

ORGANIZED CRIME AND DRUG TRAFFICKING IN ITALY*

Original Scientific Paper

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Abstract

Reason for writing and research problem(s): In the global drug market Italy is both a destination and a transit country. Although the main position within the drug market in Italy have the local mafias, foreign criminal organizations play an important role at all levels of the drug chain across Italy. Among the foreign actors involved in the drug trafficking there are criminal groups from the Balkans. Their relationships with local criminal organizations shows to occupy a great slide of criminal markets by merging economic and cultural elements, thereby posing significant challenges to law enforcement agencies in terms of investigations, and also to scholars in terms of theoretical understanding.

Aims of the paper (scientific and/or social): The aim of this paper is to explore the characteristics of organized criminal groups operating in drug business in Italy.

Methodology/ Design: Data on drug related organized crime in Italy will be presented through analysis of findings revealed by investigation of two criminal operations (*Loptice* and *Elefante Bianco*) presenting the most common characteristics of Western Balkan groups and Albanian groups respectively. In order to collect the data, interviews with law enforcement officers were carried out.

Results/ Findings: Although the legislative and investigative instruments, developed in the last forty years, have been proved to be very effective against the criminal activities carried out by organized crime, the national mafias and foreign criminal associations keep challenging Italian society. The experience acquired in the

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fight against the Sicilian mafia suggests to face these complex forms of criminality not only from a penal perspective, but also from a socio-economic and cultural one.

Keywords

organized drug trafficking, organized criminal groups, criminal operations, Italy

1. INTRODUCTION

It is a common place to observe that drugs in Europe are traded through different routes. One of the most important is the Balkan route, that have three branches: the Northern (Turkey-Bulgaria-Romania-Western and Central Europe), the Southern (Turkey-Greece-Italy/Western Countries), and the Western (Macedonia-Albania-Western Europe or Macedonia-Kosovo/Serbia-Bosnia and Herzegovina [BiH]-Croatia-Western Europe or Bulgaria-Serbia-BiH-Croatia-Western Europe) (United Nations Office on Drugs and Crime [UNODC], 2014).



Figure 1. *Drug trafficking routes* (UNODC, 2014, p. 9)

The story of the Balkan route is linked to the 1990s Yugoslavia wars that influenced criminals' choices to transport illegal goods. Indeed, the conflicts in Croatia and BiH moved the route towards the Southern countries, including Kosovo, Macedonia and Albania. As a consequence, Kosovo became crucial for heroin trafficking (Racioppi, 2015, p. 37; UNODC, 2014). The Balkan route remains nowadays the main entry for the trafficking of heroin into the European Union [EU] (European Police Office [EUROPOL], 2017, p. 38; UNODC, 2014).

According to UNODC's estimates, about 170 tonnes of heroin produced in Afghanistan travel along this route towards Western European countries (total value: USD 28 billion), where about two-thirds of the drug trafficking proceeds are carried out (an annual amount of approximately USD 18 billion: Italy is placed in the fourth place, after France, United Kingdom and Germany, with 1.5 billion USD) (UNODC, 2015).

The routes of heroin crossing the Balkans are various. In Albania, the substance, introduced by the Macedonian and Greek sides, is stored mainly in the cities of Tirana and Valona while a smaller part enters Kosovo from Turkey (through Bulgaria and Macedonia or through Bulgaria and Serbia) and then it reaches consumer countries through two main routes, including by sea and by land. The first crosses the Adriatic Sea, reaching the Italian ports of Eastern coasts; the second one crosses the countries of the former Yugoslavia to reach the Western European markets. In Romania the substance is introduced by sea (Port of Constance) or by land from Moldova, as well as by air; once it enters, it is transported to Serbia, and then to the Western European market. Significant amounts of heroin from Turkey are passing through Bulgaria. Bulgarian criminal organizations have contacts with criminal groups operating in Africa and the Middle East. In recent years, there has also been an increase in the flow of heroin from Albania, managed by criminal groups of Serbian and Albanian ethnicity.

From the Balkan route cannabis herb and cannabis resin are traded as well. According to the main international drug reports, Albania is the main source of herbal cannabis trafficked to the EU (EUROPOL, 2017; UNODC, 2014). The herbs travel from the ports of Durres and Vlore (UNODC, 2014, p. 21). Even cocaine is transported through the Balkan countries. The quantity, however, is much inferior compared to the amount trafficked from South America to Europe via Spain or via the Netherlands [in 2012 around 350 kg of cocaine was seized in South-Eastern Europe (UNODC, 2014)].

The aim of this paper is to explore characteristics of organized criminal groups operating in drug business in Italy. Drug related organized crime in Italy will be presented through analysis of findings revealed by investigation of two criminal operations (*Loptice* and *Elefante Bianco*), presenting the most common characteristics of Western Balkan groups and Albanian groups respectively. In order to collect the data, interviews with law enforcement officers (policemen and magistrate that have carried out investigative operations against Balkan criminal groups) were carried out between October and November 2017.

2. THE ROLE OF THE BALKAN CRIMINAL GROUPS IN THE ITALIAN DRUG MARKET: THE SERBIAN AND THE ALBANIAN CASES

In the global drug market Italy is both a destination and a transit country. Drugs arrive to Italy to satisfy the high demand and to continue towards other European countries.¹ Italy's role as one of the main European gateway of drugs is due to its geographical position and its 6,000 kilometres of coastline as it is in the centre of the Mediterranean Sea, near to the coasts of relevant international trafficking junctions, including North Africa and the Balkan countries - and its 6,000 kilometres of coastline (*Direzione Centrale per i servizi Antidroga* [DCSA], 2010). Accord-

¹ The most consumed drug is cannabis, followed by cocaine. For data on prevalence see EMCDDA, 2017. Retrieved from http://www.emcdda.europa.eu/publications/country-drug-reports/2017/italy_en

ing to all the law enforcement agencies interviewed² the demand of drugs tends to overcome the supply in Italy. Therefore, the market offers opportunities to many supply actors, more or less organized. The main suppliers are Italian mafias, including Cosa Nostra, 'ndrangheta, Sacra Corona Unita, and Camorra. They often work together by importing to Italy different kinds of drugs (Gratteri, 2017). The 'ndrangheta occupies the main position within the drug market in Italy at national and international level. This is due to its great financial resources and the capacity to develop contacts in countries located on the main drug routes. Even the Camorra and the Sacra Corona Unita show a good position. The latter has been able to regain a good rank in the market, since it has acquired a monopoly of the traffic of herbal cannabis from the Balkans due to its historical relationships with Albanian criminal groups (DCSA, 2016).

