



Types of organised crime in Italy. The multifaceted spectrum of Italian criminal associations and their different attitudes in the financial crisis and in the use of Internet technologies

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Abstract

This paper discusses the opportunity to differentiate four different criminological types of organised crime in Italy by drawing on a subset of case studies and interviews to law enforcement officers and experts collected for two on-going research projects. We hypothesise that, since these types exploit different social opportunity structures for their criminal activities, they have different capacities of adaptation and react differently when confronted with different kinds of innovations and changes. We test these four types against two significant phenomena that have been deeply impacting Italian society, among others, recently: the commercialization of the Internet and the economic and financial crisis that has hit Europe since late 2008. We conclude that these types offer a valid help to guide our understanding of what organised crime is today in Italy, as well as to assess the capacity of the existing legal framework to properly face all them. These criminological types could also serve as lenses to filter the different experiences of organised crime in other European countries, thus facilitating comparative research.

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1. Introduction

Despite the fact that ‘organised crime’ has been a major policy and research topic in many European countries – and especially in Italy – for a number of years, this ‘umbrella concept’ (Von Lampe, 2002 p. 191) appears insufficient to guarantee a common level of understanding in public and scientific debates. Indeed, an absolute consensus on what constitutes organised crime is still missing: the very nature of the criminal phenomena described by this label makes its definition problematic (Van Duyne and Van Dijck, 2007; Wright, 2006), to the point that it appears that there are ‘as many description of organised crime as there are authors’ (Albanese, 2000 p. 410). First of all, as emphasized by Longo (2010), several disciplines – such as criminal and international law, criminology, sociology, and international relations – deal with (transnational) organised crime in their research agenda and debate about its definition according to their different scientific focus. Secondly, organised crime is conceptualised around the world in different ways (Albanese et al., 2003): as underlined by Savona (2010 p. 133), there is a real ‘cultural difficulty’ due to the dissimilar contexts in which ‘the aggregate paradigm of organised crime’ was born.

Debates on the opportunity to include in the notion of organised crime phenomena such as gangsterism or certain types of corporate crime are not new (Wright, 2006). Furthermore, in the last decades this label has evolved to include not only cyber criminality (Choo and Smith, 2008; McCusker, 2006) and international groups (Wheatley, 2010), but also the interactions between organised crime and terrorism have been increasingly underlined (Makarenko, 2005). After all, defining a group involved in illegal activities as organised crime suggests the existence of a whole mechanism to tackle, thus orienting the responses of law enforcement (Cressey, 2008 p. 299) and allowing an ‘emotional kick’ that helps to get resources and powers (Levi, 1998 p. 336).

In Italy the use of the wording ‘organised crime’ seems to be especially problematic and risks to be misleading: indeed, the same label may identify a whole range of different crimes and groups, ranging from ‘traditional’ mafias to new illegal market players that often take the form of looser gangs (Lavorgna et al., 2013). The main problem seems to be caused by the fact that for the expression ‘organised crime’ the ‘dilemma between generalisation and specification’ (Edwards and Gill, 2002 p. 204) has not yet been fully solved, probably because it is not a neutral and aseptic notion but one that is deeply soaked with cultural elements of the country. However, this ambiguity in using the term ‘organised crime’ might be misleading: the risk is that to maintain its evocative capacity while its normative and descriptive values are lost.

This article originates from some reflections over the difficulties encountered in the course of a number of interviews to key observers with expertise on organised crime conducted in Italy by the authors: indeed, depending on the interviewees’ areas of specialization, setting the ground on ‘what do we mean by organised crime’ was often needed before starting with the actual interview. By drawing on a subset of case studies and interviews to law enforcement officers and experts collected for two ongoing research projects, this article discusses the emergence of four different types of organised crime groups in Italy, which explicate a more complex narrative over concerns of what organised crime is. We hypothesize that, since these typologies exploit different social opportunity structures for their criminal activities – i.e., social ties providing access to profitable criminal opportunities (Kleemans and De Poot, 2008) – they have different capacities of adaptation and behave differently when confronted with different kinds of innovations and changes. Thus, it is important to keep them conceptually separate in the rhetoric on organised crime.

The following section presents a brief overview on the notion of organised crime in Italy and beyond. In this context, the existing legal grounds to identify organised crime are examined in details. In the third section, the four criminological types describing different forms of organised crime in Italy are presented, and the capacity of the existing legal framework to properly frame all them is questioned. The fourth section tests these models against two significant phenomena that have been deeply impacting Italian society: first the use of the Internet and the advent of so called eSociety and secondly the economic and financial crisis that has hit Italy and Europe since late 2008. Finally, conclusions are presented on the capacity of these four types to guide our understanding of the Italian panorama.

Even if it is true that for its sad long tradition of mafias Italy is a peculiar country for what concerns organised crime, we believe that the criminological types identified in this country can serve also to other European countries as lenses to look at their own experiences of organised crime and to identify existing patterns as well as new trends.

2. Legal definitions of organised crime

2.1. *International and European prospects*

Legal definitions on organised crime are very different from one other and heavily depend on the criminal phenomena as experienced in each country and in different historical moments. However, since crime is by definition identified by law, how organised crime or the participation in organised criminal groups are criminalized is of the foremost importance in combating serious criminal activities of this kind, and the different baseline in determining what is organised crime and what not orient differently the practical work of the relevant agencies (Sergi, 2011). Without lingering too long on these aspects, which exceed the scope of this article, it should however be underlined how both academic literature as well as national and regional institutions – influencing and influenced by national legal definitions – also tend to consider a whole range of different crimes and groups within the same label of organised crime (Calderoni, 2010; Finckenauer, 2005).

