through the implementation of the United Nations Convention against Transnational Organized crime, also known as the Palermo Convention.

At the EU level, the very recent introduction of the European Investigation Order (EIO), whose implementation is currently being consolidated, will be an additional tool to overcome difficulties that arise during investigations. By creating a single and wide-ranging instrument, it will replace the current fragmented legal framework and will reduce bureaucratic time lags by establishing strict deadlines for the acquisition of required evidence.

### **The Anti-mafia Parliamentary Committee’s work on the theft of Caravaggio’s *Nativity***

During the special hearing granted by the Pope to the members and staff of the Anti-Mafia Committee on 21 September 2017, chairwoman Rosy Bindi presented the Pope with a gift of a small replica of Michelangelo Merisi da Caravaggio’s renowned *Nativity*, which had been held in Palermo and was stolen on the night between 17 and 18 October 1969.

Over the course of its work, which began in late 2013, the Committee aimed to re-focus attention on a crime widely believed to have been perpetrated by the mafia, and which remains a painful open wound for Italy’s cultural heritage and especially for the city of Palermo, which was designated Italian capital of culture for 2018.

The *Nativity* was Palermo’s only work by Caravaggio. It was painted between 1600 and 1609 and held in the Oratory of Saint Lawrence near the Basilica of Saint Francis of Assisi in Palermo’s historic Kalsa neighbourhood until its tragic theft, which has become a symbol of the dramatic moral and material damage the mafia has inflicted on Italy and on the Catholic Church, one of the injured parties in this incident as the painting’s rightful owner is the Archiepiscopal Curia of Palermo.

<sup>165</sup> Legislative decree n. 42 of 22 January 2004.

The painting depicts the Nativity with saints Lawrence and Francis, after whom the oratory in which the painting was held and the basilica to which the oratory was annexed are respectively named.

Although investigations on the painting's theft have been conducted a number of times and with great care and commitment on the part of the judiciary and the Carabinieri, the perpetrators of the theft have never been identified with certainty – although there is no doubt they were mafia associates – and the fate of the work remains unknown.

Several important collaborators with justice had claimed it had been lost, and this contributed to the belief that recovering it would be impossible.

A great many theories, some extremely far-fetched, have been postulated, but none are backed up by any evidence: some claimed that the large altarpiece (it measures almost 3 meters by 2 meters) was severely torn during the theft itself, or that it was damaged beyond repair in its hiding place, either burned or destroyed by rats; others instead asserted that it was still in Sicily, jealously guarded by the *mafiosi* who had stolen it, to be displayed during summits of *cosa nostra's* top bosses; others still believed it to have been a bargaining piece in the so-called State-mafia negotiations; or finally that it was in the hands of some avid collector, variably suspected of being a well-known politician, entrepreneur, or entertainer.

Many of these theories on the fate of the painting have been discussed in various books, documentaries, theatre pieces, and films.

The painting's unavailability over these last decades also prevented art historians from carrying out detailed studies of the work, whose iconography has not yet been fully deciphered and whose meaning remains unclear. We also do not know where and when, on what occasion, and on whose behalf it was painted by Caravaggio, a great artist, a 'great Lombard', but first and foremost a great Italian, who was born in Milan, lived in Rome, and travelled between Naples, Malta, Siracusa, Messina, and Palermo in Sicily before dying in Tuscany at Porto Ercole.

As time passed the hope of recovering the painting gradually faded, in spite of the praiseworthy investigative efforts of the Carabinieri Unit for the protection of cultural heritage and the Palermo Prosecutor's Office. These wide-ranging investigations have never been interrupted, in spite of the expiry of the statute of limitations over the theft.

The painting is now akin to a fugitive mafia boss and is on the 'Top Ten Art Crimes' list compiled by the FBI, which estimates its value at USD 20 million, assuming that a value can even be calculated since the painting is stolen and cannot be sold on the legal market.

For Sicily and Italy, its value is certainly inestimable, both because it belongs to the nation – which is founded in part on its historic and artistic heritage and its preservation, which the Italian Constitution includes among its core principles – and for Italy's culture and image, in light of what it represents abroad and of the immense economy that revolves around art and tourism.

On the basis of article 82 of the Constitution, the Anti-Mafia Committee has the same powers as the judiciary. Nevertheless, due to its peculiar political and institutional nature, it is not subject to the conditions and constraints that are intrinsic to it, such as the obligation to institute criminal proceedings or the statute of limitations. In full autonomy, the Committee thus felt that the theft of the *Nativity* should return to the limelight for both public opinion and the institutions, as it ran the risk of gradually receding into the shadows when it should instead receive our full attention, not only because of the scope of the crime, but also in terms of its wider political, social, and cultural significance.

For these reasons, the Parliamentary Committee decided to re-launch the investigation and to involve, within a framework of close institutional collaboration, all of the relevant stakeholders (Ministry of Cultural and Environmental Heritage, the judiciary, police forces). New avenues of investigation were identified, which the Carabinieri unit for the protection of cultural heritage were put in charge of.

The investigations proved beyond a doubt that the theft was a mafia crime, whose perpetrators have been identified.

Matching statements made to the Committee by two collaborators with justice, Gaetano Grado and Francesco Marino Mannoia, confirmed that the theft itself was the work of small-time criminals, but that the importance and the enormous value of the painting – which were widely discussed in the media at the time – very quickly drew the interest of *cosa nostra* bosses, who immediately set about claiming the painting as their due.

After quickly exchanging hands several times, the Nativity was turned over the Stefano Bontate, the boss of the ‘*mandamento*’ where the theft took place, and later to Gaetano Badalamenti, who was the head of *cosa nostra* at the time.

It is important to note here that over the course of the Committee’s work, the collaborator with justice Francesco Marina Mannoia recently withdrew his previous claim that the painting had been destroyed, a claim he had previously made before judicial authorities, including the judge Giovanni Falcone.

Once Badalamenti took it upon himself to manage the aftermath of the theft, he quickly orchestrated the transfer of the painting abroad in 1970. The destination was presumably Switzerland, where Badalamenti could take advantage of established international drug trafficking channels.

The sale of the work was allegedly brokered by an experienced Swiss antiquarian, who has long since passed away.

Although many decades have passed, this broker was identified from photographs by one of the collaborators with justice questioned by the Committee, who had seen him in person at the time.

This same collaborator stated that on the basis of what he had learned from Gaetano Badalamenti, the painting was transferred to Switzerland after the payment of a large sum of money in Swiss francs, and once there, it was unfortunately broken down into six or eight parts in order to be sold on the international illegal art market.

At this point, no additional details about the investigation can be divulged. They will be transmitted to the competent magistrates in Palermo so that the investigation may continue.

Nevertheless, we can confidently state that thanks to the Committee’s encouragement and the work of its collaborators and the Carabinieri units entrusted with the investigation, the dynamics of the theft and its aftermath have been reliably reconstructed.

Both the thieves themselves and those who managed the safekeeping, transfer, and sale of the painting have been identified.

Crucially, we now know that the painting has not been lost, as was previously believed on the basis of statements on the part of important collaborators with justice.

Since then, Caravaggio’s masterpiece has been somewhere outside of Italy borders, where it likely remains, in one or more countries in Europe or elsewhere due to the likely and criminal subdivision of the work into several parts in order to conceal its provenance and maximise the profits arising from the sale of not one, but various paintings, each an absolute masterpiece.

Therefore, there is a need for extensive judicial and inter-governmental cooperation at the international level to follow the evidence and hopefully one day successfully retrieve the painting and give it back to the city of Palermo, the Italian nation, and the cultural heritage of the entire world.

## 5. Conclusions

### 5.1 The legacy for the Eighteenth Parliament and for the adoption of the new Law to establish the next Committee

True politics, which we recognize as an eminent form of charity, works to ensure a future of hope and to promote dignity for all. For this very reason, it sees the fight against the mafias as a priority, since they steal from the common good and deprive people of hope and dignity. To this end, it is crucial to oppose in every way the grave problem of corruption, which disregards the general interest and becomes the fertile ground in which the mafias take root and grow. After all, corruption is a *habitus* built upon the idolatry of money and the commodization of human dignity, and as such it must be fought with measures no less incisive than those used against the mafias.

*Pope Francis  
Speech to the members  
of the Anti-mafia Parliamentary  
Committee  
Thursday, 21 September  
2017*

The Seventeenth Parliament will be remembered as a constituent legislature for the fight against the mafias and corruption, one that introduced innovative content and methods of parliamentary inquiry on these issues, and which worked over a five-year span that was rich in significant events at both the national and international levels.

The tasks assigned to the Committee by the law that established it were carried out within a very broad qualitative and quantitative framework, and aimed to include as much as possible issues and topics of interest within the scope of an inquiry that encompassed nearly all of the tasks as detailed in the foreword, probably to a greater extent than ever before.

This Final Report – as in all of the other reports that were approved during that Parliament – attempts to account for the breadth of this framework and the keys used to interpret a phenomenon that has both old and new characteristics, while aiming to examine the multiple mafia organizations and their varied methods using a modern analytical method and through the coordinated use of instruments to prevent and fight this phenomenon.