The analysis of all the Direzione Nazionale Antimafia [DNA] and Direzione Investigativa Antimafia [DIA]³ reports from 2007 to 2016 shows clearly that in the North and Centre Italy foreign criminal organizations [FCO] have been increasingly able to insert themselves in the drug market, unlike in the Southern Region, which is monopolistically controlled by the local mafias. The relationship between Balkan criminal groups and local crime and mafia groups, have taken two different forms, including 'coexistence' and 'joint interest'. In addition, the presence of Serbian organized crime in Italian criminal markets dates back to the 1980s (Portanova, Rossi & Stefanoni, 2011). In the late 1990s-early 2000 some investigative operations also showed the presence of highly structured Serbian-Montenegrin criminal groups involved in drug trafficking (Interview M1). The paragraph will analyse two relevant investigative operations that Italian law enforcement agencies carried out between 2008 and 2012, *Loptice* and *Elefante Bianco* when dealing with Western Balkan groups. Both investigations dealt with organized drug trafficking at international level and operated in Northern Italy by supplying different local criminal groups, including mafia-type associations.

Loptice investigation dealt with the same group mentioned above, led by Darko Šarić. The Italian police began the investigation in February 2008 when it found 89.66 kg of cocaine, packed in balloons (in Serbian '*loptice*') in a Milan flat (DCSA, 2010, p. 45)⁴. This method of packaging was found during the seizures of cocaine from other Italian criminal associations, thereby giving evidence about the links between the Balkan organized crime and local organized crime. This was also confirmed by the supergrass Francesco Petrelli, whose testimony was indispensable for the investigations⁵. After the purchase of the substance from the Latin American sup-

² Six interviews with key informants (policemen and magistrate that have carried out investigative operations against Balkan criminal groups) were carried out between October and November 2017. For the sake of privacy, the names of the interviewees are not quoted in this article; however, a code has been attributed to each interview. The code is composed by the category to which the interviewees belong to (P for policeman and M for magistrate) and the progressive numbers of the name of interviewee (listed in alphabetic order). This method allows keeping the anonymity of interviewees and, at the same time, to make the research activity traceable and thus reliable.

³ As it will be explained in the paragraph on the Italian criminal justice system the DNA and DIA are two bodies dedicated specifically to organized crime and terrorism.

⁴ See <http://www.poliziadistato.it/statics/35/parte-seconda.pdf>

⁵ See Tribunale di Milano (2010 November 15), Ordinanza di applicazione di Misure Cautelari, Proc n. 24894/07 R.G.N.R., p. 13.

pliers the association organized its transfer by sea to different harbours of the European coasts, including several located in Italy. Traffickers filled colourful balloons with cocaine and placed them inside mountain backpacks with GPS (loads of 70-80 kg of drugs). Once near the coast, the backpacks were thrown into the sea and, after returning to the surface, they were recovered by members of the organization who dropped off the cargo in small harbours mainly located in Tuscany and Liguria. This method aimed at avoiding attracting police attention⁶. The balloon packaging made the transport of loads of cocaine safe and avoided getting them wet. After the recovery cocaine was stored in safe places and subsequently transferred to Milan by cars and delivered to buyers by members of Šarić's organisation⁷. From the numerous wiretaps carried out during the investigation, it emerged that members of Šarić group dealt with the association led by Grifa, which was the main buyer who purchased huge amount of drug to be sold in the Milan's drug marketplace, and with subjects contiguous to mafia organizations (including 'ndrangheta and Sacra Corona Unita)⁸.

Šarić's activities in Italy started in 2008 and by 2010 his group ousted the 'ndrangheta from the drug market in the north of the country. His group offered better quality cocaine for a lower price, effectively wiping out their competition. In the aftermath of the operation '*Balkan Warrior*', over 80 people were arrested in Italy in connection with the Šarić clan. Towards the end of their activities, the clan had developed a network with operatives coming from Serbia, Montenegro, Croatia and Slovenia operating all over Europe and South America. Šarić's group had a rigid hierarchical structure and members showed an indisputable and vast military preparation and guerrilla experience, due to the previous belonging to military or paramilitary apparatuses such as the "*Arkan Tigers*" (UNODC, 2012)⁹. Furthermore, a peculiar feature of the Serbian organization was the mobility of its members. Unlike local criminal organizations, neither the promoters nor the participants have ever tried to acquire 'control of a territory'.¹⁰ In fact, in order to effectively manage their criminal business, they used temporary bases and, if necessary, they were ready to move to safer places (UNODC, 2010)¹¹. As a result of the operation activities, the Public Prosecutor charged the members of the Slav organization and the Italian one with the crime of "association aimed at illicit trafficking of drugs" (Article 74 d.P.R.309/90)¹², considering

⁶ See http://milano.corriere.it/notizie/cronaca/14_marzo_21/fine-super-trafficante-saric-mille-chili-coca-piazzata-ogni-mese-4d2f39d6-b0d3-11e3-b958-9d24e5cd588c.shtml

⁷ See <https://www.ilfattoquotidiano.it/2013/04/03/coca-a-milano-su-piazza-tre-tonnellate-alla-settimana-impossibile-contare-soldi/550660/>

⁸ See Tribunale di Milano (2010 November 15), Ordinanza di applicazione di Misure Cautelari, Proc n. 24894/07 R.G.N.R., p. 22 et seq. Retrieved from <https://www.ilfattoquotidiano.it/2014/04/02/droga-con-la-fine-dellimpero-di-darko-saric-smantellato-il-suo-cartello-a-milano/957834/> and <https://www.ilfattoquotidiano.it/2013/11/12/milano-il-giovane-re-del-gratosoglio-tra-coca-potere-e-ndrangheta/775860/>.

⁹ The mentioned episode occurred in Zurich highlights this characteristic of Serbian Mafia groups.

¹⁰ See Tribunale di Milano (2010 November 15), Ordinanza di applicazione di Misure Cautelari, Proc n. 24894/07 R.G.N.R., p. 19.

¹¹ See Tribunale di Milano (2010 November 15), Ordinanza di applicazione di Misure Cautelari, Proc n. 24894/07 R.G.N.R., p.50 et seq.

¹² For the definition and analysis of Article 74 d.P.R. 309/90 (Association aimed at illicit trafficking of

that their huge criminal activity could not be carried out without an articulated and structured organization.¹³ On the one hand, with reference to the group led by Šarić, it appears ontologically evident that such activities could not be carried out without the existence of an adequate organizational and operational structure; on the other hand, with regard to the activity of the association led by Grifa, the Public Prosecutor decided to charge it with Article 74 due to the permanent material and moral contribution that was provided by at least two subjects¹⁴.

The second Balkan organized crime group was led by Garić Juro (also known as Kemo), a Croatian citizen and resident in Barcelona. Garić, in collaboration with trusted Balkan associates and thanks to operational bases and delinquent contacts both in the former Yugoslavia and in Spain, introduced a large quantity of cocaine to Italy. The organization led by Garić, after buying drugs in Spain which came from South America, provided for transportation to Northern Italy (on average 20 kg per trip) where it was sold to both Italians and foreigner wholesalers. Then, the illicit profits were moved to BiH (up to 500.000 euros per trip) and reinvested in real estate sector, luxury cars, shops and beauty centres by using figureheads linked with traffickers by family ties¹⁵.