This heterogeneity is somehow reflected in the main international and European legal instruments dealing with organised crime, which present a broad definition of ‘organised crime’ or ‘criminal organisation’ and a relatively high threshold setting a minimum sentence requirement that has to be met. As concerns the international level, the reference frame is the United Nations Convention against Transnational Organised Crime, adopted by the General Assembly resolution 55/25 in November 2000 according to which an ‘organised criminal group’ is simply

‘a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit’ (art. 2(a)),

a ‘structured group’ being

‘a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure’ (art. 2c)).

At the European level, the Framework Decision (2008/841/JHA) defines ‘criminal organisation’ any

‘structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit’ (art. 1.1),

a ‘structured association’ being

‘an association that is not randomly formed for the immediate commission of an offence, nor does it need to have formally defined roles for its members, continuity of its membership, or a developed structure’ (art. 1.2).

Whereas on one side these definitions embrace a wide range of phenomena through very wide interpretations, they eventually allow to consider organised crime as a phenomenon defined through the seriousness of certain crimes. Focussing on crimes rather than structures allows practitioners to focus on the practical side of the fight against organised crime, rather than indulging in theories. In this sense, European and International instruments might serve to inform and complete legal notions of organised crime as intended at the Italian level, which – as we will see – mostly engages in evaluation of structures of the groups, thus helping to expand the range of case law for considerations (Sergi, 2013).

2.2. Italian legal framework against organised crime

The Italian approach to organised crime is thought to be primarily an approach to mafia: indeed, a tendency to consider organised crime law as essentially anti-mafia law is confirmed by authors who have maintained that ‘Italian organised crime mirrors in the law’ (Mitsilegas, 2003 p.56) thus operating a *de facto* overlapping of the concepts. Italian law has always struggled to handle the legislation against organised crime and mafia mainly because the phenomena are constantly evolving and changing. Furthermore, changes brought to the relevant legal framework have always reflected the necessity to broaden the limits of what could be included in the tougher anti-mafia legislation, thus enhancing the investigative capacities of law-enforcement agencies by allowing them the use of more intrusive forms of surveillance and covert activities for certain crimes, or to persecute groups posing significant threats but that were not initially taken into consideration (as in the case of the ‘Ndrangheta and foreign criminal organisations, included in the anti-mafia legislation only by Law 125/2008 and Law 50/2010).

Generally speaking – and differently from framework legislation at the International and European levels – the legislation in Italy focuses more on targeting the structure of the various organised crime groups, trying to understand networks and changes in power roles; the actual offences, the crimes are only of secondary interest in the definition of organised crime (Jamieson and Violante, 2000; Tranfaglia, 1991). Direct effect or example of this focus on the structure of organised crime rather than on actual crimes, is the offence of *membership/belonging to a criminal organisation*, which is quite dated in Italian law. In fact, when the Criminal Code was introduced in 1930 in the form we know it today, article 416 already criminalised this type of ‘simple’ organised crime by requiring three elements for its commission: an associative bond, an organised structure, and a criminal program.

These elements have been further characterized in article 416-*bis* – membership in mafia-like criminal association – introduced in 1982 with Law 546 (so called ‘La Torre’ Law).¹ Fundamentally, until 1982 the idea of a mafia-like organisation was not recognised by Italian Criminal law, meaning that judges and authorities were not bound to prosecute mafia *per se*, but only as long as they recognised it as a criminal organisation under article 416. When article 416-*bis* was introduced, as emergency response to traumatic events for the country, the crime already carried a certain expectation and a certain degree of definition referred specifically to Cosa Nostra, its structure and its *modus operandi* (Farrell, 1997; Lupo, 2011). In fact, article 416-*bis* not only requires an associative bond, but also needs for this bond to be established through intimidation, submission, and code of silence (*omertà*). The criminal program, moreover, may include crimes linked not only to the economic field, but also the public sector and the political one; again, mafia-like activities vary from a wide range of criminal activities to the legal businesses.

The necessity to introduce these specifications has been dictated by the need to stigmatise mafia-like conducts (Ardizzone, 2002 p. 2027) the illicit character of the associations within article 416 is indeed difficult to prove when it came to mafia-like associations, given the high degree of *omertà*, silence, always ruling people’s behaviours in these situations. Besides, the penalty provided by article 416-*bis* is harsher than the one described by article 416. In general, Ardizzone (2002) considers the crimes of membership in criminal associations as a multi-offensive crime of danger: such organisations, especially when using mafia methods, represent a threat both for public order and for freedom of auto-determination of people intimidated by intimidation and violence.