This model must be improved to better understand changes and to recognize the telltale signs of mafia infiltration into the various sectors of politics and the economy, so as to be able to adopt more advanced defence mechanisms in terms of national, supra-national, and international law to combat the threat that the mafias constitute against the liberty, dignity and security of the citizens of all nations.

The Committee's work in this regard followed three main fields of inquiry. In each of these, the work of the Committee as a whole and of its individual members aimed to define the political guidelines concerning the issue, in keeping with the fact-finding function of parliamentary inquiry, in a manner that nearly always proved to be widely shared. This work, together with the institutional synergies developed as part of a plural and constitutional view of the fight against the mafias, is both one of the results of the work undertaken and a legacy to be preserved for the future.

The first main field of inquiry concerned definitions and the conceptual framework in which to analyse the current nature of the mafia phenomenon, the characteristics of its recent changes, and its transformations in all political, economic, and social contexts, which are growing increasingly reticular as we have constantly noted. This field of inquiry included the investigations on the relationship between the mafias and corruption, the analyses on the historical evolution of the civil anti-mafia movement and the role of the social anti-mafia, the exploration of the criminal economy and the grey area that supports it, the relationship between the mafias and social consensus, and general initiatives to raise cultural and scientific awareness on the issues of legality and knowledge of the mafias.

The second field of inquiry concerned the legislative sector, in order to draft proposals on the necessary measures to improve the incisiveness of initiatives on the part of the State and regional and local authorities, and to strengthen international agreements on the prevention of criminal activities and on legal cooperation and assistance. Activities include the drafting of important proposals that have been approved by Parliament and become law, the most important of which is the thorough revision of the ‘Anti-Mafia Code’, the main law in this matter, through the approval of Law n. 161 of 2017<sup>166</sup> and the Law on witness protection<sup>167</sup>, which for the first time comprehensively and autonomously defines their legal nature and status. They also include administrative tools to fight the mafia, and organizational measures, such as those requested to address the state of courts in Calabria<sup>168</sup> or the organization of the surveillance judiciary. Of equal importance have been institutional initiatives to promote national coordination and international cooperation, such as meetings with the regional ‘anti-mafia committees’, in order to create regional political workshops and a network of experiences and good practices, especially as concerns the re-use of confiscated assets, useful at all levels of primary and secondary legislation. Finally, numerous missions were undertaken to European institutions and foreign countries (Canada, Spain, The Netherlands, San Marino, and Malta) to foster the exchange of experiences at the highest political and institutional levels of the European Parliament and other Member States<sup>169</sup>.

The third field of inquiry was the historical and factual one, focusing on incidents and events involving important people and places for the history of the mafia and the anti-mafia. In this regard, it almost goes without saying that the election as President of the Republic of Sergio Mattarella, the brother of the former President of the Sicilian Regional Government Piersanti, who was murdered by the mafia in Palermo in 1980, is of great symbolic value and importance for our institutions.

This field of inquiry encompasses many events, some recent and some older, that were deemed worthy of attention on the part of the Committee to try to provide additional knowledge and clarity, always in loyal collaboration with the judicial authorities and other powers of the State, and in respect of their functions.

Numerous hearings were held with prosecutors still engaged in the trials involving the main mafia massacres and the so-called State-Mafia negotiations, and for the first time in an official capacity, the family members of judge Borsellino, so as to better understand the questions that remain open concerning that dramatic period in Italy’s history. The Committee also looked into the incarceration of Salvatore Riina during the final months of his life, and re-opened unsolved but still very relevant cases, such as the theft of Caravaggio’s *Nativity* many decades ago. Finally, the

<sup>166</sup> Law n. 161 of 17 October 2017, “Changes to the code of anti-mafia laws and prevention measures as per legislative decree n. 159 of 6 September 2011, to the criminal code and to the implementation, coordination, and transitory norms for the code of criminal procedure and other dispositions”.

<sup>167</sup> Law n. 6 of 11 January 2018, “Provisions on witness protection”.

<sup>168</sup> *Relazione sulla situazione degli uffici giudiziari in Calabria. Risultanze delle missioni a Catanzaro, Reggio Calabria e Locri* [Report on the state of the courts in Calabria. Findings from the missions to Catanzaro, Reggio Calabria, and Locri] (Rapporteur: MP Rosy Bindi), approved by the Committee during the sitting of 27 April 2016, Doc. XXIII, n. 14.

<sup>169</sup> The programme of missions also reflected the mandate received by Parliament in concurrence with the six-month Italian Presidency of the Council of the European Union, in order to promote the awareness of the risk of mafia infiltration in those countries and to facilitate the construction of an anti-mafia European judicial space. Cf. Chamber of Deputies, sitting of 17 November 2014, verbatim report n. 233.

Committee's extensive schedule of missions allowed it to visit the entire national territory, and hearings with local politicians and representatives from local law enforcement institutions and civil society made it possible to collect reams of valuable new information on the state and entrenchment of mafia-type criminal organizations in all of Italy's regions, bar none.

This parliamentary term set several milestones concerning the history of traditional mafias and the knowledge of new ones, acquired through the observation of local manifestations of nearly every evolutionary stage of mafia-type criminal organizations, from the primordial use of violent intimidation to the more modern stages of political strategy and economic colonization. An era has ended and new scenarios have unexpectedly emerged: it is thus necessary to reflect on the state of the mafias today.

The launch of the Committee's work in 2014 coincided with the Court of Cassation's upholding of the sentence in the "Crimine Infinito" (*Infinite Crime*) trial, which resulted from joint investigations of the prosecutor's offices in Reggio Calabria and Milan. The judges issued a final ruling confirming the unitary nature of the 'ndrangheta, its top-down nature, and its organization into cells. This allowed it to obtain, from its base in remote Calabria, a relevant share of the global traffic in narcotics and to govern the massive international cash flows arising from it.

Soon thereafter came the explosive judicial, political, and institutional effects of the investigation by the public prosecutor's office in Rome known as "Mafia Capitale" and the 'discovery' of the mafias operating in Ostia and southern Latium, in addition to revelations about the full extent of the mafia phenomenon (and the hospitality it received) in Piedmont, Lombardy, Liguria, and Emilia-Romagna and its presence in Valle d'Aosta as well.

Hopefully, all of the above has put an end once and for all to the hypocrisy of those who believed central and northern Italy to be immune to the mafias. In fact, the latter are widespread there, in all stages of growth, much like a disease one learns to quickly recognize from its symptoms so that it may be immediately treated through surgery and systemic therapy.

In southern Italy, the archaic ferocity of the mafias in Foggia province and the liquid violence of the Neapolitan camorra remain striking and disquieting. The latter has now splintered into a criminal galaxy of traditional clans and urban baby gangs known as '*paranze*' comprised of minors who have dropped out of school and will stop at nothing, destined for prison or the graveyard. In Campania's provinces, the vanquishing of the top leadership of the Casalesi clan has not slowed down its ruthless entrepreneurial dynamism and its complete control over local public spending.

In Sicily, with the deaths of Bernardo Provenzano (2016) and Salvatore Riina (2017), the Corleone-based faction of "Cosa Nostra" has finally faded into the sunset, but Italy's most wanted fugitive Matteo Messina Denaro remains at large. He embodies a changing mafia bridging tradition and modernity at the centre of a network of relationships with actors in the private sector and shadowy centres of power.

We must thus take stock of reality, first and foremost by analysing the current nature of what we call the mafia and its evolution.

On the basis of the findings that emerged from the Committee's investigations, the mafia phenomenon is increasingly being defined in terms of its reticular nature, given the network of subjective relationships in which the actions of criminal organizations take place. For this reason, the mafia stands out due to its regenerative and political nature, which distinguishes it from ordinary crime, and for which an appropriate metaphor would lie halfway between an octopus and a many-headed hydra.

Secondly, another key finding was the intrinsic and increasingly common link with corruption, a different phenomenon, from which the mafia borrowed to its own advantage the collusive and consensual character as the prevalent mode of action, based on shared interests between the author and the victim of the criminal act. The mafia's mode of action is increasingly but not exclusively non-violent. Its effects are less strongly perceived in terms of social alarm, and they are more difficult to discover, but as the Court of Cassation established, they remain underpinned by the implicit threat of violence, which can be promptly put to use when needed.

The link between mafia and corruption was indicated with great clarity by Pope Francis, with the simplicity and eloquence that shine through in the speech quoted in the introduction to this paragraph. The words of the supreme authority of the Catholic Church, with their moral force and the universalism of religious doctrine, provide moral guidance and the tools to comprehend reality to Christians and non-Christians alike. The Pope's remarks address the Church's pastoral care in a very clear direction that no longer admits any ambiguities in its spiritual component, which must be tackled to understand the evolution over time of the immaterial factors of the mafia's power, but also the moral force of the anti-mafia culture<sup>170</sup>.

