



## COUNTERING EXTORTION RACKETEERING: THE ITALIAN EXPERIENCE

Extortion racketeering is a crime which spans all sections of society, poses threats to the well-being of local communities and impairs the growth and development of business. No country is immune to it, although it varies across time, space and economic context. Extortion can be perpetrated by single offenders, or it can be part of more complex criminal schemes. In this sense, the case of Italy is typical because Italian mafias systematically resort to extortion racketeering.

Italy has a long history of organised crime, hallmarked by the specific relationship between organised crime and extortion, and the unique measures adopted by the government against organised crime during the last 25 years. Moreover, Italy has a unique experience in countering extortion through the involvement of civil society. This is why the policies against extortion which have been developed in Italy deserve special attention and could serve as a best practice model for fighting this destructive phenomenon.

### KEY POINTS

The Italian approach to countering extortion racketeering is based on a synergy between policies against the larger issue of organised and mafia-type crime and specialised measures that tackle this specific problem. The key elements of this approach include:

- A Special Commissioner who is responsible for nation-wide coordination of anti-extortion and anti-racket activities and initiatives.
- A Solidarity Fund operates for the benefit of victims of organised crime, extortion, and usury.
- Protective policies and measures such as those for the protection of collaborators and witnesses of justice.
- A legal framework which enables civil society organisations to take part in the fight against organised crime and mafia-type activities, particularly as regards victim support.
- Social reuse of confiscated assets is especially important because of its symbolic and economic significance.



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## Extortion racketeering and organised crime in Italy

Extortion is generally defined as the act of soliciting money through the use of violence or the threat thereof. Extortion racketeering on the other hand is the systematic practice of extortion and it has been mainly related to organised crime and the provision of extra-judicial protection – the practice when organised crime groups impose payments on a regular basis in exchange for ensuring security for individuals or businesses.

In Europe and worldwide, extortion racketeering has come to be regarded as a manifestation of mafia-type organised crime. Therefore, it is important to understand the distinctive features of extortion when it is committed in criminal environments controlled by mafia-type organisations. The practice of racketeering is embedded in the history of Italian organised crime.<sup>1</sup> Indeed, the establishment of mafia groups in Sicily coincides with the birth of the protection market, and extortion racketeering has been defined as the underlying characteristic of organised crime.

In Sicily, extortion racketeering dates back to the years of unification in the late 19<sup>th</sup> century, as the newly established national and local authorities proved incapable of maintaining order. This coincided with the presence of banditry and the offer of protection as a service by private armies of former landowners. These groups, which later crystallised into the phenomenon which came to be known as the Mafia, were able to capitalise on people's mistrust of state authorities and to specialise in the provision of protection and dispute resolution among traders and farmers. The phenomenon came to be defined as the new "protection industry".<sup>2</sup> Mafia groups provided services in a broad range of areas: elimination of business competition; protection of workers and trade unions; intimidation

against entrepreneurs to safeguard from extortion, theft, and police harassment; recovery of credits; mediation and settlement of disputes, etc.

In southern Italian regions, organised crime groups perpetrated extortion racketeering by regulating wholesale markets, fixing prices, influencing procurements, providing guarantees on products' quality, and occasionally protecting workers from abuse and exploitation. Over time, these organisations established business networks to reinvest their profits, taking the name of Mafia enterprises. In Campania, for instance, extortion racketeering is linked to the birth of Camorra during the late 19<sup>th</sup> century. Firstly, Camorra infiltrated urban areas, in particular the city of Naples, and expanded throughout the country by means of typical criminal activities: extortion was used as a means to perpetrate other crimes, including gambling, drug trafficking and robberies. This expansion involved the use of severe violence. To date, extortion exercised by Camorra is as systematic as in the Sicilian context, and evolved into a protection market, thanks to which Camorra has achieved territorial monopoly. Camorra extortion activities often take the form of a double blackmail scheme, since it is not only about the imposition of regular taxation in exchange for private protection, but also involves imposition of goods and services (e.g. supplies, products, and personnel).

Previous research<sup>3</sup> has demonstrated that extortion racketeering is beneficial to mafia-type organised crime in four crucial ways:

1. It allows mafia-type organisation to control the economy, politics and society within a specific geographical area. Moreover, the continuous use of extortion makes victims accustomed to it and possibly collusive with organised crime.
2. It is linked to the allocation of territories between mafia-type groups, which subsequently exercise

<sup>1</sup> See further Di Gennaro, G. 2016. 'Racketeering in Campania: How Clans Have Adapted and How the Extortion Phenomenon Is Perceived'. *Global Crime* 17 (1): 21-47; Gambetta, D. 1993. *The Sicilian Mafia: The Business of Private Protection*. Cambridge: Harvard University Press.

<sup>2</sup> Ibid.

<sup>3</sup> Transcrime. 2009. 'Study on Extortion Racketeering: The Need for an Instrument to Combat Activities of Organised Crime'. Study financed by the European Commission – DG JLS. Milano – Trento: Transcrime.

direct control and thus further undermine the authority of the state.