The ‘La Torre Law’ (Law 646/1982) introducing the membership offence in mafia-like associations is the first and arguably more important of a number of tools whose impact has proven essential in targeting the establishment of a shadow economy run both through the profits of criminal activities (Arlacchi, 1986) and through growing infiltration of mafia powers in politics and social environments (Farrell, 1997).²

As the Former National Anti-mafia Prosecutor notices (Vigna, 2006) in the Italian Code of Criminal Procedure and in other Italian laws there is more than one reference to organised crime, including both mafia-like crimes and crimes of simple criminal organisations. Offences more or less linked to mafia and organised crime virtually permeates every piece of legislation in Italy. Vigna (2006) starts his analysis from article 51(3)-*bis* of the Criminal Procedure Code (as modified by Law on security measures no.92/2009). Article 51(3)-*bis* of the Criminal Procedure Code is crucial to understand the way the system works, because it essentially establishes that in those cases where a link could be set with one of the two forms of organised

¹‘The illegal association is of mafia-type when the participants take advantage of the intimidating power of the association and of the resulting conditions of submission and silence to commit criminal offences, to manage or control, either directly or indirectly, economic activities, concessions, authorisations, public contracts and services, or to obtain unlawful profits or advantages for themselves or for others, or with a view to prevent or limit the freedom to vote, or to get votes for themselves or for others on the occasion of an election’ (translation in Council of Europe, 2004: 181).

²In the decade 1982–1992, 114 laws have been implemented in Italy for anti-mafia purposes. It is well accepted by Italian and foreign scholars that the great part of these measures have always been emergency answers to a growing mafia infiltration both in politics and in the social environment (Farrell, 1997). A number of fundamental measures have been enacted on the wave of traumatic historical events in those years and especially with the killing of anti-mafia judges Falcone and Borsellino in 1992. In particular, specific anti-mafia laws have introduced the DIA (Direzione Investigativa Antimafia), the Anti-Mafia Investigative Administration and the DNA (Direzione Nazionale Antimafia), the National Anti-Mafia Administration.

crime offences recognised by law, the criminal procedure changes and the *double-track system* begins. According to the majority of authors (Jamieson and Violante, 2000; Smedovska, 2010; Vigna, 2006) it is precisely this double-track system that represents the winning card of the Italian anti-mafia. In practice this means that offences linked to organised crime activities, in whatever form (both article 416 and article 416-*bis* of the Criminal Code) will be deferred to appropriate offices for investigations and prosecutions. Vigna (2006) clarifies what the category of mafia-like crimes according to art. 51(3)-*bis* encompasses in the following list:

- (i) membership in mafia-like associations;
- (ii) membership in associations aimed at unlawful drug trafficking;
- (iii) kidnapping for ransom;
- (iv) membership in criminal associations aimed at smuggling of foreign cigarettes and other tobacco products;
- (v) enslavement or holding in slavery or servitude;
- (vi) human trafficking, purchase or sale of slaves;
- (vii) membership in criminal associations aimed at perpetrating any of the three aforementioned crimes.

This reading of criminal law and criminal procedure confirms that in Italy, whereas two main typologies of organised crime offences are recognised by the law in terms of structure of the criminal groups, a tendency to expand and define which crimes fall within those two main categories never ceases to develop. Vigna (2006) also confirms how mafia-like crimes are mostly offences committed by using typical mafia methods, such as intimidation or code of silence, to smooth the activities of criminal associations aimed at a variety of criminal activities. In this sense, targeting the structure of the group more than the actual crimes allows a wider and more flexible understanding of the phenomenon as social rather than just legal. What emerges is that mafia-like crimes are more than just crimes: they are ‘styles’ in committing offences. Eventually, this rational behind the analysis of mafia crimes is what has allowed case law and jurisprudence to coordinate various aspects and notions of the criminal code and the code of criminal procedure in order to try and cover phenomena which were not directly found in the written law, thus expanding the remit of the law itself beyond its immediate interpretations.

An extremely important example of this evolution in the legal fight against Italian mafias – achieved through this expansion of interpretations – comes the criminalisation of external support to mafia association, i.e., the *concorso esterno in associazione mafiosa*. Where article 418 of the Criminal Code provides a general incrimination for those who support associates of criminal groups, the Italian Supreme Court in 1994 (Corte di Cassazione, Sentenza Demitry, 5 October 1994) has developed a new criminal category of judicial offence, which covers those cases where a person, usually a politician or a person of social high status, free from any formal subjection to the mafia organisation, effectively contributes to its activities, helping to implement criminal plans, to reinforce the association itself and obviously gaining substantial profits. This new offence, still not received by statutory laws, draws attention on a worrying *vacatio legis* – a gap in the law – and has proven particularly effective in prosecuting people from the political and business sectors, often linked with mafia not as members but as external supporting people. This is the offence which allows Italy and Italy only to fight those cases that would normally remain in the so called ‘grey zone’ of organised crime, the zone too close to criminality and too close to legal spheres through corruption and infiltration (Armao, 2003; Sciarrone, 2009 p. 29).

3. Legal gaps and possible emerging types of organised crime in Italy

In the previous section we have seen how Italian legislation provides two types to frame organised crime groups in the Italian Criminal Code: ‘simple’ belonging to a criminal organisation (art.416) and mafia membership (416-*bis*). We have also seen how, despite the *double-track system*, there is a tendency of the anti-mafia legislation to pervade the discourse on the countering of organised crime. This expansive capacity of the notion of ‘mafia’ is not limited to the law. Indeed, also in common language the word ‘mafia’ has lost most of its value in identifying a specific kind of organisation (Cosa Nostra) and in public discourse it has become a sort of umbrella term including not only mafia-like organisations (namely the ‘Ndrangheta, the Sacra Corona Unita, and the Camorra or at least the Casalesi clan, the most powerful group within the Camorra), but also smaller organised criminal groups with a local dimension – such as the Mala del Brenta (Lavorgna et al., 2013) – and phenomena of macro-criminality – such as foreign criminal groups operating in Italy – whose internal composition is significantly different from that of southern Italian mafia families (Paoli, 2007: 870).