During a pastoral visit to Calabria in 2014, the Holy Father struck mafiosi with excommunication, the maximum penalty under canon law. The corrupt seem destined to receive the same punishment from the Church.

In the legal sphere, many legislative measures approved in recent years target organized crime and corruption<sup>171</sup>, with a focus on the interoperability of the tools to fight them.

The centrality of the fight against the mafia as a core element in maintaining democracy and promoting economic growth lies in part on the availability of specific know-how, and in the body of knowledge that Italy has accumulated, especially since 1982. This technical, legal and investigative knowledge can be put to good use in other nations as well to face mafia phenomena, or in other fields to fight related or linked phenomena.

Links with other types of crime can be seen, for instance, in the relationship between the mafia and terrorism.

Both nationally and internationally, the investigative experience, methods, and instruments used in Italy in fighting the mafias have been highlighted for their use against terrorism as well. Law decree n. 7 of 2015, converted into Law n. 43 of 2015, attributes the national coordination of investigations in proceedings related to crimes of terrorism, including international terrorism, to the National Anti-Mafia Prosecutor, within the agency now known as the National Anti-Mafia and Anti-Terrorism Investigative Directorate<sup>172</sup>.

<sup>170</sup> Cf. Episcopal Conference of Calabria, Pastoral note on the 'ndrangheta in Calabria, 25 December 2014 (Doc. 573).

<sup>171</sup> An overview of recent legislative trends shows that as early as the previous parliamentary term, the Parliament ratified international conventions on these matters, particularly the United Nations Convention against Corruption, which opened for signature in Mérida in 2003 and was ratified by Law n. 116 of 2009; the Strasbourg Conventions of 1999, promoted by the Council of Europe and relating to the criminal and civil consequences of corruption, respectively ratified by Law n. 110 of 2012 and Law n. 112 of 2012; to introduce new criminal offences, harsher sentences for existing offences, and to discipline organizational models to prevent corruption. These aspects were the object of Law n. 190 of 6 November 2012, "Provisions for prevention and repression of corruption and illegality in the public administration" (the so-called Severino Law) and on this basis legislative decree n. 235 of 31 December 2012 "Consolidated act on provisions for ineligibility and disqualification from holding elected and governmental offices following final convictions for offences committed with criminal intent, pursuant to article 1 (63) of Law n. 190 of 6 November 2012". The Seventeenth Parliament introduced important measures on the National Anti-Corruption Authority (ANAC). Law n. 114 of 11 August 2014, amending and converting law decree n. 90 of 24 June 2014 on urgent measures for administrative transparency and simplification and for the efficiency of courts suppressed the Surveillance Authority on public contracts and transferred its responsibilities to the National Anti-Corruption Authority, whose institutional mission was redefined. Law n. 69 of 27 May 2015 "Provisions on crimes against the public administration, mafia conspiracy, and additional modification to the criminal procedure code and its implementing provisions and law n. 190 of 6 November 2012" aims to fight corruption through a series of measures ranging from harsher sanctions for crimes against the public administration to the recovery of funds embezzled by public officials and the revision of the crime of false accounting; of equal significance is legislative decree n. 97 of 25 May 2016 "Revision and simplification of provisions on the prevention of corruption, public disclosure, and transparency, amending law n. 190 of 6 November 2012 and legislative decree n. 33 of 14 March 2013, pursuant to article 7 of law n. 124 of 7 August 2015 on the reorganization of public administrations".

<sup>172</sup> Law n. 43 of 17 April 2015, amending and converting law decree n. 7 of 18 February 2015 on "Urgent measures for the fight against terrorism, including international terrorism, and extension of the international missions of police and armed forces, development cooperation initiatives, support for reconstruction processes, and participation in the initiatives of international organizations for the consolidation of peace and stabilization processes". The law implements Resolution n. 2178 of 2014 adopted by the United Nations Security Council pursuant to Chapter VII of the United Nations Charter, thus making it binding for Member States.

In the Italian legal system, the state's response to terrorism and the mafia comes together in this institutional entity, which is responsible for coordinating complex investigation activities<sup>173</sup>.

This link exists not only in terms of the efficient use of the same investigative measures, but also in terms of the social support that these forms of crimes can enjoy: it has been authoritatively claimed that the depth of the roots of Islamic terrorism in certain areas at the heart of Europe can be likened to that of the 'ndrangheta in certain Calabrian towns<sup>174</sup>. This statement provoked a controversy, but given where the outcry came from, the suspicion is that once again, these criticisms only appear to be aimed at the substance of the remarks, while they are actually an attempt to strike at the foundations of the normative framework and the synergies between the tools to fight the phenomenon.

There are some worrying symptoms, some of which emerged on the occasion of the approval of the changes to the anti-mafia code. It is surprising that so far, no protests are raised when the targets of incisive preventive measures, such as the confiscation of assets from illegal activities, are egregious criminals such as terrorists or mafiosi; whereas an outcry ensues when these same measures are applied to perpetrators of crimes such as corruption or money laundering. The latter generally enjoy greater social respect since they belong to the economic and financial spheres, but they are also the ones who constitute the so-called 'grey area', without which it would be impossible to launder dirty money, which activity is instrumental to the political-subversive goals of the former and the economic-parasitic goals of the latter.

Although their goals and behaviours may be different, these criminal phenomena, both in Italy and abroad, should be more closely linked in terms of analysing their criminal methods, assessing the risks arising out of their reciprocal interference, and the use of investigative and repressive instruments. More than any other country, and in spite of itself, Italy has had to adopt a system of rules and mechanisms that could be said to have a triple-A rating, not just to reflect the initials of the terms that define their goals (anti-mafia, anti-corruption, and anti-terrorism), but also as concerns their reliability compared to the standards of many foreign countries: failing to acknowledge this means unfairly undervaluing the Italian system.

By the same token, the objective link between different forms of crime requires increasingly strong links from the subjective institutional standpoint, through supra-national and international cooperation.

There is a certain symbolic value to the Anti-Mafia Committee's establishment on 22 October 2013 and the conclusion of the work of the European Parliament's Special Committee on Organized Crime, Corruption, and Money Laundering (CRIM) the previous day. Established on 14 March 2012 on the basis of the resolution on organized crime adopted by the Plenary of the European Parliament on 25 October 2011, the CRIM's mandate included, not coincidentally, all three of the above-mentioned criminal activities. The work of the CRIM Committee was examined with great care by the Anti-Mafia Committee, which devoted its first report to Parliament to the fight against the mafias at the European and international levels; the report was approved in early 2014, ahead of the Italian presidency of the Council of the European Union. This report was on the order of business for both the Senate and the Chamber of Deputies. The Resolution that concluded the debate was approved unanimously by both the Chamber of Deputies and the Senate and was transmitted directly to the European Parliament.

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<sup>173</sup> Annual report of the National Anti-Mafia and Anti-Terrorism Prosecutor.

<sup>174</sup> Cf. sitting of Wednesday 22 June 2016, hearings dedicated to the situation in the municipality of Platì (RC), in part in light of the outcry that followed the above-mentioned remarks by MP Minniti, who at the time was Undersecretary of State to the Presidency of the Council of Ministers and later Minister of the Interior, who in 2016, during a summit on security after the Brussels terrorist attacks had compared Molenbeek to Platì. The protest against these remarks took place during a public rally in Platì held in the local parish church and turned out to have been promoted by associates of local 'ndrangheta clans. This incident was of interest to the Committee thanks to, among other things, the awareness it raised among the clergy in Calabria.

In compliance with the mandate received on that occasion<sup>175</sup>, the numerous proposals in this regard – including that of providing follow-up to the activity of the CRIM Committee – were illustrated and argued for with great conviction by the Committee during every opportunity for dialogue abroad. The conviction soon emerged that the frontier for the near future is to work towards an ever-broader ‘anti-mafia diplomacy’, at least among EU Member States, so as to share with these nations the goals and methods – based on risk assessment – of the fight against organized crime. This should include helping other countries understand that the failure to do so would result in a very high price to pay, one that Italy has already paid over the course of its history. Tackling together a risk that affects the entire Union is in everyone’s best interest. During the Committee’s missions to Brussels, its proposals were illustrated both during formal hearings at the LIBE Committee and during a meeting with the acting President of the European Parliament Martin Schulz. On this basis, we are confident that the attention of European institutions will increase even more after the election, on 17 January 2017, of the Italian Antonio Tajani to the Presidency of the European Parliament.

Nationally, the Committee’s awareness-raising work took place incessantly and at all levels, through Committee hearings involving all of the country’s main institutional subjects. The lengthy cycle of hearings with institutional leaders included various ministers, the senior officials of courts and investigative offices of every Italian judicial district, the Bank of Italy and other national economic institutions, representatives of political parties and the media, as part of a process that ended symbolically with the hearing of the President of the Council of Ministers Paolo Gentiloni, who gave an overview and assessment of the government’s policies in the fight against the mafia. The last time a President of the Council of Ministers appeared before the Anti-Mafia Committee for a hearing was almost twenty years earlier<sup>176</sup>.