Figure 4. DDA Brescia, Slides *Indagine "Elefante bianco"*, p. 5.

The investigative operation called *Elefante Bianco*, coordinated by the DDA of Brescia between 2008 and 2012, discovered and dismantled a multi-ethnic criminal organization dealing with international drug trafficking.

The Italian clients of the organization were both common criminals and subjects belonging to mafia type criminal organizations, such as Salvatore Muscatello, nephew and homonym of the

drugs) see the paragraph on the Italian criminal justice system.

¹³ See Tribunale di Milano (2010 November 15), *Ordinanza di applicazione di Misure Cautelari*, Proc n. 24894/07 R.G.N.R., p. 96 and http://www.poliziadistato.it/statics/12/annual_report_2010.pdf .

¹⁴ The Judge for Preliminary Investigations (GIP) of Milan court issued 46 precautionary custody orders, of which 34 performed (DCSA, 2010, p. 45); See Tribunale di Milano (2010 November 15), *Ordinanza di applicazione di Misure Cautelari*, Proc n. 24894/07 R.G.N.R., p. 12 and 26.

¹⁵ See http://www.bresciaoggi.it/dalla-home/cos%C3%AC-%C3%A8-stata-sgominatala-multinazionale-dello-spaccio-1.4317083?refresh_ce#scroll=1822 .

head of the 'ndrina (the basic unit of the 'ndrangheta) of "Mariano Comese" (Lombardy), who was arrested in 2010 during the investigative operation "Crimine"¹⁶. Among the wholesalers a particular position was held by Serb Safet Halitović (known as Sayo). He was the only wholesaler that had direct contacts with Garić Juro and, he was the head of a connected criminal subgroup composed by Italians¹⁷. At the beginning the Serb wholesaler was entrusted with great amounts of cocaine without being compelled to pay immediately, as far as he was guaranteed by Sinančević Izet¹⁸. Afterwards, the insolvency of the Serb deteriorated the relations with the members of Garić's organization¹⁹. However, on 19th April 2009 Safet Halitović was arrested and his arrest put in motion the well-tried and tested mechanism developed by the criminal organization into crisis: the members of the organization, fearing a possible confession of the Serb and feeling hunted by the police, decided to collect the claims towards the wholesalers and to transfer all the profits to the Balkans.

In contrast to Šarić's group this group was less hierarchical and more flexible, where Garić gave orders to his subordinates to maintain relations with wholesalers, who were almost all from Brescia (Lombardy). Sinačević, who lived in Czech Republic, managed the organization's interests in Italy through members who permanently lived in the province of Brescia and by occasionally coming to Italy.²⁰ There was overlapping between the clients at wholesale level and the members of the organizations, as the wholesalers, associated in sub-groups, did not only buy the cocaine from the leader's intermediaries, but also offered logistic support to the organization to conceal drugs and safeguard the money. This flexible structure, not composed by permanent members, but by local wholesalers, reduced the risk for the leader to be detected, as long as he did not have any direct contacts with wholesalers²¹. The group also had availability of large financial resources and trust in the wholesalers as they entrusted them by giving them up to 20 kg of cocaine without any payment²². This was due to the trust and long-lasting relationships that the high-level members of the organization were able to establish with the wholesalers resulting in the flexible structure above described. And finally, organisation showed great mobility, where members were able to quickly move to safer countries, when they knew that the police were hunting them.²³

¹⁶ See <https://drive.google.com/file/d/0B34DZOx3yww0LWZmMDRQMVzjZzg/view>

¹⁷ Tribunale di Brescia (2013 May 13), Sentenza ex Article 442 c.p.p., Sent. n. 582/13, Proc n. 20874/12 R.G.G.I.P., p. 249 et seq.

¹⁸ Tribunale di Brescia (2013 May 13), Sentenza ex Article 442 c.p.p., Sent. n. 582/13, Proc n. 20874/12 R.G.G.I.P., p. 254.

¹⁹ Tribunale di Brescia (2012 March 29), Ordinanza di applicazione di Misure Cautelari, Proc n. 18059/08 R.G.N.R., p. 198.

²⁰ Tribunale di Brescia (2012 March 29), Ordinanza di applicazione di Misure Cautelari, Proc n. 18059/08 R.G.N.R., p. 191.

²¹ Tribunale di Brescia (2013 May 13), Sentenza ex Article 442 c.p.p., Sent. n. 582/13, Proc n. 20874/12 R.G.G.I.P., p. 309.

²² See <http://gazzettadimantova.gelocal.it/mantova/cronaca/2012/04/20/news/cocaina-dal-sudamerica-in-carcere-51-trafficienti-1.4397285> .

²³ See <http://gazzettadimantova.gelocal.it/mantova/cronaca/2012/04/20/news/cocaina-dal-sudamerica-in-carcere-51-trafficienti-1.4397285> .

In conclusion, the described criminal organisations, emerging from Loptice and Elefante Bianco investigations, suggest an interesting element for analysing the presence of Western Balkans organized crime in Italy. On one side, they showed different forms of association and modus operandi, and on the other side they avoided establishing themselves permanently in the country, because their aim was economically oriented by drug business, and not focussed on the control of territory. For this reason, they were perceived by local organized crime just as suppliers, and not as competitors. Therefore, their relationship with the local organized crime became a 'joint interest' relationship grounded in drug trafficking.

3. THE ITALIAN CRIMINAL JUSTICE RESPONSE TO MAFIA-TYPE ORGANIZED CRIME, DRUG TRAFFICKING AND FOREIGN ORGANIZED CRIME

This paragraph will present a general overview of the Italian legal framework to tackle mafia-type organized crime, drug trafficking and foreign organized crime. Although the legislative and investigative instruments, developed in the last forty years, have been proved to be very effective against the criminal activities carried out by organized crime, the national mafias and foreign criminal associations keep challenging Italian society. As maintained in the conclusion, the experience acquired in the fight against the Sicilian mafia suggests to face these complex forms of criminality not only from a penal perspective, but also from a socio-economic and cultural one.

3.1. Fighting mafia-type organized crime and drug trafficking

The Italian criminal justice system has developed an extensive legislation and administrative measures against organized crime, since it has to address historically the mafia issue.

In 1965, three years after the establishment of the Italian Parliament's Antimafia Committee, the national law for the first time made reference to the term mafia. The Italian legislator, with the L. 575/65, made possible to extent the prevention measures to the suspects to belong to mafia-type organized crime. These measures performed a special-preventive function and were directed to avoid the commission of crimes by subjects considered socially dangerous, regardless of the commission of a previous offense.

Since then the Italian antimafia legislation has produced effective instruments for law enforcement agencies and Judiciary authorities,²⁴ thus becoming a model for other criminal justice systems at international level²⁵.