If in common language almost every type of organised criminal group seems to fall within the notion of mafia, it is clear that not all of them fit the requisites to be taken into consideration by the anti-mafia legislation as described above. Indeed, whereas convictions and charges for mafia membership (416-*bis*) are very popular and very effective in theory and most of all also in practice in certain territories mainly of the South of Italy for traditional mafias (Licata, 2012), the use of anti-mafia legislation seems problematic when outside those territories. At the same time, the use of ‘simple’ membership offence is not always as immediate as it could be because in practice evidence requirements are not easily met. Therefore, on one side a question arises on what could be done and is actually done when a criminal group does not reach the levels of mafia-type organised crime but exceeds the criteria of the simple organised crime offence; on the other side it needs to be considered that even though the law provides two types to frame organised crime groups in the Italian Criminal Code, some loose networks of criminals might not reach the level of organisation and sophistication required by those laws, thus, in practice, creating a number of gaps in the law that criminals might indeed exploit.

The existence of these systemic problems, intensified in recent years because of changes in the criminal panorama, emerges both from interviews conducted with national and district anti-mafia prosecutors and from constant monitoring of criminal activities on the Italian soil, either from newspapers or from legal case laws. Whereas loose network of criminals could be dealt with through simple conspiracy charges when their characteristics make them something less than ‘organised crime’ in the legal sense³ – thus exceeding the purpose of this paper not being labelled ‘organised crime’ – for other types emerging from case laws there seems to be confusion in terms of boundaries and application of legal provisions. These types are identified as ‘organised crime’ in public and scientific debate, but are they recognisable as such by the Italian legal system? Such ‘emerging’ types could be placed beside the ‘legal types’ along a spectrum; at the two extremities we would find those with a clear and proper frame of reference in the law (as in articles 416 and 416-*bis* of the Criminal Code), while the two intermediate types are more problematic. Since we have already addressed the main characteristics of criminal groups as identified by the Italian legislation (which correspond to our first and last

³Through articles 110 of the Italian Criminal Code, which regulates conspiracy in crime (*concorso di persone*).

types *a* and *d*), we will now introduce intermediate types *b* and *c*, underlying potential gaps of the existing legislation in covering them.

a) ‘Simple’ Criminal Organisation ex 416

This is a general type that could describe any type of criminal association which occurs when at least three persons join together with the aim of committing an indefinite program of felonies (*delitti*) if they have a permanent and structured internal organisation. The responsibility of participants differs on the basis of their actions. Article 416 specifies that, for sentencing purposes, there is the need to differentiate promoters, associates, members, constituents, bosses and others if necessary. This is where the judicial difficulty lies, as a thorough investigation on the structures is always needed and not always the roles within the organisations are clear enough to be differentiated.

b) Mixed Criminal Networks

Some of the participants in the criminal network might have connections with traditional mafias, but this is not their identification element. Indeed, they often do not need the mafia ‘style’ in committing offences, and the actual crime committed – typically, a profit-driven crime – is more connotative than the structure of the group itself. In this type we can find both Italian and ethnic groups, as well as mixed groups. They tend not to invest in the territory nor they do control it: they rather operate in the margins of society and their opportunistic presence in certain areas is basically linked to their illegal trades (Pennisi, 2012). This type seems very close to the notion of ‘transit crime’ (Kleemans, 2007), which beyond Italy is considered the main activity of most organised crime groups. Participants in these criminal networks could be cells of bigger groups at the international level, but they could also belong to really small groups that are nonetheless potentially very dangerous, for instance because they have become very efficient through the use of ICTs.⁴ They could not even meet the requirements of article 416; they could not be part of a permanent organisation but rather cooperate with different parts of a criminal network according to transient criminal opportunities, or the trafficking flow they are carrying out could not be covered by article 416 because it is not considered a felony (*delitto*) but only a misdemeanor (*reato contravvenzionale*), as in the case of trafficking in endangered species or art trafficking. The seriousness of these criminal organisations and the profitability of their criminal activities could sometimes justify anti-mafia instruments such as the possibility to use seizure and confiscation of the proceeds of crime.

⁴Indeed, as underlined by Wall (2007), thanks to new technological developments it is likely that also individuals can carry out complex and far-reaching activities, given their possibility of a greater control over the criminal process. Organised crime receives a special treatment because it is considered potentially more dangerous: criminal actors work together not only because in certain cases concertation is necessary for a successful criminal outcome but also because the organisational framework provides them with something qualitatively different, that allows them to have a different *delinquent ambition* and consequently a different *scale of activity* compared to the individual offending (Harding, 2007). Logically there are three modalities for criminal activity: ‘solo commission’ collaboration by two people, and activity conducted by three or more people’ (Brenner, 2002). According to Brenner (and this view is coherent with most legal definitions of organised crime), only the third alternative can represent an organised criminal activity: a single individual cannot involve organisation, and an organisation of only two persons inherently implies a limited level of harm. However, this theorization might be not necessarily true with the use of new ICTs, when activities carried out by one or two persons could potentially have global reach and cause long range harm.