The utmost importance has been given to initiatives of great symbolic value, such as the day of remembrance in honour of the mafia’s victims every 21 March, instituted with Law n. 20 of 2017<sup>177</sup>, or the International Anti-corruption Day<sup>178</sup>, established by the United Nations and observed every 9 December to raise awareness on the serious global problem of corruption and the role of the above-mentioned UN Convention against transnational organized crime. Incidentally, the latter could

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<sup>175</sup> Cf. Chamber of Deputies, sitting of 17 November 2014, verbatim report n. 333. Discussion of the report on the Italian six-month presidency of the Council of the European Union and on the fight against mafia crime on a European and extra-European basis, approved by the Parliamentary Committee of Inquiry into Mafia-related and other criminal organizations, including foreign organizations (Doc. XXIII, n. 2); resolution n. 6-00099, Bindi and others: calling for “the reconstitution of the European Parliament’s Special Committee on Organized Crime, Corruption, and Money Laundering (CRIM). Additionally, in order to strengthen cooperation between the Parliaments of Member States regarding the sharing of normative experiences and parliamentary inquires on the prevention and repression of organized crime, we propose to launch the necessary contacts to establish a network of the parliamentary committees of the Member States whose functions are analogous to the Italian Anti-Mafia Committee”; the resolution was discussed and approved during the sitting of 11 December 2014; cf. verbatim report n. 348. See also Senate of the Italian Republic, sitting of 29 October 2014, verbatim reports n. 341 and n. 342, resolution n. 6-00075, Zanda and others.

<sup>176</sup> Massimo D’Alema was heard in 1999, during the Thirteenth Parliament; Silvio Berlusconi in 1994, during the Twelfth Parliament; Giuliano Amato in 1992, during the Eleventh Parliament; Giulio Andreotti in 1989 and 1990, during the Tenth Parliament.

<sup>177</sup> Law n. 20 of 8 March 2017, “Institution of the ‘National Day of Remembrance and Commitment in memory of the victims of the mafia’”. The law calls for initiatives to raise awareness on the historical, institutional, and social value of the fight against the mafias and on commemorating its victims. In order to conserve, renew, and build a shared historical memory in defence of democratic institutions, public events, ceremonies, meetings, and other shared occasions for remembrance and reflection may be promoted, along with initiatives aiming to promote – both within public opinion and in the younger generations – the memory of the victims of the mafias and of the events that characterized the recent history and successes of the State in preventing and repressing all mafias.

<sup>178</sup> The statements issued by authorities such as the Pope and the President of the Republic on this occasion provided much food for thought. Cf. Declaration of 9 December 2015: “Corruption is a theft of democracy. It creates mistrust, pollutes institutions, interferes with every principle of equity, penalizes the economic system, scares away investors, and prevents talents from emerging. The opaqueness and malfunctioning of public institutions and the justice system affects the poor and the vulnerable, creates discrimination, exclusion, and rejection, and destroys job opportunities. Criminal organizations and the mafia thrive on corruption, suffocating the hopes of the young. We can and we must react against this unacceptable form of oppression. Defeating the mafias is within our grasp”.

benefit from a revision, and we would like to encourage a renewed commitment to its updating, especially since the next parliamentary term will mark the twentieth anniversary of its signature, which took place in 2000 in Palermo<sup>179</sup>.

Over the course of the Seventeenth Parliament, the Committee's investigative activities also included promoting and participating in a wide array of cultural initiatives, commemorative events, seminars, and roundtables, which have been referred to in the introduction. They include the Committee's active participation in all commemorations of 23 May and 19 July, and especially the 25<sup>th</sup> anniversary of the Capaci and Via d'Amelio massacres; cultural initiatives such as the "Anti-Mafia month" each March; institutional meetings with regional anti-mafia committees; institutional seminars marking the 50<sup>th</sup> anniversary of the establishment of the first Anti-Mafia Committee; events commemorating Rosario Livatino; the joint presentation of the annual report of the National Anti-Mafia and Anti-Terrorism Prosecutor; conferences with prosecutors and judges about protection measures; meetings with foreign parliamentary delegations; awareness-raising activities targeting academia and the promotion of scientific research and studies on the part of universities; and active participation in the mobilization of the States General in the fight against the mafias, organized by the Ministry of Justice in Milan in November 2017 to give a new theoretical basis to the fight against 21<sup>st</sup> century mafias<sup>180</sup>.

With a view to the long term and without prejudices, even before the emergence of certain scandals, the Committee's reflections on the constituency of the anti-mafia concerned, at least in part, the characteristics of the 'social anti-mafia', in order to critically examine the roots, evolution, and future of a civil movement whose values must be preserved, as they are essentially those of the Constitution. Instead, the focus should be on freeing that movement from needless overlapping efforts and from a divisive vision of legality as the exclusive province of a few. The movement's most authentic meaning can be re-launched through a process of 'secularization' that can turn it from a cult for the initiated – with its involuntary idols and high priests – to a civil religion shared by all and able to extend beyond the peculiar historical conditions that marked its birth immediately after the mafia war on the state, and that can move on from the distortions that in recent times stained the reputations of some of its protagonists.

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<sup>179</sup> International Anti-Corruption Day is jointly promoted by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Development Programme (UNDP). It focuses in particular on the negative impact of corruption on democracy, the rule of law, and the market. The General Assembly declared 9 December to be International Anti-Corruption day in 2003 with Resolution 58/4, in view of the opening for signature between 9 and 11 December 2003 of the United Nations Convention against Corruption (UNCAC). UNODC serves as the secretariat for the Mérida Convention, which entered into force in December 2005 and was ratified by Italy on 5 October 2009. As it was pointed out to the Committee, one of the issues is the absence of a mechanism to review and update the Convention; Italy has long spearheaded diplomatic efforts to introduce such a mechanism.

<sup>180</sup> The theses underpinning this theoretical construct lead up to the essential complementary practice entrusted to political action, of which the Committee has attempted to be the parliamentary engine driving the necessary legislative, administrative, and cultural propulsion. The conclusions of the States General regarded issues that broadly overlap with those discussed in this report, such as: the fight against the mafia as one of the priorities of political action; the changes undergone by the mafias and their globalization; corruption and the grey area; administrative prevention tools and the management of confiscated assets; social and labour policies; focus on minors; European and international outreach; the renewal of the civil anti-mafia movement; transparency and sharing of information; democratic regeneration to chase away the mafia's consensus; local politics in local bodies and the electoral strategies of political parties; 'bad companies' in non-party lists in local elections.

In addition to the survey on the culture of anti-mafia, the Committee also looked into the conditions of journalists threatened by the mafias and the sometimes ambiguous role<sup>181</sup> of the media, to which a specific report was dedicated for the first time<sup>182</sup>.

The Committee naturally also devoted attention to current events of interest, and not only those involving crimes, which provided much food for thought and discussion. These debates were based on acquiring an impressive amount of documentation on the legal proceedings related to the main judicial investigations into matters of organized crime, dissolution proceedings for municipal administrations infiltrated by the mafia, and interdiction orders of particular relevance.

The Committee's archives, a living trove of knowledge about the mafias and of the memories of anti-mafia activities in Parliament, were constantly augmented, probably to a greater extent than ever before, and provided an invaluable store of documentation for the Committee to perform its function and for Members of Parliament to fulfil their mandates. It is a crucial opportunity for knowledge available to all political forces, and may be even more valuable for opposition forces, who can access documentation from reliable sources that otherwise may not have been available to them. Close attention was paid to requests from scholars, journalists, and researchers; the Committee took it upon itself to publish classified documents of particular historical, political or autobiographical interest, such as the many verbatim reports from the sittings of the first Anti-Mafia Committee (which had never been published before), documentation on the Livatino case, records related to the murder of MP Piersanti Mattarella and the Portella della Ginestra massacre, and the symbolic approval, forty years after the fact, of the minority report filed at the end of the term of the first Anti-Mafia Committee by Pio La Torre in 1976, which report already contained all the bases for anti-mafia legislation. Unfortunately, these were only introduced after his murder and that of General Carlo Alberto dalla Chiesa.

Concerning scientific knowledge on the mafia, and with an eye towards establishing a new "science of legality", the Committee signed a Memorandum of Understanding with the Conference of Italian University Rectors (CRUI). On this basis, the Committee promoted the creation of the first doctoral degree programme on the mafia and several university research projects targeted at young scholars with the universities of Milan, Turin, Naples, and Calabria; these projects focus on issues related to the mafia method, the white-collar world, minors, and the dissolution of municipal administrations.

Much has been achieved, but much remains to be done.

We have deemed it appropriate to dedicate the conclusions of this Final Report, at the end of the Seventeenth Parliament, not only to what has been achieved, but to the legacy this Committee leaves to the next Parliament.

This legacy concerns two core areas.

The first is political in nature and regards the numerous avenues of inquiry that have already been traced, and which the Committee will be able to investigate more fully as part of its fact-finding functions through the mandate that will be conferred upon it by the law that will establish it.