The core of the penal measures is the crime of mafia association, whose definition was anticipated by the Court of Cassation in 1974:

²⁴ For a history of the legislative measures against the Mafia see Cardamone (2016).

²⁵ See for example in the area of Balkans: Albania-Albanian Law No. 9284 / 2004 on Preventing and Striking at Organized Crime. Retrieved from <https://www.balcanicaucaso.org/eng/layout/set/print/Areas/Albania/Mafia-e-antimafia-in-Albania-26903>

Serbia - legislation on confiscation of property, a policy of strict imprisonment of mafia members (similar to Italy's "41 Bis" prison restrictions for particular inmates, introduced in 1986), witness protection, coordination between prosecutor offices, as well as international and regional cooperation. Retrieved from <https://www.balcanicaucaso.org/eng/layout/set/print/content/view/print/56068>

The mafia Association is any grouping of people who by criminal means propose to take or maintain control of zones, groups or productive activities through systematic intimidation and infiltration of their members to create a situation of subjection and omnipresence that makes the normal forms of punitive action of the State impossible or very difficult.

In 1982 the legislator introduced in the Italian penal code (c.p.) the Article 416 bis (Law 13 September 1982 no.646 - known as Rognoni-La Torre Law) which in its current form States:

Anyone who is part of a mafia-type association made up of three or more people, is punished with imprisonment from ten to fifteen years. Those who promote, direct or organize the association are punished, for this alone, with imprisonment from twelve to eighteen years [112 n. 2]. The association is of the mafia type when those who are part of it make use of the intimidation force of the associative bond and of the condition of subjection and of silence that results from committing crimes, to acquire in a direct or indirect way the management or in any case the control economic activities, concessions, authorizations, public procurement and services or to make unfair profits or advantages for themselves or for others, or in order to prevent or hinder the free exercise of the vote or to obtain votes for themselves or others on the occasion of electoral consultations. If the association is armed, the sentence of imprisonment from twelve to twenty years applies in the cases provided for in the first paragraph and from fifteen to twenty-six years in the cases provided for in the second paragraph. The association is considered armed when the participants have the availability, for the achievement of the purpose of the association, of weapons or explosive materials, even if concealed or kept in place of deposit. If the economic activities of which the members intend to assume or maintain control are financed in whole or in part with the price, the product, or the profit of crimes, the penalties established in the previous paragraphs have increased from one third to half. The confiscation of the things that served or was destined to commit the crime and of the things that are the price, the product, the profit or that constitute its use is always obligatory towards the convict [240]. The provisions of this article also apply to the Camorra, the 'Ndrangheta and other associations, however locally known also as foreign, which using the intimidating force of the association bond pursue aims corresponding to those of the mafia-type associations [32quater].

The same law introduced the confiscation of criminal assets, which has been a very effective instrument against mafia-type organization (see also Articles 240 of the Penal Code; Article 12-sexies of the Law no. 356 of 1992, modified by the Law No. 501 of 1994). In 2010 a National Authority for administration and destination of assets seized and confiscated from organized crime was established (Legislative decree of 4 February 2010 No. 4 converted by Law of 31 March 2010 No. 50).

In September 2011 the *Codice Unico Antimafia* (Antimafia Code) entered into force and in September 2017 it was reformed (Legislative Decree No. 159, 6 September 2011- Article 4 comma 1 lett. i) bis). It regulates the measures of prevention, both personal (Article 1 et seq.) and patrimonial (Article 16 et seq.), that can be applied also to those suspected to be members

of mafia association.²⁶ Within the category of personal measures of prevention it is possible to distinguish those that can be enforced by the Quaestor (Article 1 et seq.) and those that can be enforced exclusively by the Judicial Authority JA (Article 4 et seq.).

The first category includes expulsion order (*ordine di espulsione*) and oral advice (*avviso orale*). The second one, listed in Article 6 of the Antimafia Code, sets out different measures, including the special surveillance of public security (*sorveglianza speciale di pubblica sicurezza*) which can be paired, if necessary, with the residence prohibition in one or more municipalities, different from the place of residence or usual place of abode, or in one or more Regions; the obligation to sojourn in the place of residence or usual place of abode (*obbligo di soggiorno nel comune di residenza o di dimora abituale*) can be enforced just if the other personal measures are incapable of ensuring the public security. In order to guarantee the aim, in addition to the special surveillance, the application of the electronic monitoring device can be ordered²⁷.

The patrimonial measures of prevention, which are crucial to contrast the mafia enrichment include: seizure of assets²⁸ (*sequestro* - Article 20 Antimafia Code) and confiscation²⁹ (*confisca* - Article 24 Antimafia Code), both available per equivalent (Article 25). The provision concerning the confiscation was enriched by the 2017 novel with an explicit reference to the impossibility for the proposed to justify the legitimate origin of the goods, considering that the money used to purchase them is either income or reuse of tax evasion.

Furthermore, when the conditions for the application of prevention seizures and confiscation are not met, Article 34 allows submitting assets related to economic activities and companies to a judicial administration (*amministrazione giudiziaria*). The requirement for the application of the measure is the existence of sufficient grounds to believe that the free exercise of certain economic activities, either directly or indirectly subjected to intimidation or subjection (Article 416 bis c.p.), may otherwise facilitate the activity of persons against whom it has been proposed or applied one of the personal prevention measures (Article 6 and Article 24 of Antimafia Code) or persons subjected to a criminal proceeding for any of the crimes referred to in Article 4 of the Code [paragraph 1, letters a), b) and i-bis)].

²⁶ For a detailed explanation of what the code envisages in terms of preventive measures see Cardamone (2016).

²⁷ Article 275 bis c.p.p..

²⁸ *Il sequestro viene applicato sui "beni dei quali la persona nei cui confronti è iniziato il procedimento risulta poter disporre, direttamente o indirettamente, quando il loro valore risulta sproporzionato al reddito dichiarato o all'attività economica svolta ovvero quando, sulla base di sufficienti indizi, si ha motivo di ritenere che gli stessi siano il frutto di attività illecite o ne costituiscono il reimpiego"*.

²⁹ *Il tribunale dispone la confisca dei beni sequestrati di cui la persona nei cui confronti è instaurato il procedimento non possa giustificare la legittima provenienza e di cui, anche per interposta persona fisica o giuridica, risulti essere titolare o avere la disponibilità a qualsiasi titolo in valore sproporzionato al proprio reddito, dichiarato ai fini delle imposte sul reddito, o alla propria attività economica, nonché dei beni che risultino essere frutto di attività illecite o ne costituiscano il reimpiego. In ogni caso il proposto non può giustificare la legittima provenienza dei beni adducendo che il denaro utilizzato per acquistarli sia provento o reimpiego nell'evasione fiscale. Se il tribunale non dispone la confisca, può applicare anche d'ufficio le misure di cui agli articoli 34 e 34-bis ove ricorrano i presupposti ivi previsti.*

The aforementioned 2017 reform introduced a new provision in the Code, Article 34 bis, which established that even companies can be subjected to judicial control, when the facilitation provided for in paragraph 1 of Article 34 is occasional and there are factual circumstances from which it is possible to deduce the concrete danger of mafia infiltration capable of affecting its activity.