Furthermore, all these transit crimes could be hindered by the possibility to use investigative tools such as undercover operations or controlled delivery, which are currently allowed only for some of those criminal activities that are included in the anti-mafia framework (for instance drug trafficking and human trafficking) (Law 146/2006).

c) Migrated Mafia Groups

Mafia transplantation (Varese, 2006) and adaptation of traditional mafia-like groups in new territories are emerging theoretical issues in criminological research (Kleemans, 2013). As concerns Italy, the presence of southern Italian mafias has been largely documented also in central and northern regions: the presence of mafia groups in the north-west and their colonizing attitude has been reported at least since the 1970s, but this phenomenon has received significant attention in public discourse only in recent years, when law enforcement operations – such as ‘Crimine-Infinito’ in 2010 – have shown the degree that mafia transplantation has reached in the area (Direzione Nazionale Antimafia, 2011). While in some administrative regions of the north-west (as the cases of some municipalities of the Milan and Turin hinterland areas have shown) there have been also problem of political infiltration (Chiavari, 2011; Paoli, 1994; Savatteri, 2012; Varese, 2006), the situation seems different in other parts of Italy, for instance in the north-east. The administrative region of Veneto, in particular, is considered as ‘the area of the future’ for Italian mafias (Pennisi, 2012), especially as concerns the ‘Ndrangheta and some Camorra clans (Direzione Nazionale Antimafia, 2011). However, it seems that the ‘Ndrangheta in Veneto is not going to colonize and to invest money as it has done in Lombardia or Piemonte, but it is rather ‘*delocalizing*’ (which in economics indicates the transfer of industries in new areas which have competitive advantages compared to the main ones), while the main centre remains in the homeland Calabria. The idea is to create wealth in northern Italy to converge in the south. Similarly, Camorra groups in Veneto have been reported to make profits from usury and extortion to send money to their homeland to help the families of convicted mafia members. This is why mafia groups in some parts of Italy seem to be more interested in relationships with the professional and entrepreneurial world than with politics, and links to the latter exist to the point that they are functional to the achievement of other goals (Lavorgna et al., 2013; Pennisi, 2012). The novelty of this phenomenon makes it difficult to estimate reliable numbers regarding the presence of mafias in the north-east. If in Lombardy a minimum of 500 ‘Ndrangheta members was estimated (Direzione Nazionale Antimafia, 2011) it is likely than in Veneto, where mafias are delocalizing rather than colonizing, the numbers are inferior.

d) Mafia-like Organised Crime ex 416-bis

Mafia-like associations – originating in regional specificities in Southern Italy and committed to a multiplicity of functions and goals – can be described as ‘functionally diffused entities, which claim to exercise a political dominion over their areas of settlement’ (Paoli, 2003 p. 143); these mafias not only are players in criminal markets but also exploit violence and intimidation to obtain space in the legitimate economy, moved by profit as well as by their will to impose their presence to productive activities in their territory (Paoli, 2003 p. 174). Indeed, especially in traditional areas, for mafia groups the control of the territory in competition with the State is an essential characteristic (Sciarrone, 2009 p. 10). Article 416-*bis* insists more on the particular *nature* and *intensity* of the associative bond at the basis of the mafia

group, indeed characterized by intimidation and condition of subjugation and silence. Even though the actual nature of the mafia-type associative bond is not comprehensively defined by the Criminal Code and has been indeed specified in the years by the Corte di Cassazione (Antolisei, 2008), we have already seen as the main focus of the law and judicial procedures is the *modus agendi* of mafia groups more than their specifications in terms of crimes committed.

4. The four models in practice: examples and discussion

We believe that it is extremely important to keep these criminological models conceptually separate both in practice and in legal-criminological research. The fact that organised crime differs from other forms of crime because it necessarily relies on peculiar social opportunity structures (a net of social relations and personal contacts) has already been discussed in the literature (Kleemans and De Poot, 2008). What we argue is that the opportunity structure is extremely different in different models, or types, of organised crime: indeed, each of these models has different characteristics, different aims, a different degree of sophistication and a different relationship with the society it is part of. With different social opportunity structures, these models should have a different capacity of adaptation when confronted with social changes: do different types of organised crime take advantage of potential new criminal opportunities in the same way? The increasing usage of the Internet and the current economical and financial crisis are taken as example of significant events that are having a deep impact on society and are thus likely to impact as well the opportunity structure exploited by organised crime groups.

4.1. Internet

The society we all are living in has been affected by major changes in the ways in which we interact with each other because of the advent of the Internet. The term eSociety has emerged to describe the appearance of different electronic services aimed at easing everyday routines, ranging from e-health and e-education to e-government and e-business (Magoulas et al., 2007). Crime is part of this society, and it is at least likely to think it is not immune to these changes. However, there is still lack of clear evidence concerning the real presence of organised crime in the eSociety and the extent to which organised criminal groups use the Internet. McCusker (2006 p. 257) has described this lack of clarity as ‘a tension between logic and pragmatism’. Logic suggests that the opportunities the Internet gives for high profits with relatively low risks should attract traditional organised criminal groups, which have always shown significant adaptive abilities in utilizing new technological opportunities. On the other hand, however, pragmatism implies that it is not clear yet whether these groups have the capacity to exploit the profitable opportunities offered by the Internet environment. Has organised crime really expanded in the new realm of eSociety? To what extent this is true?