The second is legislative in nature and concerns the measures to fight mafia powers that the new Parliament is already in the position to approve at the launch of the Eighteenth parliamentary term, as these measures are based on proposals that were drafted and described in detail by this Committee in its thematic reports.

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<sup>181</sup> Cf. sitting of 17 March 2015, hearing with the President of the National Order of journalists Vincenzo Iacopino, verbatim report n. 83. Concerning the interview with the son of Toto Riina that was broadcast during the RAI television programme *Porta a Porta*, and more generally the role of public television and radio in the fight against the mafia, see the sittings of 23 September 2015, hearing with the director of the RAI 1 television channel Giancarlo Leone, verbatim report n. 113, and of 7 April 2016, hearing with RAI president Monica Maggioni and RAI general director Antonio Campo Dall'Orto, verbatim report n. 149.

<sup>182</sup> *Relazione sullo stato dell'informazione e sulla condizione dei giornalisti minacciati dalle mafie* ['Report on the state of information and on the conditions of journalists under threat from the mafia'] (rapporteur: MP Fava), approved during the sitting of 5 August 2015, Doc. XXIII, n. 6.

The year 2018 began with the 70<sup>th</sup> anniversary of the entry into force of the Constitution of the Italian Republic.

In this regard, we cannot forget that our Constitution will not be fully implemented in its founding values of democracy and liberty unless full light is shed on the massacres and other crimes of a political and mafia nature of the early 1990s.

This Committee had received from the previous Anti-Mafia Committee all of the latter's work, which had been dedicated almost exclusively to investigating the manifestations of the relationship between the mafia and politics "which subsequently in history would lead to massacres and other crimes of a political and mafia nature"<sup>183</sup>.

The complex legal process concerning these events remains incomplete, and sadly unsatisfactory in terms of quenching the thirst for truth; the grounds for the sentences in the so-called 'Borsellino *quater*' trial, which was held in Caltanissetta, are expected to be published in the coming days.

The respectful wait for the conclusion of difficult legal proceedings was deemed suitable in order to prevent any superimpositions, which would in any case have rested on incomplete information. In the meantime, the political evaluation of certain matters was pending, although the Committee still deemed it essential to periodically update the state of knowledge concerning these matters through multiple hearings with members of the judiciary in Caltanissetta, and most importantly in order to heed the heartfelt appeals of the Borsellino family.

Nevertheless, in light of the time that has passed, the deaths of some of the protagonists, the issuing of final sentences and the statute of limitations underscore the need to gradually shift the focus of judgement from the courthouse to the pages of the political, and not just criminal history of Italy.

For this reason, we felt duty-bound to conclude this report with a chapter on the unanswered questions that remain about the dramatic era known as the mafia's war on the state.

A political interpretation of these events probably requires them to be examined in conjunction with other previous dramatic events, starting with the Aldo Moro affair, which remain mysterious in spite of all efforts, including recent ones, to uncover the truth<sup>184</sup>.

The year 2018 marks not only the 70<sup>th</sup> anniversary of the entry into force of the Constitution, but also the 40<sup>th</sup> anniversary of the murder of Aldo Moro.

There remains a suspicion that a thin, blood-red line links politically Via Fani with Via D'Amelio, a line that also runs through many other places both in Sicily and continental Italy, and where "highly sophisticated minds are trying to guide certain actions of the mafia. Perhaps links exist between the top levels of Cosa Nostra and hidden power centres which have other interests". Paradoxically, Giovanni Falcone's statement remains an unanswered question, and the political sphere cannot shirk from continuing to try to provide a satisfactory answer, as it is the only one – and the last one – that can still do so.

The past can only be understood in light of the present, and the present can only be understood in light of the past.

Over the last few years, we have lost many of the key players from that era: the death of Bernardo Provenzano in 2016 was followed by Salvatore Riina's death in 2017.

This begs the question of how the mafia was able to survive, and even get stronger according to the prevailing wisdom, in spite of the undoubted defeat of the most violent wing of the mafia, whose Corleone-born bosses are undoubtedly losers, perhaps the first and only in the history of Cosa Nostra to have spent their entire lives in prison, albeit after their excessively late capture.

We must know history if we do not want to be doomed to repeat it. From this standpoint, one of the factors behind the mafia's survival as a criminal evolution of sorts can be identified over the

<sup>183</sup> The Committee chaired by Senator Pisanu was unable to adopt a report. Cf. 16<sup>th</sup> Parliament, sitting of 9 January 2013, communications of the Chairperson on the major crimes and mafia massacres of 1992-1993, verbatim report n. 118.

<sup>184</sup> Cf. Parliamentary Committee of Inquiry on the kidnapping and death of Aldo Moro, report on activities, adopted during the sitting of 20 December 2016, Doc. XXIII, n. 23. V. pages 149-154 and 158-160 on the possible involvement in the Moro affair of associates of mafia-type criminal organizations, particularly the 'ndrangheta.

course of history – at least that of the 20<sup>th</sup> century – in its capacity to adapt and co-exist with external powers, whether they are national or international, and in its political skill in establishing relationships with other subjects in the pursuit of shared interests.

The strength of the mafias also lies outside of them. In the past, they have acted as a criminal service agency of sorts, in part thanks to the sovereignty they have sometimes been able to exert – through corruption, intimidation, or violence – over certain geographical areas or economic and administrative spaces.

In terms of risk factors, one must thus always keep in mind the possibility of alliances between associates of criminal organizations and certain sectors of civil society that can influence public opinion and serve as reservoirs of political support, and that can harbour the seeds of political extremism.

The Committee was able to identify the risks of such hybrid alliances in its investigation of football and the mafia, which also looked at the multifaceted world of ‘organized football fan clubs’, a proven meeting ground between common criminals, the mafia, and the political sphere<sup>185</sup>. Such risks cannot be ignored, at least theoretically, with regards to the fears of political instability that all transition phases related to elections, including the upcoming one, can engender.

The consensus enjoyed by the mafia continues to be a core issue with which the Parliamentary inquiry, in light of its political nature, could not fail to grapple with.

This consensus is built or induced in various ways. There is the archaic method of subjugation through fear, based upon explicit manifestations of violence, which still exists in certain parts of southern Italy and is linked to the unlawful exercise of security and ‘justice’ functions, which are expressions of the mafia’s power in a certain area. There is also a so-called ‘mafia welfare’, based on the provision of services and social rights that the State struggles to guarantee, and in which the mafia either replaces the state or takes over these services – such as health care, housing, and employment – in a parasitic fashion. But there is also a third form of consensus, which has accompanied the mafia’s expansion into the rest of Italy, and especially the north and centre, which is based on a pact of mutual convenience, on a silent allegiance induced by an agreement to exchange favours and accrue mutual benefits.

In the mafia economy, business relationships turn victims into accomplices, replacing violence with corruption. There is more guilt in voluntarily entering into a partnership with a criminal organization than in succumbing to subjugation by force. Consent does not erase this negative value; in fact, it worsens it. By the same token, it is ethically and politically unacceptable – and has negative consequences on EU Member States - that European statistical rules to calculate GDP include the economic values of illegal activities based on consensual transactions, with the paradoxical effect that one would have to consider the confiscation of drugs on the part of the police, for example, as an act against the national economy<sup>186</sup>.

The mandate for the next Committee must thus build upon this Committee’s intensive work on the relationship between the mafia and the political sphere, especially as concerns the transparency

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<sup>185</sup> *Report on the mafia and football* (Rapporteurs: MP Rosy Bindi and MP Marco Di Lello), Doc. XXIII, n. 31, approved by the Committee during the session of 14<sup>th</sup> December 2017, page 11: “The first sector identified by the Committee concerns public order and security in football stadiums, or better yet the infiltration of organized fan clubs by mafia-type criminal organizations, and through this, their interference with the activities of professional sport clubs. The findings of the parliamentary inquiry made it possible to identify increasingly deep forms of interpenetration between organized crime, ordinary criminals, and the violent fringes of organized fan clubs, which also harbour the seeds of political extremism. The politicization of organized fan clubs is an old phenomenon, and the fact that certain fan clubs identify either with the far right or the far left is common knowledge. Nevertheless, it is unsettling to see the presence of so-called ‘ultras’ football fans in all of the recent political rallies of the far right, showing how football terraces can serve as training grounds for ordinary, political, or mafia criminals and as criminal meeting places”. Cf. FIGC, federal court of appeals, joint sittings, ruling on documents 064-068/CFA – meeting of 4 December 2017 (Doc. 1715.1). For proposals on the problems related to the relationship between football companies and fan clubs, objective liability, and the introduction of controls on the ownership structure of football companies and on anti-money laundering measures, see par. 4.5.2 on football and the mafia.

<sup>186</sup> Session of 6<sup>th</sup> October 2014, hearing with ISTAT President Giorgio Allewa, verbatim report n. 57.

and selection of candidates for elected office and for political leadership positions, particularly at the local level.

From a legislative point of view, proposals to modify the Consolidated Law on the structure of local authorities with regards to the dissolution of municipal councils due to mafia infiltration, the administration of such authorities on the part of an extraordinary commissioner, and measures related to ineligibility for public office all fall within this purview.

