

**Marco Bisogno, Giovanni Vaia**

# **Fighting organised crime and mafia-type firms**

**The role of public administrations**

**R** Collana del Dipartimento di  
Scienze Aziendali, Management  
& Innovation Systems  
dell'Università degli Studi di Salerno  
*Sezione Ricerca - N 5*



**FrancoAngeli**

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*To innocent victims of organised crime and mafia*





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## PREFACE

The negative impact that organised crime has on the economy and society as a whole is progressively increasing. Criminal activities and mafia-type organisations are expanding their area of influence, operating on a global scale. This means that organised crime is an issue not only from an economic and legal perspective; criminal activities perpetrated by these organisations, such as trafficking in human beings and violence, affect the lives of many people around the world.

This book aims to investigate this complex phenomenon by pointing out the remedies that states and public-sector organisations can adopt to fight against organised crime and mafia. To this end, after an overview of the principal academic and institutional definitions about crime organisations and mafia-type firms (chapter one), both a macro- and a micro-level perspective has been implemented.

From a macro-level viewpoint, chapter two examines the major criminal organisations, by investigating their organisational and cultural complexity, the political dominion and the control they exercise on markets. Furthermore, a focus on the relationship between organised crime and the digital era is given, introducing the reader to the so-called dark web.

From a micro-level perspective, chapter three provides a taxonomy of the mafia-type firms, to illustrate the different features of this complex phenomenon.

Having depicting the necessary background, chapter fourth illustrates the different theoretical perspective through which both organised crime and mafia-type firms can be investigated. More specifically, following the same approach of the previous chapters, this section moves from a macro perspective, and continues by proposing a micro (managerial) perspective, which is particularly suitable when examining mafia-type firms.

In the same vein, chapter five gives an overview concerning how to measure organised crime (macro-level viewpoint) and presents a methodology to investigate mafia-type firms (micro-level viewpoint).

Both perspectives represent the foundation of the remedies that states, public administration and other institutional actors can implement to fight against organised crime and mafia-type firms. To this end, a ‘5Ps’ approach is used, namely: prevention, protection, prosecution, partnership, and publicity. In this respect, the role of international organisations, non-profit organisations and single individuals is also examined. One of the remedies, which has proven to be effective, consists of confiscation of assets and firms belonging to organised crime and mafia organisations. Therefore, this chapter is devoted to this issue by examining the role of an Italian national agency.

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The book is dedicated to innocent victims of organised crime, mafia organisations and mafia-type firms.

University of Salerno and University “Ca’ Foscari” of Venice, June 2020

# 1. ORGANISED CRIME AND MAFIA-TYPE FIRMS: AN INTRODUCTION

## 1.1. Introduction

The aim of this book is to analyse organised crime, with a focus on the so-called “mafia-type firms” or, more directly, “mafia firms”, in order to investigate the remedies public-sector administrations could adopt to fight against this wide phenomenon.

The main motivation for this study relies on the growing importance that mafia firms and organised crime are having at an international level, which leads to many problems affecting the society as a whole.

In fact, organised crime is not only a matter of law or economics; traffic in human beings and the violence perpetrated by this kind of organisations are two of the main negative facets of their criminal activities.

Furthermore, there is a lack of research on these issues from a managerial perspective; the intrinsic risk related to researching on organised crime and mafia-type firms may cause a shortage of scholarly investigation and data on specific aspects or issues. As a matter of fact, what it is known about these organisations, how they are structured, how they operate and how they are evolving over time is frequently due to journalists’ investigations and judiciary reports.

Indeed, scholars are paying increasing attention on these issues, although the vast majority of the studies on this field is focused on a general description of the phenomenon, on the economic and social implications, as well as on critical legal features.

This book offers a different perspective: moving from a description of the main characteristics of criminal organisations and mafia-firms, from both a macro and a micro viewpoint, it aims to answer to the following research questions:

- What is the role that public-sector entities can play and the remedies they can implement to fight against organised crime and mafia-type firms?
- What is the potential impact of these practices on mafia firms? Is it identifiable a turnaround strategy related to confiscation of these firms, and their “conversion” into legal firms?

This chapter is structured as follows. The next section provides several definitions, from both an institutional and an academic perspective, as suggested by Holmes<sup>1</sup>. Section three focuses on mafia firms, as a more specific concept, while section four concentrates on the main illegal activities perpetrated by them. Therefore, the aim is to provide the reader with all the basic conceptual tools. The last section provides some conclusive notes, also introducing the following chapter.