Assuming that our four types of organised crime depend on different social opportunity structures, each of them should adapt differently to the new Internet environment. Thus, the answers to the questions above will depend on the criminological type of organised crime considered.

Mixed criminal networks exploit the new Internet environment, and cases linked to this model were the easiest to identify. What is interesting to underline is that in this case the Internet does not seem to have only the significance of a communication tool (e.g. through Skype and emails) but it has at least the potentiality to affect criminal markets in a much more significant way. Some tendencies can be identified: first of all, the Internet seems to be boosting

certain trafficking flows more than others. In particular, criminal activities that were probably once perceived as ‘lesser serious’ (and thus they do not reach the level of *delitti* in order to be considered under article 416 of the Criminal Code, such as the wildlife trade) or that can more easily play with gaps in legislation (such as smart drugs) seem to have been impacted more by the Internet. Similarly, the Internet has opened the way for criminal niche markets, by acting as a ‘convergence setting’ (Felson, 2006), a forum, where not only persons with peculiar interests (rare cactus, stamps, performance-enhancing drugs) can ‘meet’, but also potential ‘sellers’ and buyers can come across. In many cases criminals do not even bother to move to the Deep Web (i.e., the part of the Internet that cannot be reached through standard search engines) for advertising their products, but they rather stay in the Surface Web: indeed, the risk for them to be caught remains minimum given the enormity of the environment that should be controlled, and the impression is that law enforcement operations dealing with these types of illicit trade show only the tip of the iceberg. It is easier and less risky to get in touch with potential customers without having to meet them in person. Mixed criminal networks do not need a strong connection with the territory for their criminal activities: they can take fully advantage from the Internet anonymity, and their online reputation is thus unrelated from their physical one. Moreover, where a structured criminal association was once needed because a minimum degree of sophistication seemed necessary in order to commit certain crimes, some organisational layers now do not seem to be fundamental anymore: for instance, both the payment and the product delivery can be made from a safe distance, through online banking and automated postal services. Very loose organisations are implicated in these transit crimes, and – at least potentially – individuals or two co-offenders could be as efficient as a criminal network.

However, a higher degree of sophistication is observed in mixed criminal networks dealing with more traditional organised criminal activities (such as trafficking in traditional drugs) and that are likely to meet the requisites of article 416. For them, the Internet seems to be especially useful as a communication and management tool to enhance their efficiency and lower the risks (for instance, to avoid wiretappings). In one case online advertising was used to recruit – through deceit – drug mules, but this looks like an isolated event. Many of these criminal groups seem to have moved to the Deep Web at least to sell their products (the most notorious example is Silk Road, an online black market operating through TOR, a system that conceals its users’ identities and their network activities), but so far the characteristics of those criminal groups are not clear yet, also because the monitoring of this type of activities started only very recently.⁵ A few cases were identified where participants in the criminal network had connections with traditional mafias, but these links were not the central features.

A similar use of the Internet as a communication and management tool can be found in migrated mafia groups. As an experienced anti-mafia prosecutor pointed out in one of the interviews, this is a tendency that can be more easily observed in relation to some Camorra clans or ‘Ndrangheta groups operating in northern regions or abroad: indeed, these groups are less hierarchically structured than Sicilian mafia and more prone to interact with the entrepreneurial world and with persons that do not belong to the mafia association (and thus for them article 416-*bis* does not apply, at most the *concorso esterno*) but that could have an expertise, for instance, on Internet matters. Also in those cases, however, the impression is that the Internet is not significantly changing the social opportunity structure: even if these criminals are mobile, flexible and prompt to embrace new criminal opportunities (for instance, in one case the

⁵For instance, as concern drug trafficking, a dedicated monitoring unit in the D.C.S.A. (Direzione Centrale per i Servizi Antidroga, the Department of Anti-drug Policies in Italy) is operative only since March 2012.

Internet was used to set up a fraudulent mechanism for money-laundering thanks to the connection with a broker operating abroad in the legal economy), they need face-to-face interactions to build trust.

As concern Italian mafia-type groups in their traditional territories the situation appears different. Indeed, these organisations depend on their strong connections with the territory, and for many of their activities (extortion is probably the most blatant example) the physical presence is what makes the difference. The social opportunity structure they are resting on does not match very well with the Internet usage and apparently it is still working good enough that they do not feel the need to make any relevant change. Even if in certain cases the Internet is used as a communication tool to avoid wiretappings, it seems that traditional groups are quite reluctant to go online. One of the interviewee has drowned an interesting parallelism with the entrance of the Sicilian mafia in the drug market: these types of criminal groups seem to be more cautious, they have to weight all the pros and the cons. Moreover, the persons with higher status are not digital native. From this point of view, it could be that the situation will change in the forthcoming years, as new generations are used to use computer networks for all their routines. It is not surprising that media news report a couple of cases where online social networks were used by members at the lower level of the organisation to identify and study victims' habits before killing them. A completely different aspect is instead the one concerning the involvement of these criminal groups in Internet gambling or in 'offline', traditional gambling (and in particular horse racing and dog fighting) that is nonetheless 'advertised' via the Internet for instance with YouTube videos (Troiano, 2012). For these uses, indeed, the Internet offers a possibility to expand the criminal market without affecting the network of social relations at the core of the organisation.