Regarding the continuation of inquiries into political matters, also included is the updating of the proposal (so-called self-regulation code) concerning the formation of lists of candidates for European, general, regional, municipal, and local elections approved by the Committee during the session of 23<sup>rd</sup> September 2014, along with related monitoring activities carried out by the Committee on the occasion of every election held during the parliamentary term, and the updating and improving of operational instruments available to the Committee so as to provide both public opinion and political forces with certified information related to unclassified data on convictions and pending charges against all candidates for election. A related issue is the revision of the regulations on the criminal records registry and on the preparation of necessary measures to make this crucial information easily accessible.

Nevertheless, the issue of measures on the formation of lists of candidates and their quality – which in journalistic terms, used here for the first time, became known as the ‘presentability’ of the candidates – certainly does not end with the production of a clean certificate from the criminal records registry. In spite of some controversy, it should be acknowledged that the Committee had immediately identified an issue that turned out to be crucial for public opinion, and which has probably now become irreversible in the political debate.

Much like in the past, the Anti-Mafia Committee is where this idea was hatched and developed, as well as being the driving engine for it; it provided a venue for its discussion, perhaps the only possible venue that gave a guarantee of impartiality, as it is representative of all political forces. Acknowledgement of this function was implicit in the requests made by certain lists and political parties for the Committee to vet their candidates.

In particular, the instruments and information made available to political parties and movements should be reconsidered so that they may be politically accountable for their choices, for the purposes of a transparent and effective selection procedure for candidates, and more generally for the accreditation of anyone running for elected office, beginning with measures that can no longer be delayed, such as the law implementing article 49 of the Constitution on the organization of political parties. In this regard, we refer the reader to the proposals contained in the report approved during the session of 27 April 2016<sup>187</sup>, which refer both to proposals to amend existing laws and to the choices made by political parties, including their adoption of best practices.

By the same token, the appeal launched by the Ministry of the Interior on the occasion of the States-General on anti-mafia actions organized by the Ministry of Justice on 24<sup>th</sup> November 2017 in Milan cannot remain unheard. The Minister called for “a solemn pact between parties to reject the mafia vote” that has greatly sullied local elections, especially in the south, where the number and importance of municipalities dissolved due to mafia infiltration has grown exponentially.

A discussion on the updating of the fundamental instrument provided for under article 143 of the Consolidated Law on the structure of local authorities (TUEL) on the dissolution of municipal administrations due to mafia infiltration will have to contemplate a ‘third way’ between dissolution and the conclusion of the inspection process, so as to broaden in a flexible way its conditions of use, both in the phases that precede and follow the decision on whether or not to dissolve the administration. Additionally, stronger action must be possible vis-à-vis the administrative officers, who in many cases are essentially irremovable.

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<sup>187</sup> *Relazione sulla trasparenza delle candidature ed efficacia dei controlli per prevenire l'infiltrazione mafiosa negli enti locali in occasione delle elezioni amministrative* [Report on the transparency of candidacies and the effectiveness of control to prevent mafia infiltration in local bodies on the occasion of administrative elections], (Rapporteur: MP Rosy Bindi), approved by the Committee during the session of 27<sup>th</sup> April 2016, Doc. XXIII n. 13.

It should also be noted that the gradual deterioration of the rule of law in many local authorities – mostly but not exclusively in the south – has gone hand in hand with the emerging symptoms of a not-so-strategic retreat on the part of national political parties from many parts of the country, leading to a proliferation of non-party or ‘civic’ lists as the only political proposals in local elections.

Non-party lists, which exist outside of a clear political matrix or alliances, have often proven to be ‘bad companies’ of sorts, an underhanded way to wink at both traditional parties, from which they recycle exiles or bit players, and at more ambiguous local power-brokers, often close to criminal subjects, especially in small towns in traditional mafia strongholds.

The mafia’s polluted consensus becomes proportionately much stronger when voters fail to turn up in the polls due to abstention. Bad consensus can only be chased away by good consensus: it is up to political parties and democratic political forces to rebuild this consensus on a shared, legitimate foundation. In this regard, it was discouraging to note the absence of the leadership of the main parties from the States General, in spite of the presence of Italy’s highest public officials, including the Head of State. This responsibility is also an opportunity, perhaps the last one that the political sphere has to regain credibility, in the best interests of Italy and its institutions, which can only be strong if they enjoy the trust and consensus of the citizenry.

In this regard the fight against the mafia and its nefarious effects is also a patriotic struggle, based on the values of democracy and the Constitution, whose defence is the sacred duty of all citizens, bar none. The civil heroes that we will celebrate on 21<sup>st</sup> March, the first day of spring, did not shrink from this duty; this date will join the now symbolic dates of 23<sup>rd</sup> May and 19<sup>th</sup> July. Their heroic virtues shone through in their everyday lives as servants of the state and defenders of the Constitution especially through the brave fulfilment of their duty and the taking on of their full responsibilities, whether as politicians, judges, police officers, labour union leaders, journalists, or citizens.

The large majority of them came from traditional mafia strongholds in southern Italy, which in spite of their historical poverty have nevertheless given our country the moral and civic nobility of constitutional patriots who served the Republic at the cost of their lives. It is no coincidence that these regions, which suffer from the presence of the mafia and have been drained by the economic crisis that forces young people to emigrate in search of work, remain the basins that produce the majority of state officials, law enforcement officers, and public administration officials.

The lesson that arises from this is that the anti-mafia engagement is also an extraordinarily ordinary *habitus*, in which the conscious exercise of one’s rights and daily compliance with one’s duties makes every citizen a sentinel against the assault on the common good on the part of mafia culture and powers.

An extremely strong sense of legality, applied both in his professional and everyday life, supported by his Christian faith<sup>188</sup>, was the hallmark of the life and work of Rosario Livatino, the “kid judge” to whom the Committee dedicated the collection and publication of acts and documents that were essential in setting up the audience granted by Pope Francis on the anniversary of the death of this Sicilian magistrate<sup>189</sup>.

The commemoration sought by the Committee, a paradigm of many other such initiatives, was also meant to be an acknowledgment of the concrete and current political and moral value of Rosario Livatino’s life and history, which gave impetus to the law on witness protection, now finally

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<sup>188</sup> The above-mentioned special audience with Pope Francis for the members and staff of the Parliamentary Committee of Inquiry into Mafia-related and other criminal organizations, including foreign organizations, was granted on 21<sup>st</sup> September 2017 on the 26<sup>th</sup> anniversary of the murder of judge Livatino. In her opening remarks for the ceremony, the chairwoman of the Anti-mafia Parliamentary Committee, MP Rosy Bindi, pointed out that “the yardstick of legality is the common good, that we are called upon to achieve as Christians and as citizens, in the awareness of the radical distance that separates the mafias not only from the Gospel, but also from our Constitution”. Cf. text attached to the verbatim report for the session of 4<sup>th</sup> October 2017.

<sup>189</sup> *Per la memoria di Rosario Livatino. Pubblicazione di atti e documenti* [In memory of Rosario Livatino. Publication of documents and records]. Report approved during the session of 21<sup>st</sup> September 2016, Doc. XXIII, n. 21.

re-written. Indeed, the law was inspired by Piero Nava, who was also heard for the first time by the Committee to relay the motives for his immediate choice to testify against the judge's murderers, without ever thinking back on his choice between good and evil, between bravely doing his duty or cowardly turning the other way<sup>190</sup>. With the beatification process underway for Rosario Livatino, Pope Francis's teachings on the "spiritual fight" against the mafias are ever more clear.

One cannot serve two masters. Transparency towards the citizenry, within the proper balance between subjective rights and duties towards society, was also the driving principle – in keeping with constitutional values and their application - behind the investigation into the mafia's infiltration into the freemasonry in Calabria and Sicily.

The investigation grew out of events that took place in the municipality of Castelvetro (TP), the birthplace of Matteo Messina Denaro, which was subsequently dissolved due to mafia infiltration<sup>191</sup>. The investigation's findings confirmed the extent of the mafia's infiltration into the freemasonry, despite denials on the part of the latter's leadership. They highlighted the risk factors for the public good arising from the proven presence of actors who hold public office or manage public resources in gatherings in which they may find themselves side by side not only with members of the upper classes, but also with members of criminal organizations interested in infiltrating them, facilitated by the masonry's secret nature and rigid hierarchies.

The Committee agreed on the need to expand the field of inquiry to all Italian regions, especially in the north, which is increasingly falling prey to relations between the mafia and local élites. This will make it possible to fully assess the scope of a phenomenon in which the freemasonry risks playing the role, perhaps unwittingly, of a clearing house for an 'invisible power' inimical to democracy, and in which various political, business, and criminal interests converge. This has already taken place in Sicily and Calabria. From a legislative standpoint, it is imperative to revise Law n. 17 of 1982, which was approved in the wake of the P2 scandal<sup>192</sup>, by making it clear once and for all that secret organizations are forbidden under article 18(2) of the Constitution, even when they pursue lawful goals. The identification of the contents of the draft law on confidential and secret association, agreed upon unanimously by all the political forces represented in the Committee, is thus part of the bequest left to the new Parliament whose term will begin on 23<sup>rd</sup> March 2018.