In the fight against mafia-type organized crime law enforcement agencies and Prosecutors have the possibility to collect internal information from people who turned State evidence. In 1991 the Italian Parliament approved a legislation (Law No. 82 1991 reformed in 2001) regulating the protection of those subjects who collaborate with justice (both people that have not committed any crime- witnesses - and those who have committed crimes – defectors).

Along with the so called *pentiti* law, the extension of the possibility to apply the prison restrictions to members of mafia organizations provided by Article 41 bis (Decree-Law 8 June 1992, No. 306)³⁰ was a very important step in advancing the method of fighting the mafia. This penitentiary regime has proved to be particularly effective in reducing the possibility to mafia boss to communicate with people outside the prison.

In relation to drug trafficking, the Italian criminal legislation foresees two different provisions:

- Article 73 d.P.R. n. 309/90: this mono-subjective incriminating provision punishes the subject that cultivates, manufactures, produces, extracts, refines, sells, provides or offers for sale, assigns, distributes, trades, transports, procures to others, sends, passes or ships in transit, delivers for any purpose narcotic or psychotropic substances listed in the table I of article 14. Penal sanctions envisage imprisonment from six to twenty years, and a fine from EUR 26,000 to EUR 260,000.
- Article 74 d.P.R. n. 309/90: *Associazione finalizzata al traffico illecito di sostanze stupefacenti o psicotrope* (Association aimed at illicit trafficking of drugs). For the existence of this association crime, due to the genus of multiple-subjective crimes, it is required the existence of a stable and permanent bond between three or more persons for the realization of a specific criminal program, that in this case is drug trafficking. The penalty provided for the leaders of the association is not less than twenty years, while for participants not less than ten years. National legislator has considerably anticipated the punishment threshold, in order to protect public order, public safety and public health in a more effectively way, by setting the case as a crime of danger. Basically, the high negative value of the *pactum sceleris* requires the possibility of punishing the participants in the criminal association, regardless of the realization of criminal intentions. Regarding the interpretation of this provision there are two distinct doctrinal reconstructions that face each other: for the traditional doctrine Article 74 would be a crime of presumed danger (Fiandaca-Musco, 1988); for the most recent one a crime of danger in concrete that, not to violate the principle of offensiveness, requires the ascertainment of the suitability to carry out the criminal program.

Article 416 c.p. (*associazione per delinquere*, association for committing crimes), like Article 74 d.P.R. 309/90, is a multi-subjective crime of danger that punishes the promoters of the

³⁰ Converted into the Law of 7 August 1992, n. 356.

criminal association with imprisonment from three to seven years, the participants from one to five years. The specific criminal program (drug trafficking) of Article 74, compared to the generic one of Article 416, justifies a harsher and more severe sanctioning response.

With reference to the relationships existing between Article 416 c.p. and Article 74 d.P.R. 309/90, it is important to clarify that if the criminal organization, abstractly subsumable under both the provisions, has drug trafficking as unique purpose its members must be punished, on the basis of the criterion of specialty (Article 15 c.p.), only with the penalty provided by provision containing the element of specialty (Article 74 d.P.R. 309/90)³¹.

With regard to Article 416 bis c.p., existing a bilateral specialty relationship with Article 74 d.P.R. 309/90, the Cassation Court affirmed the possibility of applying both those provisions³². In this case it must be applied the regulation of the legal cumulation of the criminal penalties (Article 81 par. 2 c.p.). This provision allows to impose the highest penalty increased up to three times.

The main Prosecutors and law enforcement agencies special bodies that are in charge with the fight of organized crime and drug trafficking are the following:

- DNA, *Direzione Nazionale Antimafia* (National Antimafia Department)³³. This body is directed by the antimafia and counter-terrorism Prosecutor, appointed directly by the Superior Council of Magistracy following an agreement with the Minister of Justice, and it is composed by 20 Prosecutors. The function of the DNA is to coordinate the activity of the 26 DDA (*Direzione Distrettuale Antimafia* - District Antimafia Directorate) through powers of surveillance and control. The DNA does not have any power to carry out investigations directly and cannot give binding directives on the district attorney's offices. However, in the case that a district attorney has shown serious inertia or has not coordinated with the others, it can call-back the inquiries. The main subjects of his activity are: mafia, camorra, 'ndrangheta, drug trafficking, human trafficking, recycling, public procurement, asset prevention measures, eco-mafia, trademark counterfeiting, suspicious financial transactions, foreign criminal organizations.
- DIA, *Direzione investigativa antimafia* (Anti-mafia investigative directorate)³⁴. It is made up of members coming from different Italian police bodies. It is located within the departments of public security, and it consists of a central structure based in Rome (three departments and seven offices) and a peripheral structure (twelve operational centres and nine operating sections). The purpose of the DIA is not only to carry out investigations relating to mafia-type association crimes, but also to perform preventive investigations. Regarding to its activity the DIA is subject to the direction of DNA and DDA and its Director has the prerogative to propose to the competent Courts for the territory the imposition of preventive measures, both personal and patrimonial.

³¹ Cass. Pen. Sez. VI, (1995 June 14), n. 11413, in *Cass. Pen.* 1997, p.398.

³² Cass. Pen. Sez. I, (2010 January 21), n. 17702, in *Cass. Pen.* 2011, p. 581; Sez. V, 22 November 2002, ABBRESCIA, in *Dir. giust.* 2003, 10, p. 104 and Cass. Pen. Sez. II, (2012 September 24), n. 36992.

³³ Decree Law No. 367/1991 converted by Act No. 8/1992.

³⁴ Decree Law No. 345/1991 converted by act No. 410/1991.

- DCSA, *Direzione Centrale per i Servizi Antidroga* (Central Directorate for anti-drug services)³⁵. Such as the DIA, the DCSA is made up of members coming from the different Italian police bodies. The organism is articulated into three services:
 - The “*Affari generali ed internazionali*” (General and foreign affairs) service: it is also the point of reference for foreign governments operating in Italy in the fight against drug trafficking and it is in charge of maintaining relations with international organizations. Moreover, the DCSA is called to express opinions on draft laws and bilateral agreements on anti-drug cooperation for the institutions called for their approval.
 - The “*Studi, ricerche e informazioni*” (Studies, research and information) service, is established to carry out an analysis activity, at national and international level, concerning the phenomenon of drug trafficking.
 - The “*Operazioni antidroga*” (Anti-drug operations) service, through an accurate activity of intelligence, is responsible for coordinating the anti-drug operations. At the supranational level, at the crossroads of traffic, production and transit of drugs, the DCSA through the work of twenty security experts and a liaison officer manages and develops relations with the corresponding services of foreign police and with national bodies and international organizations responsible for preventing the phenomenon. Currently, several branch offices are located in the Americas, Africa, Asia and Europe (e.g. Skopje).