4.2. *Economic and financial crisis*

An analysis of the relation between the economic recession and organised criminal groups' activities cannot be carried out by assessing how different models of groups have reacted to the new financial strains because the financial crisis needs to be seen as an overarching condition that has affected every sector and every single aspect of our economy – and therefore also crime – since 2008 (OECD, 2009). Therefore, where the Internet is in itself an opportunity to embrace or discard for criminal groups and has produced a tangible, visible advancement in society, the financial crisis only indirectly affects organised crime after having altered demands and offers for goods and services in the real economy. With this in mind the analysis will proceed by focussing on two types of criminal activities, usury and counterfeiting, which have increased because of the financial crisis.

The financial crisis that in the past five years has hit the Western World, has provoked a drastic reduction of cash flows and market value for a number of businesses, which have automatically become more easily targeted by criminal phenomena. The crisis has deeply impacted the way organised crime groups in Italy have changed their operational system both in terms of emerging activities – as in the case of renewable energies or investments in gold – and in terms of revival of traditional activities – such as the '*ortomafia*' or those activities related to the gambling industry (Sergi and Lavorgna, 2012). The opportunistic behaviour and the versatility of some criminal groups have allowed them to twist the economic situation into new possible sources of profit. The identification of new opportunities exploited by established organised criminal groups represents one of the effects of the financial crisis, while, on the other side, forms of micro-criminalities, says an anti-mafia prosecutor in an interview, have

complicated the whole scenario of the criminal underworld. Most of the time, the necessity to increase profits in the easiest and quickest way has brought more or less organised networks of criminals (responding to logics of our models *a* or *b*) to claim positions of powers and links with mafia clans because the brand of the mafia acts as a guarantee in Italian criminal markets. The confused consequences of these kinds of behaviour make it even more complicated to assess the actual situation.

Whereas it seems quite logical that the financial crisis has boosted opportunities for crime and organised criminal activities, Italian traditional mafias have been touched very little by the lack of liquidity plaguing the rest of the world. The availability of cash of traditional groups has allowed them to act in various directions. First, the economic crisis has caused an increase in phenomena of *usury*, which, on one side has always been a mafia business, and on the other side has recently taken different forms and have been practiced more and more even by mafia clans who were once indifferent to these practices. The XIII Report by [SOS Impresa \(2011\)](#) and the Annual Relation of the DNA in December 2011 explain that new forms of usury have been recorded in recent years. It is the case of the *daily* usury (mostly for small and medium companies), which allows the whole process to be completed in one day only: borrowing money in the morning and giving it back with massive interests in the evening. Victims are not only the usual usury victims such as gamblers, retailers and entrepreneurs; because of the economic recession also members of the working class, clerical workers and professionals have turned to loan sharks.

Mafia-type usury in the south of Italy (typology *d*) differs both from usury carried out by other criminal groups (typologies *a* and *b*) and from usury carried out in non-traditional mafia locations, (typology *c*). In fact, in their traditional homelands, mafia clans are not interested in high interest rates, but usury is rather used to serve two main purposes, as confirmed by prosecutors and by the [SOS Impresa Report \(2011\)](#) the first one is offering a functional service, which expands social consent; the second purpose is that, by constantly increasing cash flows and by keeping links with legal activities, usury represents a valid alternative to usual tactics of money laundering.

Migrated mafia groups, on the other side, follow different rationales in the way they carry out usury in non-traditional mafia location, mainly in response to concerns of unemployment and access to credit. In the central and northern areas of the country, mafias have found a fertile ground for usury, money laundering, real state investments, and for taking over vulnerable business activities. Indeed, traditional mafias seem to enjoy a great appeal towards the entrepreneurial system in northern Italy by offering entrepreneurs with difficulties in accessing bank credit what they need, i.e., credit, which eventually translates in mafia members seen as reliable and welcomed business partners ([Pennisi, 2012](#)).

Usury represents a very good example for our analysis because, as confirmed by the [DNA National Report \(2011\)](#), it is in this practice that the differences among various types of organised crime are mostly visible. In an overall assessment of cases, four different types of loan sharks have been recorded by [SOS Impresa \(2011 p. 204\)](#), which are relevant to our argument: a) occasional criminal organisation usually internal to the workplace; b) local criminal organisation; c) professional and specialist criminal organisation; d) mafia-type criminal organisation. Indeed, it is through these categories that institutions tend to evaluate and prevent risks of usury in different areas of the country.

Another area in expansion in this period of economic recession has been *the counterfeiting market*. Indeed, in a period of economic crisis, it is safe to say that counterfeit products are chosen and not just accepted by people who cannot afford top-quality products. Whereas

traditional mafias, especially around the area of Naples, have always been very dynamic in counterfeiting as low-risk and very profitable activity, especially in the area of fashion, mixed criminal networks have been increasingly exploiting this growingly profitable occasion, especially in regions like Tuscany (Florence), Lazio (Rome) and Lombardy (Milan), where they have become predominant. Both prosecutors and entrepreneurs have become aware of groups of Chinese origins and networks with operational centres in Eastern European countries who, on one hand, are able to offer work forces at extremely low salaries and, on the other hand, operate indifferently inside or outside the Italian borders. However, also mafia clans have increasingly taken part to the counterfeiting business in these regions, especially in liaisons with Chinese groups, as demonstrated by a number of investigations carried out since 2008 (Operation Grande Muraglia, 2008; Operation Cian Lui, 2009 etc). The participation of mafia clans, especially of the 'Ndrangheta, in this type of activities alongside foreign criminals, has been often referred to as '*assistance*' (SOS Impresa, 2011 p. 362), especially for matters related to borders control and for tax evasion techniques. Indeed, for counterfeiting activities these mafia groups do not need to control the territory or to appeal to the mafioso 'style'. They rather act coherently to the mixed criminal networks type, interacting opportunistically with other groups and the legitimate entrepreneurial world to carry out their business-like activities.