This bequest includes other issues and proposals that are ready to be included in the programme and schedule of activities of the relevant Committees and the plenary assemblies, including the implementation of Enabling Acts and the monitoring of the implementation of recently approved legislation, which either directly or indirectly fall within the purview of anti-mafia legislation in the prevention-oriented approach followed by the Committee during its own work.

These undoubtedly include a revision of the rules on the special prison regime established by article 41-*bis* of the prison administration law so as to make them more effective in terms of prevention; the revision of the public tenders system contained in the public procurement code; the monitoring of the application and of certain critical aspects of the new anti-mafia code, both in terms of the remarks made by the Head of State on the occasion of the promulgation of the law concerning 'extended confiscation' and with regard to the newly-introduced judicial control of companies; the application of prevention measures, regarding both persons and assets, as concerns corruption and other crimes against the public administration<sup>193</sup>; the monitoring of the implementation of the new law reforming professional orders; the revision of laws regulating public gambling operations; public

<sup>190</sup> Session of 21<sup>st</sup> September 2016, hearing with Piero Ivano Nava, verbatim report n. 171.

<sup>191</sup> *Relazione sulle infiltrazioni di cosa nostra e della 'ndrangheta nella massoneria in Sicilia e in Calabria* [Report on *cosa nostra* and *'ndrangheta* infiltrations in the freemasonry in Sicily and Calabria] approved during the session of 21<sup>st</sup> December 2017, Doc. XXIII, n. 33.

<sup>192</sup> Law n. 17 of 25 January 1982, "Norms to implement article 18 of the Constitution regarding secret associations and the dissolution of the association known as Loggia P2".

<sup>193</sup> Article 1 of Law n. 161 of 17 October 2017 specifies the list of targets of these preventive measures, and includes those charged of assisting associates of criminal conspiracies and of criminal conspiracy with the intention to commit crimes against the public administration, in addition to the offences of terrorism, aggravated fraud for the attainment of public funds, and stalking.

health as a sector in which organized crime is particularly interested, not only in order to infiltrate public procurement procedures for medical supplies, but also to become involved with this essential public service, which has traditionally been a reservoir of votes; and the law on voluntary disclosure for the taxation of capital held abroad.

In this regard, it would be desirable, as soon as the next parliamentary term starts, to devote a specific parliamentary session to the measures to fight the mafias. This would also be an important signal for all.

The bequest for the new Parliament also includes a reflection on the institutional role of the Anti-Mafia Committee as concerns two different aspects, namely the Committee's possible new mandate, and its organization and powers.

Concerning the above, an initial list of questions is linked to the definition of the tasks to be assigned to the new Committee and the identification of the issues to be included or further developed in light of the work undertaken; indeed, over time there has been a gradual consolidation and constant expansion of the Committee's terms of reference<sup>194</sup>. The experience of the 2013-2018 term suggests that the mandate should be further fine-tuned.

Preliminarily, the opportunity could be taken to address a longstanding issue regarding the Committee's name. It would be desirable for the law establishing the next Committee to officially attribute it, at least as an alternative, the name with which it has conventionally been known ever since it was first set up: indeed, it has been always colloquially known simply as "*Commissione Antimafia*", which has then been applied to all subsequent Committees<sup>195</sup>.

In the tasks assigned to it, and in the fields of inquiry that the Committee will be able to explore, the new ideas detailed in this Report should be included with respect to monitoring the implementation of laws to fight the mafia. Therefore, when discussing the law establishing the new Committee, it would be desirable to take account of the following needs:

1. Carrying out the above-mentioned monitoring of the implementation of the new anti-mafia code, of new measures regarding witness protection, and of article 41-*bis* of the prison administration law, including with regard to individuals released from prison after finishing their sentences;
2. With regard to ascertaining and assessing the nature and transformation of the mafia phenomenon, developing investigations into the relationship between the mafia and corruption, and making an effort – to be extended to include all elements that constitute external participation in a mafia association – to improve the identification - and whenever possible and not counterproductive – the formal definition of such elements, especially concerning collusion, in order to more effectively punish the grey area comprising professionals and experts who assist mafia organizations;
3. Continuing the investigation on *cosa nostra* and the *'ndrangheta*'s infiltration of freemasonry and other secret or confidential organization, expanding the scope of the inquiry to include all Italian regions;
4. Delving deeper into the issue of fighting mafia-type criminal organizations active in the international drug trade, which as the National Anti-Mafia and Anti-Terrorism Prosecutor pointed out on numerous occasions, continues to be the most significant funding source for organized crime;

<sup>194</sup> For a more in-depth examination, cf. Activity report, approved during the session of 21<sup>st</sup> December 2017 (Rapporteur: MP Bindi), Doc. XXIII, n. 34.

<sup>195</sup> Cf. the final report approved on 4<sup>th</sup> February 1976: "The debate that ensued in Parliament over the conclusion of the Committee's work was widely reported in daily newspapers and weeklies: this evidenced the great interest with which public opinion followed the Committee's activities, now colloquially known as – with a significant abbreviation of the official name attributed to it by the law that established it – '*Commissione Antimafia*'" (*Atti Camera, Doc. XXIII n. 2, VI legislatura, cap. II, "L'attività della Commissione nella IV legislatura"*, p. 52).

5. Continuing the investigations on mafia-politics relations, by verifying the legal requirements for voting and running as a candidate and promoting effective policies for the selection of candidates on the part of political parties and movements;
6. Verifying the adequacy of the structures and resources for the prevention and repression of criminal phenomena, with a particular focus on human resources in the judiciary and police forces; the revision of the tasks of surveillance judges, at least with regard to the implementation of the article 41-*bis* prison regime; and the possibility of introducing a new organizational model for judges that would mirror the territorial jurisdictions of anti-mafia district prosecutors' offices;
7. Building on relationships with local and regional bodies for countering the activities of mafia-type criminal organizations in order to better analyse the proposals drafted by these bodies;
8. Evaluating the nature and historical characteristics of the civil anti-mafia movement and monitoring the activities of national and local associations engaged in fighting the activities of mafia-type criminal organizations, including in order to assess their contributions;
9. Monitoring attempts on the part of the mafia to influence or infiltrate local bodies, with a particular focus on bureaucratic and administrative structures and on the role of officials, employees, and aides or contractors of any type; extending monitoring efforts, where possible, to the efficacy of existing regulations on the public administration and the measures to implement law n. 124 of 7 August 2015 on the re-organization of the public administration, with particular regard to the prevention of corruption, public disclosure, and transparency;
10. Promoting initiatives to raise awareness on the historical, institutional, and social value of the struggle against the mafias and on the commemoration of mafia victims, including as regard the implementation of law n. 20 of 8 March 2017.

A second group of questions concerns organizational matters and is related to the initial implementation of the new electoral law and its possible effects on the composition of parliamentary groups. In this regard, it is worth noting that should there be a reduction in the number of parliamentary groups in the next Parliament, the hypothesis might once again be taken into consideration – as had been the case from the Third to the Tenth Parliament, and as was laid out in two Bills discussed at the beginning of the current parliamentary term<sup>196</sup> - to reduce the number of members of the Committee; a similar amendment that made it to the Floor of the Chamber of Deputies failed in light of the need to ensure representation for the smaller parliamentary groups as well.

A smaller number of members – 30 to 40 – would undoubtedly facilitate the Committee's work. In light of the possible reduction in the number of parliamentary groups as a result of the new electoral law, this reduction in the number of Committee members should be evaluated in terms of its compliance with article 82 of the Constitution on representing the proportionality of existing parliamentary groups and guaranteeing adequate representation for smaller groups.

Additionally, since the new electoral law is mostly proportional, an alternative to the election of the chairperson by Committee might be a return to the system that was used during the Tenth, Eleventh, and Twelfth Parliaments, when the electoral system was fully proportional. At the time, the Presidents of the Senate and the Chamber of Deputies were responsible for jointly selecting the chairperson of the Committee from the ranks of MPs and Senators who were not already members of the Committee itself. A return to the old system might facilitate the rapid launch of the Committee's work in light of the risk of possible stalemates should the various political forces represented within the Committee fail to agree on a chairperson.

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<sup>196</sup> Seventeenth Parliament, Chamber Documents 482 and 887.

During the last several parliamentary terms, the laws establishing the Committee called for its membership to be renewed at the end of the first two years of work, with the option of members being reconfirmed. In light of the particular responsibilities attributed to the Committee and in order to ensure the continuity of its work, it would seem opportune to extend the members' terms to the entire duration of the parliamentary term – or even to a longer fixed term – and ensure the same duration for the office of the chairperson, as laid out in several Bills submitted during previous parliamentary terms<sup>197</sup>. Indeed, it should be noted that the renewal procedures that were launched two years after the establishment of the Committee were never brought to conclusion in the Sixteenth and Seventeenth Parliaments.