## 1.2. Definitions

The term “organised crime” has been used with different meanings<sup>2</sup>, focusing on several issues, such as the type of illegal activities realised, the hierarchical structure adopted, the exclusive control, namely the monopoly gained by an organisation within a specific territory, the form of extortion/violence perpetrated, and so on.

Furthermore, the expression organised crime is sometimes used as a synonym of “mafia organisations”, although the latter seems to have different meanings and characteristics. As stated by Sergi<sup>3</sup>, while organised crime is “a criminal category, a set of crimes or a list of crimes”, mafia should be considered as a social, criminal and/or economic phenomenon. Moreover, the definition of mafia is deeply context specific, depending on the legislation of each country and the level of “observation” (components, activities or groups). Within this broad definition, the concept of mafia-type firms requires further specifications.

Hence, it is useful to provide a brief overview of the different definitions given by scholars and institutions.

<sup>1</sup> Holmes (2016), pp. 2-9.

<sup>2</sup> Paoli and Vander Beken (2014).

<sup>3</sup> Sergi (2017), p. 21.

### *1.2.1. Academic definitions*

One of the first contributions on the topic<sup>4</sup> relies on the distinction between ordinary crime and organised crime, claiming that while the first one has an exclusive predatory aim, the second one has also the intent of providing illicit goods or services. However, this approach is affected by the time when it was proposed; as it will be better explained later, organised crime is characterised by a dynamic nature, in order to rapidly adapt to the changes of the socio-economic context and the remedies adopted by institutions to fight against them. Therefore, the differentiation between ordinary and organised crime, on the intent basis, is too simplistic, if the intrinsic complexity and multifaceted nature of criminal activities is taken into account.

A second stream of research was developed by Albini<sup>5</sup>, who claimed that organised crime should be identified by considering the type of illegal activities carried out. This approach implies the capability of classifying these activities, which could not be so easy because of the dynamic nature of organised crime. This line of thought would imply also that the characteristics of criminal groups are not so relevant, notwithstanding these characteristics have been used to identify specific criminal organisations.

A third approach, suggested by Schelling<sup>6</sup>, tries to combine the activities (i.e. several forms of extortions) with the control of specific parts of the illicit markets, where these organisations achieve a monopolistic position. Accordingly, Schelling considers organised crime as “usually monopolised crime”. Indeed, this approach seems to recuperate the distinction proposed by Cressey between ordinary and organised crime, and it could be useful to understand why conflicts between different organised crimes are more frequent compared to those between ordinary crimes.

Therefore, it could be critically observed that talking about organised crime would require a fundamental clarification, concerning the focus to be adopted. Indeed, according to Block<sup>7</sup>, two different (but interlinked) levels of analysis can be identified: (i) the dimension of the power syndicate; and (ii) the dimension of the enterprise syndicate<sup>8</sup>. The first dimension focuses on the organisation in itself, i.e. how it is structured, which set of rules are utilised by its members, and so on. Therefore, criminal organisations are investigated by considering their embeddedness in the social system, allowing

<sup>4</sup> Cressey (1967).

<sup>5</sup> Albini (1971).

<sup>6</sup> Schelling (1971).

<sup>7</sup> Block (1980).

<sup>8</sup> See also Scaglione (2016).

to understand how criminals, their clients and politicians are reciprocally involved in providing services each other<sup>9</sup>.

The second dimension focuses on the illegal activities carried out, leading to explore how they are managed, and at the same time investigating how they try to launder money. In this case, the focus is on the economic infiltration, rather than on the social dimension and the impact of illegal activities.

These last definitions, although they could be considered out of date, are important as they can be used to delineate some basic characteristics of mafia organisations.

Indeed, along this line, scholars have emphasised the economic features of illegal activities, considering organised crime as an illegal enterprise, which provides goods or services in illegal markets and/or provides goods and services in a legal market but over-pricing them. Furthermore, considering the transnational dimensions of the activities carried out, according to Williams<sup>10</sup>, transnational organised crime can be considered as the illegal counterpart of multinational corporations.

Another approach defines organised crime by enumerating its characteristics and customs, such as its hierarchical structure, the use of violence, the adoption of an explicit set of rules (namely, a code of honour), which are used since the affiliation of new members, and so on<sup>11</sup>. However, this approach risks to be out-of-date, because of the dynamic nature of organised crime.