Overall, the economic crisis has weakened controls and heightened opportunities of low-risk but high-profit criminal activities. In this sense, all organised crime types in our spectrum have benefited from the crisis. In particular, activities of mafia-type groups in our types *c* and *d* are believed to run with different intents, as demonstrated in the case of usury and will therefore act in different ways accordingly. The economic crisis has shaped and intensified needs and reactions of different social realities across the country, which present diverging social opportunity structures eventually exploited by organised crime in various ways. The four criminal types are prone to react and adapt to these different social realities according to a number of evaluations – clearly not always in full awareness – of opportunities, needs and structures of the realities they find themselves in.

5. Conclusion and further discussion

A certain part of Italian scholarship seems still to think about organised crime in terms of Mafia (Bianchini and Sicurella, 2007; Santino, 2006), even if some consider traditional Italian mafia only as 'a species of a broader *genus*, organised crime' (Varese, 2001 p. 4). A broader approach to organised crime in transnational settings cannot avoid agreeing with the second view. In fact, if mafia-like groups are considered a subset within the superset 'organised crime', other complementary subsets have to and need to be addressed as well. We have identified a total of 4 subsets, or types, in the Italian organised crime scenario. We have shown how these types rest on different social opportunity structures, essentially because they stem from different aims: for instance, while the maximization of profits is the ultimate purpose of mixed criminal networks, this is not always the first concern of mafia-like groups, especially in their homelands (Paoli, 2005). While mafia-like groups often assume the role of underground political entities or directly challenge the social order by competing with legal firms in legal markets, this is not the case for criminal networks engaged in illegal or illicit trade. If the 'military' force, the large number of members and the capability to be flexible in political arenas are what can still measure the power and the dangerousness of traditional groups exploiting strong ties with the territory, this is no longer true for other types of organised crime

groups who increase their efficiency through other means, being these new technologies or strategic contacts in networks of influences.

It is common knowledge that organised crime groups operate as opportunistic economic agents that react and adapt to contingent drivers, ranging from alliances or competitions among organisations to political and economical conditions (Galeotti, 2005; Naim, 2006; Savona, 1998). However, the way in which various groups operate and adapt directly depends on relations with the broader society that differ for each type we have identified. Suffice it to think how the nexus linking economic sectors (or political power) and organised crime completely changes in different types, varying from cooperation to antagonism. It follows that if different types prosper differently according to the various substrata they can exploit, also the measures needed to counter these phenomena may differ.

A conceptual distinction between the four models identified has, therefore, to be kept in mind in the agenda to counter organised crime. In practice, different organised crime groups call for different measures both on the legal and the social level. From a legal point of view, we have introduced the debate on some of the gaps in the legislation, which could be problematic in addressing certain organised criminal groups and their activities. In line with the approach suggested by the European and the International instruments, a reflection on the notion of ‘seriousness’ should be undertaken and accompanied by a thorough analysis of different organisational structures employed by the various groups. With regards to the element of seriousness, an approach which prefers to focus on the activities more than the structures of criminal networks has been preferred in other European countries (Sergi, 2013) with different criminal law heritage. Focussing on activities is one side advisable in terms of adequate and multi-level response to a threat, but on the other side risks to shift the focus more on the visible manifestations of criminal networks rather than their (usually hidden) core. A deeper understanding of the changing structures of criminal networks – starting with the analysis of the emerging types discussed in this paper – helps combining traditional knowledge and tools of the law with innovative harm reduction strategies which might help covering those areas, those gaps, that the law cannot cope with. Such an analysis is important because it allows to reassess and question the dangerousness on the territory of medium or large criminal groups and loose/smaller groups – whether in new activities or in traditional activities through innovative ways; in fact, it is not always the case that a larger group poses a higher threat than a smaller group using different techniques. Secondly, the analysis is crucial because it could improve the dialogue with other countries experiencing organised crime in various ways which are likely to be different from the traditional mafia experiences of southern Italy, but that could nonetheless be closer and share similarities with one of the other models.

In conclusion of this article, some considerations about future directions in research can be proposed. For instance, the actual use of legal provisions for simple criminal association and mafia-like criminal association across the Italian regions could be questioned in order to see whether or not opportunity – in the form of geographical location – plays a role in the way the criminal groups work. Eventually, the types presented and explored in this paper could be tested against other events with substantial impact on society that could open the way for new criminal opportunities, such as political crisis, environmental disasters, and so on. On an even more challenging task, it would be interesting to see whether and how different types are more or less prone to engage in certain types of activities, such as corruption, in the course of their criminal endeavour. Finally, the whole spectrum of typologies could be tested against different theoretical perspectives on organised crime (Kleemans, 2013) to assess how different groups.

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