Other important special bodies involved in talking the mafia that support DNA and DDA prosecutors activities are:

- ROS (*Raggruppamento Operativo Speciale della Arma dei Carabinieri*- Special Operative Grouping of the Carabinieri)
- SCICO (*Servizio Centrale di Investigazione sulla Criminalità Organizzata della Guardia di Finanza*- Central Service of Investigation on Organized Crime of the Guardia di Finanza).

3.2. Fighting foreign criminal organizations [FCO]

The significant experience developed by law enforcement agencies and Judicial Authority in fighting the national mafias has been an advantaged also in tackling FCO, including the Balkan criminal groups.

At investigative level, there is a great attention to FCO, unlike at judiciary level. Many investigative operations have been carried out in the last ten years, as emerged from the DIA, DNA, and DCSA reports.

Very effective instruments used by law enforcement agencies and Prosecutors are intercepted conversations. In order to use this very useful mean of researching the proof (Article 267 c.p.p.), it is required the existence of certain conditions according to the type of crime concerned by the proceeding. In particular, regarding the crime of drug trafficking, wiretapping

³⁵ Article 1 law No. 16/1991.

may be arranged, followed the Public Prosecutor's request, with a motivated decree of the Judge for preliminary investigations (*Giudice per le Indagini Preliminari [GIP]*), when there are serious signs of crime ("*gravi indizi di reato*") and it is indispensable for the prosecution of investigations ("*indispensabili per la prosecuzione delle indagini*"). In 1991 the national legislator³⁶ has mitigated these assumptions in the event that wiretapping is arranged in the field of organized crime: in this case, to authorize the wiretap, the GIP has to verify the existence of sufficient evidence of crime ("*sufficienti indizi di reato*") and that these are necessary for the investigation ("*necessarie per la prosecuzione delle indagini*").

In 2008 the Italian Parliament modified the Article 416 bis putting in the eighth paragraph the reference to foreign mafias (Amato, 2015, p. 268). However, at judiciary level – from the stage of the charge to the stage of the sentence³⁷ – there is a great hesitancy to subsume the FCO under the Article 416 bis c.p. The tendency is to charge and condemn the members of the FCO with simple association (Article 416 c.p.) and for the single crimes they have committed, like for example drug trafficking (Article 73-74 d.P.R. 309/90) or trafficking in human beings (Article 600 et seq. c.p.). In the rare case in which 416bis is contested by the Public Prosecutor, it is almost never recognized by the Judges called to decide (Giammarinaro & Carchedi, 2016).

There is a wide debate on the possibility to apply 416 bis c.p. to criminal groups that are not original Mafias operating in their traditional territories (mafia in Sicily, 'ndrangheta in Calabria, Camorra in Campania, and Sacra Corona Unita in Puglia).

The reasons why the FCO are not considered mafia-type association by Prosecutors and Judges are connected to the fact that they do not seem to have the power to influence the institutions and control the territory by intimidating and subjugating the population, as the Italian mafias do. Indeed, a central question that influences the interpretation of 416 bis c.p. is the concept of *controllo del territorio* (control of territory), which is related to controlling people through racketeering public and private goods. Recently the Court of Cassation has broadened the concept of control of territory beyond a specific given geographical area, pointing out that it can be also considered as such when the control is exercised on economic activities (Prestipino, 2017).

To what concern FCO, often the control of territory, meant as the traditional interpretation of 416 bis c.p., is carried out in their countries of origin, and also in Italy by subjugating compatriots, that are extorted. As reported in the Court of Cassation in 2003, the intimidation towards compatriots can be so strong and threatening that the victims became silent and totally subjugated, as much as it occurs in the territories controlled by the Italian mafias (Giammarinaro & Carchedi, 2016, p. 161). This situation has been registered, for example, in relation to some

³⁶ Article 13 d.l. 13 maggio 1991 n. 152 converted in l. 12 luglio 1991, n. 203.

³⁷ The Italian penal system is divided into three levels of judgment. In the first instance, according to the type of crime in question, the jurisdiction is attributed to the *Giudice di Pace* (Justice of the Peace-GDP), the *Tribunale in composizione monocratica or collegiale* (Court in monocratic or collegiate composition) or the *Corte d'Assise* (Court of Assizes); in the second instance, according to the judge who issued the sentence under appeal, to the *Tribunale monocratico* (in monocratic composition), the *Corte d'Appello* (Court of Appeal-CDA) or the *Corte d'Assise d'Appello* (Court of Assizes of Appeal); in the third instance, the *Corte di Cassazione* (Court of Cassation) will have jurisdiction. The first two means of redress are available for reasons of merit and legitimacy, the third only for reasons of legitimacy.

Ukrainian criminal groups, that at the early 2000s were charged with 416 bis (Mingone & Ingrasci, 2016).

In the period from July 2011 to June 2012 two Slovenian citizens and six Albanians were charged with mafia association (Article 416 bis c.p.), since however they were members of various Italian mafias and, in fact, their cases regarded different proceedings managed by different DDAs (DNA, 2012, p. 177). This data emphasized, that when Albanians foreign criminals are charge with mafia association is because they participate individually in different types of partnerships with local mafia and do not create a criminal group of ethnic Albanian prevalence with the characteristics typically identified by the article 416 bis c.p.

Concluding, Article 416 bis c.p. is rarely applied to cases of FCO although often they show some characteristics that are typical of mafia-type associations. However, in some circumstances, when the mafia method (intimidation) and the control of territory (understood extensively) are proved it is likely that the criminal groups, even if it is foreign, are charged with 416 bis c.p. In this case to apply 416 bis c.p. to FCO it is requested a wider interpretation of the law.

The main problems faced by law enforcement agencies and Judicial Authority to tackle FCO are linked to the transnational nature of the crimes carried out by FCO resulting in a great segmentation of criminal activities. First of all, an evident obstacle to the investigations led by the Judicial Authority is the language used by subjects belonging to foreign criminal organizations. This problem regards not only the preliminary investigation phase, but also the trial one. In particular during the preliminary investigation stage, aimed at collecting evidences against the subjects under investigation, Prosecutors frequently intercept communications. At this point the recorded conversations have to be transcribed accurately and translated by mother tongue interpreters. A further obstacle is the fact that often foreign criminals do not use regional dialects. In this case it will be necessary for the interpreter to know the dialect in question. Furthermore, the activity of the interpreters is necessary in the case in which the investigated/accused person intends to make statements or submit to the means of proof called "*esame delle parti*" (examination of the parties, Article 209 c.p.p.). The examination of the parts usually takes place during the contradictory trial between the parties. When the subject under investigation requests it, without the necessity to verify the existence of the "non-repeatability" requirement, the same can take place during the preliminary investigation phase in the forms of the "*incidente probatorio*" (probative incident, Article 392 c.p.p.).