### *1.2.2. Institutional definitions*

From an institutional perspective, several definitions have been provided by both national and international organisations.

One of the most known definitions is proposed by the United Nations Convention against Transnational Organised Crime<sup>12</sup>, according to which: «“Organized criminal group” shall mean 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). Therefore, the key issues are:

<sup>9</sup> See Block and Chambliss (1981); Holmes (2016); Scaglione (2016).

<sup>10</sup> Williams (2001).

<sup>11</sup> Abadinsky (2013); Finckenauer (2007).

<sup>12</sup> UNCTOC (2004).



- The group must be “structured”, which means that it “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);
- It commits “serious crime or offences”, where serious crime means “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty” (art. 2b);
- The aim is to obtain “a financial or other material benefit”.

Furthermore, the convention provides additional useful definitions; for example, it defines “confiscation”, which “includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority” (art. 2g).

In the European context, since 1997, the EU adopted a definition based on eleven items. More recently (spring 2017), the EU has adopted a 4-year plan (from 2018 to 2021) for the fight against organised crime, named ‘EU policy cycle’.

This plan is based on ten priorities<sup>13</sup>:

- *Cybercrime*, which focuses on: (i) countering attacks against IT systems; (ii) tackling non-cash payment fraud; (iii) improving the safety of children online, including remedies and activities to be implemented to combat the production and distribution of child abuse content;
- *Drugs trafficking*, aiming at reducing the production and traffic of synthetic drugs, and disrupting the criminal activities of organisations smuggling cannabis, heroin and cocaine into the EU;
- *Facilitation of illegal immigration into the EU*, to fight against criminal organisations which impose “vulnerable migrants” to pay to reach Europe;
- *Organised theft and burglary*, to obstruct international criminal groups which perpetrate domestic burglaries or target business by taking advantage of the lack of interoperability between cross-border surveillance tools;
- *Trafficking in human beings*, with the main aim being to identify and protect victims (especially children) of sexual and labour (or similar) forms of exploitations;
- *Excise and Missing trader intra community (MTIC) fraud*, to impede fiscal fraud, mainly concerning VAT (Value Added Tax), perpetrated

<sup>13</sup> EU (2017).

by criminal groups by benefitting from the way VAT is treated in cross-border transactions;

- *Firearms trafficking*, to combat criminal organisations that traffic in, distribute and use firearms;
- *Environmental crime*, whose importance is increased a lot in the last decades, becoming one of the most profitable criminal activities. The EU intends essentially to fight against wildlife trafficking and illegal waste trafficking, because of their highly negative impact on the environment, as well as on economy and the society as a whole;
- *Criminal finances*, focusing on the illegal activities, based on innovations in financial services (such as virtual currencies and anonymous pre-paid cards) through which criminal organisations make profit and launder money. The EU intends to: (i) confiscate profits due to laundering; (ii) target firms which offer money-laundering services; and (iii) target criminal organisations that make use of new payment methods to launder profits originated by criminal activities;
- *Document fraud*, to combat those criminal organisations that produce and provide false documents to other criminals, with the main purpose of protecting borders, to manage more efficiently migration flows and to combat terrorism and organised crime.

Considering the above priorities, it is worth observing that the approach adopted by the EU is multidisciplinary, as it focuses on different aspects, moving from more traditional illegal activities, such as drugs, firearms trafficking and fiscal frauds, to more recent ones, such as criminal finances and environmental crimes. Moreover, this approach involves several bodies.

The EU policy cycle roots on the recognition of the organised crime as a worldwide problem, which requires an international cooperation to be tackled. Accordingly, this policy cycle consists of four steps.

The first step (“*Assessment of criminal threats impacting the EU*”) intends to provide a picture of the principal criminal threats, to be taken updated through periodic reviews (the first of which has been planned for 2019).

The second step (“*Adoption of the EU crime priorities for 2018-2021*”) operationalises the crime priorities by adopting a multi-annual strategic plan, which in its turn is further developed and detailed into one-year operational actions plans.

The third step (“*Implementation and monitoring*”) is based on the effective implementation of annual plans under the guide of a Member State.

Finally, the fourth step (“*Evaluation*”) assesses the effectiveness of the implemented actions and activities; the results are transmitted to the EU Council and they are the input for the next EU policy cycle.

Other definitions have been provided at a national level. Many countries have a legislation where criminal activities and groups are defined, and several remedies are identified and implemented. Obviously, these definitions are affected by the specific socio-economic context<sup>14</sup>.