Another related question concerns the applicability of the self-regulation code to the Committee's members. We agree with the orientation that has emerged over the last several parliamentary terms to explicitly include in the law establishing the Committee for MPs and Senators to inform the respective Presidents of their Houses on whether any of the conditions listed in the self-regulation code apply to them, referring to the last resolution on the matter adopted by the Committee on 24<sup>th</sup> September 2015, and any amendments to it that may be made during the next parliamentary term.

This implies a greater responsibility on the part of the parliamentary groups, who nominate the Committee's members, and the Presidents of the Senate and of the Chamber of Deputies, who then appoint them. It currently appears unfeasible – in keeping with the general principles of parliamentary organization and with articles 1 and 67 of the Constitution – to attribute to the Presidents of the Senate and of the Chamber of Deputies the power to impose penalties against members of parliament who are not in compliance with the self-regulation code; however, the rules could be supplemented by requiring that the President of the relevant House pass on this information to the chairperson of the Committee.

Concerning membership of the Committee, it must be noted that over the course of the Committee's work some of its members were implicated in legal episodes. This mandated further consideration of the membership issue, which consideration is not the Committee's responsibility, and on the status of Committee member as compared to the general prerogatives of members of parliament<sup>198</sup>.

Concerning the Committee's powers, over time we have seen a gradual consolidation of its responsibilities. The experience of the last several years suggests that a further fine-tuning of these responsibilities is in order, so as to account for the role taken on by the Committee in setting political guidelines in the fight against the mafia.

A highly salient aspect of the Committee's approach was that its analytical work was aimed not only at the drafting of reports, but also at the subsequent submission of detailed Bills signed by Committee members. In recent years, other parliamentary committees of inquiry have emphasized this aspect of their work, which aims to create a specific parliamentary forum for each of the issues identified in the laws establishing each committee, in keeping with the Italian Constitution, which places the power of inquiry within the legislative process.

This positive evolution of the Anti-Mafia Committee's work towards legislative activity mandates a reflection on a possible active role of the Committee within legislative procedures.

The Final Report mechanism, albeit strengthened by the subsequent issuing of guidelines addressed to the Houses of the Senate and the Chamber of Deputies, as has been the standard during this parliamentary term for the reports drafted by the Committee, is not always an adequate tool for building upon the specific skills acquired in the field by a committee of inquiry as well-established and highly structured as the Anti-Mafia Committee, and thus to guarantee the contribution of the Committee itself in defining important measures to fight mafia organizations, by integrating the

<sup>197</sup> Cf. AC 688 of the Sixteenth Parliament.

<sup>198</sup> Cf. sessions of 10<sup>th</sup> May 2017, chairwoman's statements on the quality of membership in the Parliamentary Committee of Inquiry into Mafia-related and other criminal organizations, including foreign organizations, verbatim report n. 204, and of 17<sup>th</sup> January 2018, chairwoman's statements, verbatim report n. 240.

Committee's analyses and proposals into the broader legislative activities of the Parliament and ensuring greater consistency in lawmaking<sup>199</sup>.

Indeed, today's mafias should be fought by closing loopholes, especially in sectorial legislation: for every Bill being discussed, one should examine whether it opens any such loopholes, because this is an issue that goes well beyond the specificity of anti-mafia legislation.

It may perhaps be desirable to include in the law establishing the next Committee the possibility for the Committee to invite the Government to draft an "anti-mafia impact assessment report" that analyses the risk factors and potential impacts of draft legislation on the fight against organized crime, at least with regard to Bills of particular significance under consideration in either the Senate or the Chamber of Deputies.

It would also be desirable for the next Committee to be put in the position of being able to interact with the Executive, and where possible express its opinion on certain appointments for which the Executive is responsible, particularly that of the head of the national agency in charge of assets confiscated from organized crime (ANSBC): in order to do so, a specific amendment should be made to article 111 of legislative decree n. 159 of 2011. Such an opinion could also be expressed on other appointments, including for instance the commissioner for the coordination of anti-racket and anti-usury activities pursuant to article 19 of law n. 44 of 1999.

Another relevant issue concerns the Committee's authority in terms of assessing the adequacy of existing regulations and the functioning of information systems and databases used by the judiciary and by police forces and concerning mafia-type criminal organizations. These instruments are now essential for prevention and law enforcement anywhere and at any level.

As detailed above, over the course of this parliamentary term the Committee devoted considerable attention to the infiltration of local institutions on the part of organized crime, a very serious problem as underscored numerous times in this Report. In order to boost efforts to monitor mafia attempts to interfere with and infiltrate local authorities, it would be desirable to explicitly give the Committee the power to ask the Government to provide detailed reports on the extraordinary administration of municipalities where municipal councils have been dissolved due to mafia infiltration, or on individual cases in which it would be necessary to further ascertain the actual risk of mafia interference in the democratic life of local institutions.

Regarding the latter, one solution could be to make it mandatory for the Government to inform the presidents of the Senate and the Chamber of Deputies, along with the chairperson of the Anti-Mafia Committee, whenever procedures are launched to verify whether the conditions exist for the dissolution of municipal councils, unlike now, where article 134 of the TUEL (Consolidated Law on Local Authorities) calls for publication in the Official Journal only of the decree of dissolution or else of the decree of dismissal of the matter following a negative outcome of the verification procedure.

Relationships with regional and local authorities (committees, observatories, consultative bodies) specifically devoted to analysing and fighting criminal organizations throughout Italy are particularly important: over the course of this parliamentary term, the Committee has undertaken major institutional networking efforts with these local authorities, serving as a point of reference with regard to policies for the prevention and repression of organized crime. Regional representatives who took part in the meetings that were held<sup>200</sup> all stressed the importance of an effective dialogue and coordination with the Anti-Mafia Committee, so as to establish a continuous exchange of best practices and improve the incisiveness of collaborative efforts between different institutional levels to fight the mafia nationwide; in this regard, the hope has been expressed to establish a forum to facilitate institutional dialogue between regional anti-mafia committees within the framework of the

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<sup>199</sup> Similar needs exist in certain regional legal systems, such as those in Campania and Calabria, which at least theoretically endow committees of inquiry with a significant preparatory role in defining regional legislation on matters of their competence.

<sup>200</sup> Cf. especially the conference held in the Senate on 5 October 2017 on "Fighting the mafias: regional and national institutional instruments", which followed a similar initiative that took place in the Chamber of Deputies on 25 March 2015, with the President of the Republic in attendance.

Conference of Regional Councils, while maintaining regular coordination with the parliamentary Committee. Similar provisions are already in place in certain regional laws.

Finally, the law that establishes the Committee already includes an explicit focus on anti-mafia and anti-racket associations, since it calls for consulting with the national and local associations most active in fighting the activities of mafia-type criminal organizations. The variety and complexity of the anti-mafia civil movements and the increasingly important role they play, especially in light of their willingness to join criminal proceedings against the mafia as injured parties, makes it necessary to constantly monitor these associations to ensure they are operating properly.

A final group of questions concerns the need to ensure the continuity of the work carried out by the Anti-Mafia Committees during the transition between one parliamentary term and the next<sup>201</sup>.

One such aspect has to do with the management of archived documents from the Committees that were active during previous parliamentary terms. In this regard, law n. 87 of 2013 (much like the laws establishing the previous Committees) only states that the Committee is responsible for digitising the documents acquired and produced over the course of its activities and the activities of previous Committees. For this reason, in keeping with longstanding practice, at the beginning of the parliamentary term the Committee undertook to obtain the entire body of documentation collected by previous Anti-mafia Committees, with the same obligations of confidentiality, in order to be able to access it as part of its overall archives. It thus would be useful for the law establishing the next Committee to automatically give it ownership over previously acquired documents, without the need for additional procedures, and the authority, in keeping with practice, to decide on the classification of records and documents, without prejudice to the Rules of the historical archives of the Senate and Chamber of Deputies.

This Final Report, together with the summary of the activities carried out by the Committee over the course of the parliamentary term, aimed to bring to the attention of the Parliament and public opinion the Committee's findings along with some more general thoughts on the functioning, competences, and powers of the Committee, together with a proposed re-draft of the law establishing it. This innovation will not influence the decisions of the next Parliament, but may prove useful during the discussion of the law establishing the next Anti-Mafia Committee to be adopted at the beginning of the Eighteenth Parliament.

Although this procedure has essentially 'stabilised' over 55 years of parliamentary activity, a new law will nevertheless need to be approved in order for a Committee – now perceived to be essentially permanent – to re-establish itself and resume its work, which must maintain continuity with that of previous Committee. In this regard, as the work of the Seventeenth Parliament comes to an end, it is only natural and opportune to express the hope that the political forces represented in the next Parliament will include as an urgent priority in the schedule of activities the discussion of the law establishing the next Anti-Mafia Committee and approve it as soon as possible.

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<sup>201</sup> The same holds true for the other Committees of Inquiry that are re-established during every parliamentary term.