The transnational character of the FCO makes international cooperation indispensable. In this regards the problems are many, as underlined during the *Stati Generali dell'Antimafia* organized by the Ministry of Justice on the 23th- 24th November in Milan. It is beyond the scope of this essay to explore them.

Here it is noteworthy to underline that Italy has developed an important collaboration with Balkan countries, as shown by the following projects:

- IPA Project 2013-Western Balkans, "Fight against organized crime: international cooperation in criminal justice": the aim of the project, started in July 2014, is to fight trans-border criminal organizations and to disrupt criminal organizations dealing with illicit trafficking for the EU. The project involves, in addition to Italy, six Balkan countries and in particular: Serbia, BiH, the former Yugoslav Republic of Macedonia, Albania and Kosovo. The

three-year project guide has been entrusted by the European Commission to Department of Public Security of the Italian Ministry of the Interior whose great experience in the fight against criminal organizations is widely recognized. Since the IPA project has been launched, there have been 55 joint investigations on arms, drugs and terrorism, three of which have been awarded as the best by the Southeast European Law Enforcement Centre [SELEC] in Bucharest. In addition, there were 383 criminals arrested, over EUR 4 million the value of assets and money seized, together with USD 100 million in false banknotes. With regard to drug trafficking, more than three tons of substances were confiscated between heroin, cocaine, marijuana, hashish and synthetic drugs, as well as 1,600 cannabis plants (subsequently destroyed). The Prefecture of Trieste also reports that 50 guns and rifles were seized, of which seven were warring with ammunition and 380 kilograms of explosives. There were also 3,561 archaeological finds recovered, an element that led to the discovery of one of the important contacts between the fight against organized crime and the phenomenon of foreign fighters who often spread stolen cultural heritage in Europe³⁸.

- OSCE Mission in favour of the Serbian judicial system: thanks to this project, which sees Italy as the main contributor, the Serbian Special Prosecutor for the fight against organized crime has been provided with the Italian software SIDDA/SIDNA for the management of investigative data. This tool, created and developed by the National Anti-Mafia and Counter-Terrorism Directorate (DNA), was donated to Serbia by the Italian Justice Ministry with the financial support of the Ministry of Foreign Affairs and International Cooperation (Maeci).

According to the judges interviewed, these two projects are particularly promising, as long as international cooperation is the only path for contrasting seriously the international activities carried out by foreign organized crime in Italy.

4. CONCLUSION: LESSONS FROM THE PAST (THE CASE OF COSA NOSTRA)

The history of the fight against the Sicilian mafia, Cosa Nostra, offers an important lesson: the mafia has been hit many times by the State, yet it has not eradicated permanently. This is because the Italian State's response to the repeating challenges of the mafia to Italian society has been launched mainly in emergency periods and in a repressive way. By giving a brief outline of the history of the Sicilian mafia and the history of the State's attempt to tackle it, this paragraph suggests that contrasting the mafia only with legislative instruments is not sufficient. Indeed, the mafia has shown good capabilities in adjusting its methods and strategy to the State's countermeasures thereby evolving and surviving over the time. It is not possible here to enter into a detailed discussion of the development of the mafia in terms of structure, business, and mentality, yet it will be dealt briefly with those historical turning points enabling us to chart an historical pattern of the relationship between the mafia and the way the State addressed the mafia issue. First, the pattern will be illustrated and then some examples of this pattern, taken from the history of the mafia from 1920s to 2006, will be given.

³⁸ See SANSA, (24 October 2017). Retrieved from http://www.ansa.it/nuova_europa/it/notizie/ru-briche/altrenews/2017/10/24/sicurezza-vertice-bis-balcani-a-trieste_27b99eb0-ad4e-4d99-a0eb-743a29f1d773.html

Although the mafia's threat to Italian society is permanent, the State reacts to such threat only in emergency periods, including mafia warfare and mafia frontal attack to the State. State's response tends to be mostly "military", which means confining the intervention to police and judiciary operations, while overlooking questions related to social, economic and cultural condition of the areas where the mafia flourishes. In turn, the mafia faces the State repression through different ways, including by upsurging its violence and by reorganising itself. From the past the mafia has learnt that the first kind of reaction –violence- backfires because it inevitably provokes harsh counteractions of the State, while the second one brings profitable and long-term results. Eventually both strategies led the mafia and the State to negotiate, either because the State wants to stop the violent attack against public officials, or because the mafia wants to reform the organisation without encountering inconveniences. As a result, the mafia has not been defeated definitively. The following examples will give evidence of this pattern.

One of the clearest instance of the losing strategy of facing the mafia only as a problem of criminality occurred during Fascism, when dictator Mussolini in 1925 sent chief of police Mori to Sicily in order to stamp out the mafia. His campaign was military by using only sieges and round up without facing the social roots of the mafia. Not surprisingly the mafia flourished again after the Second World War. Between the 1950s and 1960s the mafia expanded its business until the first mafia warfare broke out in Palermo in the early 1960s. There is no space here for dwelling upon details of this war. However, what is important to observe is the presence of the usual pattern: the reaction of the State occurred after a bloody event and was by and large repressive. The explosion, in Ciaculli territory, of a car bomb that was meant to strike a mafia family (Greco) but instead killed seven policemen forced the Italian authorities to face the matter. The government set up an Antimafia Parliamentary Commission which was supposed to study the phenomenon from different perspectives. Yet eventually it reduced its task to suggest the government special measures. These consisted in *misure di prevenzione* (Preventive measures), above mentioned applied to people who had not been convicted but were seriously suspected, based on large quantities of circumstantial evidence. The preventive measures, including the *vigilanza speciale* (special surveillance) and the *soggiorno obbligato cautelativo* (a sort of internal exile compelling suspected mafiosi to reside in Central and Northern Italy) helped to stop the bloodshed temporarily and thus to defeat the mafia superficially.

The period of fragmentation undergone by mafia Families and their coordinating body was not only due to the above special measures, but also due to the investigations carried out by judge Cesare Terranova. However, although in the mid-late 1960s the mafia was in trouble, as usual in the following years it regained strength and power by using the strategy of collusion/intimidation and adaptation/reorganisation.

The rulings of the trials in Catanzaro (1968) and Bari (1969), subsequent to Terranova's accusations, acquitted many mafia bosses thus making Terranova's hard work vain. Thereby the mafia showed its influence and power to corrupt and intimidate the Court.

The spreading of the mafia in new areas, such as Northern Italy, because of the exile of mafiosi is a good illustrative example of mafia ability in taking advantages from the State countermeasures.

At the same time the State's concern vanished thus showing once again its typical characteristic, namely being temporary. Indeed, the Parliamentary Commission concluded its investigation since public concern in the historical context of the 1970s was concentrated on terrorism, which had replaced the mafia as the greatest social problem.