### **1.3. Concepts related to organised crime**

Institutional definitions of organised crime tend to be more precise than those provided by scholars because of the different aims. Defining the concept of organised crime and/or criminal activities is essential from a juridical point of view, as the legislation of several countries prescribes different - and sometimes exceptional - measures to fight against them. Therefore, from an institutional perspective, it is important to define as more precise as possible the boundaries of organised crime and activities, differentiating them from other related concepts. A risk of overlapping can still persist.

One of the main concepts, which has been frequently considered as similar to organised crime, is “corporate crime”. Several common features can be identified, with the most relevant one being to increase profits and to make money through illegal (or at least unethical) behaviour. For example, large corporations are suspected to reduce their tax burdens by channelling their profits from the country where the activities are carried out (and the profit is generated) to other countries characterised by low-tax levels (the so-called tax havens). Another similarity is based on the propensity towards monopolisation, to increase power in a specific market or in a certain geographical area.

However, organised crime tends to be a broader concept than that of corporate crime; the most significant issue to be considered is that corporations are subject to external monitoring and scrutiny much more than organised crime, as corporations are legal firms, although they could perpetrate frauds and carry out illegal activities. Continuing the example of the tax haven, while corporations pay taxes, although they could try to minimise their tax burden, organised crime is typically an illegal activity which generally does not pay tax at all. Furthermore, as stated in previous sections, one of the

<sup>14</sup> Considering that nowadays criminal groups act more and more at an international level, it could be retained that recalling definitions provided by some countries is not so relevant.

particular features of organised crime is extortion/violence, which is not a common feature when considering corporate crime.

Another frequent overlap is between organised crime and mafia organisations. As a matter of fact, people frequently use these terms as synonyms. Furthermore, they operate in similar ways and somehow for the same reasons. However, scholars claim that mafia organisations have an important distinctive feature, which has not been observed in other types of criminal organisations: mafia-type organisations seek to interact with the political system in order to influence politics.

Considering the specificities of mafia organisations, chapter three will be focused on them, investigating in-depth their distinctive features and providing a taxonomy.

## **1.5. Concluding remarks**

It is clear that there is no a general agreement on the meaning, nature and characteristics of organised crime. Definitions provided by scholars and institutions diverge in different aspects, which somehow is quite normal, considering the dynamic nature of these organisations and the evolution they have had in the last decades.

Therefore, while older definitions emphasise violence as a principal feature of criminal organisations, at the same time highlighting their hierarchical structure, more recent approaches draw the attention on the type of business managed as well as on the flexibility of the organised crime structure.

This consideration leads us to avoid describing organised crime simply by enumerating the activities carried out, which can change over time, resulting in a non-exhaustive list.

Therefore, it could be argued that the most critical aspect is not merely to define a criminal organisation, or provide an additional, supposed new, definition, with the risk of reinventing the wheel. The main point is to have a clear framework to be retained as a reference.

Accordingly, the approach this book intends to adopt is based on two essential pillars.

Firstly, this study retains as a reference the definitions provided by institutions, especially those of the EU. This choice is motivated by the circumstance that the study would investigate mainly the European context, with a specific focus on the Italian case, where historically criminal and mafia-type organisations have had and still have a relevant role. Accordingly, chapter two will provide a general overview of the most known criminal

organisations, including mafia-type organisations, while chapter three will focus on mafia-type firms. The aim is to offer an overview from both a macro- and a micro-level perspective. The analysis is completed by considering, in chapter four, the theoretical approaches that could be used to investigate organised crime and mafia-type firms, proposing a managerial approach which could be used in the last case.

Secondly, this study aims at investigating in depth the countermeasures that can be adopted to fight against this kind of organisations. To introduce gradually the reader to these issues, chapter five presents a preliminary analysis of both the impact of organised crime on the society and the economy, coupled with the analysis of impact measures. Furthermore, retaining as a reference the policy plan of the EU, mentioned in section 1.2.2, chapter six will investigate in depth the role of states and public administrations to fight against organised crime and mafia. The role of international organisations and non-profit organisations, and their collaboration with public-sector entities, is also investigated. The last section of this chapter implements the managerial approach presented in chapter four, illustrating the Italian case. More specifically, the perspective of the Italian National Agency, which is in charge of implementing important measures to battle mafia organisations, is illustrated.