Not surprisingly, therefore, in the 1970s the mafia had space to act. Again, it is beyond the scope of this essay to give you details on the mafia expansion. What is necessary to stress here is the fact that the common pattern reemerged. Indeed, the mafia reorganised itself, this time by employing a centralised and hierarchical structure. This was to avoid risks of investigation such as the Terranova's one, and to organise the drug trafficking, which in the 1970s became the main mafia business. Therefore, in 1973, Stefano Bontade and Gaetano Badalamenti, representatives of the Palermo families, and Totò Riina, representative of the Corleone Family, set up a triumvirate, leading to the constitution of a provincial commission, called the *Cupola*. This central body set strict rules to prevent mafia Families from making important decisions, such as murdering a public official, without first consulting Cupola members.

The State lack of interest in fighting the mafia, which as we have seen marked the 1970s, lasted until the coming into being of another emergency period. This started in the late 1970s with the intensification of competition between mafia clans resulting from the sudden increase in wealth caused by the drug trade which destroyed the balance between mafia Families. More precisely, the 'peaceful management' of the organisation ceased with the rising in power of the Corleone faction, which challenged the rules of the Cupola. Corleonesi's boss Totò Riina built his power by boundless use of violence and the art of introducing spies and allies into other mafia Families.

The result of his forced dictatorship was the eruption of the second mafia warfare. There is no space here to account details of this war. However, to have an idea of the extent of this feud sufficient is to know that between 1981 and 1983 almost 700 people lost their lives.

As a consequence of the conflict, the compact mafia structure started to weaken, giving criminal investigations more room for action. At the same time, many representatives of State institutions (the list is impressive) were murdered because of their commitment against the mafia. This situation led the State to counteract. Once again in another historical conjuncture the State intervened out of an emergency.

In 1982 the alarm brought the parliament to approve the La Torre-Rognoni law, that as explained above, introduced the crime of association for criminal purposes of a specifically mafia nature into the Italian penal code. In other words, being member of a mafia association was now considered a crime, whether or not one had committed any particular offence. Moreover, the law gave magistrates the power to overcome bank secrecy, enabling them to investigate the financial aspects of mafia activities. Indeed, this law was the central instrument for the huge investigation carried out by the Palermo court in the early 1980s. Particularly effective were the investigations undertaken by public prosecutors Giovanni Falcone and Paolo Borsellino which relied on a scientific approach, involving bank and travel records, seized heroin shipments, fingerprint and handwriting analysis, and wiretapped phone conversations. Moreover, as soon as Falcone understood that the Sicilian mafia was part of an international trafficking network, established contacts with foreign investigators.

By discovering the existence of a broad and structured criminal organisation, called Cosa Nostra, and also revealing the reasons and dynamics of the second mafia war confirmed by the testimony given by the first official defector Tommaso Buscetta, these investigations led to the famous 'maxi-trial' which begun in Palermo in 1986. What was new in the antimafia in the 1980s was the involvement of civil society. People participation in the antimafia through street demonstrations was the result of the increasing political consciousness, which was the legacy of the late 1960s movements –students, workers, women. This new aspect of the antimafia is worth of mention because it represented an important sign of discontinuity within the regular pattern observed so far.

Unfortunately, the antimafia struggle from below and the judicial action did not receive political support. As a consequence, the mafia defeat was temporary.

However, in the late 1980s the mafia started to show signs of vulnerability due to the 'maxi-trial' and the loss of political protection. The latter was not the result of a 'redemption' of politics rather it was caused by the grave crisis undergone by major Italian political parties as a result of what the media called the 'collapse of the First Republic,' followed by criminal investigations by the Milan Public Prosecutor's Office into the corrupt system of public contract management.

Moreover, magistrates gained strong support from civil society in demonstrating that politicians could be charged. This climate favouring legality stimulated the government to improve its operations against organised crime. What's more in the early 1992 the Court of Cassation confirmed the convictions of the maxi-trial.

The mafia was obviously not pleased with this climate thus it decided to show its power by organising a series of murders of people, including judges and businessmen, deeply involved in the struggle against it. Furthermore, as the government proved capable of arresting important bosses, Cosa Nostra strategy of terror continued by murdering Giovanni Falcone on 23 May 1992, and Paolo Borsellino on 19 July 1992. These magistrates were not only symbols of the antimafia struggle, but also caretakers of immense knowledge concerning Cosa Nostra.

Falcone and Borsellino murders stunned the entire country and incurred both the massive indignation of the Italian people, resulting in marches and protests, and State reaction leading to harsh legislative measures. For an idea of the atmosphere, sufficient is to know that the Italian government sent military troops to Sicily.

As already described, in the 1990s there were two crucial main pieces of legislation against the mafia: the witness protection program and Article 41 bis related to maximum-security prisons.

The combination of the two proved particularly effective. Indeed, prison conditions required by Article 41 bis were so harsh they often led some mafiosi to collaborate with justice. At the same time, the decision to collaborate was also encouraged by the many benefits and guarantees provided by the witness protection program. Thanks to testimonies by *pentiti*, many mafia bosses were imprisoned and others went underground.

Once again, the mafia reaction was at first violent, yet later when the strategy of terror failed and Totò Riina was arrested, the mafia understood that it was better shifting its strategy. Therefore, it reorganised itself by taking into account the changes in the State's countermeasures, and resuming the link with the political power.

The head of the reform of Cosa Nostra was Bernardo Provenzano, who adopted the 'philosophy of caution' based on bringing back the organisation to its traditional role of mediation (i.e. vote of exchange), and the strategy of dealing with the State. In fact, since the late 1990s State has started to lower the guard by modifying the witness law thus discouraging people from collaborating with Public prosecutors, and by eliminating restrictions in Article 41bis. Provenzano was then arrested in 2006.

In conclusion, despite the State's numerous investigative successes both against Cosa nostra and the other national mafias, due to the its effective investigative and legislative apparatus and the capacity of some investigators and Prosecutors, the Italian mafias are still present and some of them have become very powerful. This means that the fight against the mafia is not only a matter of legislative and investigative means. In this regard, the head of Rome Public Prosecution Office, Giuseppe Pignatone, who have developed a great experience in the fight against the Mafia, has maintained that Italy has got enough and effective laws against mafia crime and mafia-related crimes and therefore there is no necessity to implement new legislations (Pignatone, 2017). What is necessary is to contrast these organization not only in their military capacity, but also focussing on their socio-economic, political and cultural dimensions. This is a lesson that must be keep in mind, even in the perspective of fighting foreign organized crime, that resemble mafia traits. They are a problem not only referred to security, but also to questions linked on the one side to social integration of immigrants, and on the other side to the high demand of services and goods posed by the Italian population (prostitution, drugs and arms). Therefore, the response cannot be limited to repressive interventions, otherwise, foreign organized crime will keep expanding, despite of law enforcement agencies and Judiciary Authority's efforts.

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