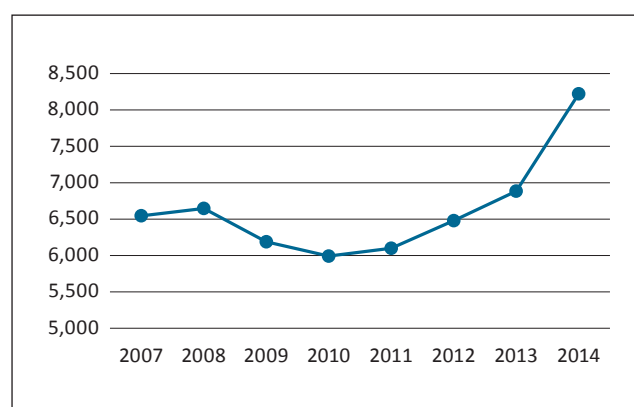
3. It represents a main source of financing for the criminal organisations.
4. It allows mafia-type organised crime to infiltrate legitimate businesses, either by extorting money or other financial benefits or by acquiring the business itself.

The successful and incremental use of racketeering by mafia-type organisations against businesses is due to its very nature: this is a crime which is easy to commit, since it does not require large initial investments and it is a low-risk operation. Extortion racketeering is usually perpetrated in territories where organised crime has already established its influence. Thus, intimidation requires violence only in some cases. Fear created by the threat of violence decreases the risk of a victim reporting the extortion to the authorities. Deterrence is further accomplished by tailoring the demanded extortion fee to the victims' financial capabilities. By negotiating the amount of those fees, a sort of complicity is established between the extortionist and the victim, which can in turn become a real collaboration. The amount of the fee also depends on the needs of the criminal groups extorting it, which entails an increase or decrease over time.

The targets of racketeering schemes are usually selected according to a set of specific criteria, among which an assessment of the financial capability of the victims is crucial. In this regard, mafia-type groups usually target businesses whose inputs, outputs and profits are easy to monitor. Typical targets are restaurants, hotels, cafes, and shops – i.e. usually small and medium enterprises. These are local enterprises that are easily identifiable and cannot move their business elsewhere without incurring substantial costs. If the owner refuses to pay, the criminal organisation might damage his business, usually through an openly violent act, thus sending

him and the community a message. Physical violence against the owner or his employees, however, is kept limited as the perpetrators try to minimise the risk of the victim reporting them. Other means to exert pressure include anonymous threatening phone calls and threats to the victim's family.

**Figure 1. Number of extortions referred by the police to judicial authorities in Italy (2006 – 2014)**



*Source:* Italian National Institute of Statistics (ISTAT).

According to official statistics, extortions in Italy have been constantly increasing since 2007 (see Figure 1), although a national business victimisation survey reported roughly 30 % of the entrepreneurs in Southern Italy are victims of extortion.<sup>4</sup> Those who are not have expressed concerns of becoming targets themselves. It should be noted that over 70 % of these cases have not been reported to the police, and only a few victims have notified the authorities informally. In terms of extortion fees paid to mafia-type groups, commerce (wholesale and retail trade) is the sector with the highest values with overall extortion revenues estimated between EUR 1,370 million and EUR 2,430 million.<sup>5</sup> Construction is the second most extorted sector with a share varying between 20.1 % and 14.3 % of the total revenues generated by extortion in Italy.<sup>6</sup> As Table 1 shows, the regions with historical presence of organised crime are those with a higher score of

<sup>4</sup> Transcrime. 2013. *Progetto PON Sicurezza 2007 – 2013. Gli Investimenti Delle Mafie*. Milano: Transcrime-Joint Research Centre on Transnational Crime.

<sup>5</sup> Lisciandra, M. 2014. 'Proceeds from Extortions: The Case of Italian Organised Crime Groups'. *Global Crime* 15 (1-2): 93-107.

<sup>6</sup> Ibid.

**Table 1. Estimates of the revenues from extortion racketeering by region (EUR million)**

| Region                | Total revenues |         | Region              | Total revenues |                |
|-----------------------|----------------|---------|---------------------|----------------|----------------|
|                       | Lower          | Upper   |                     | Lower          | Upper          |
| Abruzzo               | 32.1           | 84.1    | Marche              | 58.9           | 164.2          |
| Apulia                | 260.0          | 773.2   | Molise              | 0.99           | 25.7           |
| Basilicata            | 13.4           | 34.2    | Piedmont            | 130.8          | 374.4          |
| Calabria              | 322.9          | 929.9   | Sardinia            | 19.7           | 51.1           |
| Campania              | 821.7          | 2,255.9 | Sicily              | 395.8          | 1,117.4        |
| Emilia Romagna        | 69.0           | 194.1   | Trentino Alto Adige | 113.2          | 323.5          |
| Friuli Venezia Giulia | 21.9           | 59.9    | Tuscany             | 22.1           | 57.5           |
| Lazio                 | 116.4          | 300.6   | Umbria              | 14.0           | 38.3           |
| Liguria               | 32.0           | 86.2    | Valle D'Aosta       | 0.76           | 19.6           |
| Lombardy              | 119.7          | 345.6   | Veneto              | 179.9          | 506.6          |
|                       |                |         | <b>Italy</b>        | <b>2,762.1</b> | <b>7,743.0</b> |

Source: Lisciandra 2014.

extortion racketeering: Campania, Sicily, Calabria, and Apulia. However, there is a significant increase of this crime in central and northern Italian regions, such as Veneto and Lombardy.

## Legal and institutional framework

Throughout the last three decades Italy has developed a comprehensive legal framework to fight organised crime and in particular extortion racketeering. Below are presented the key legal instruments and protective measures for the victims of such crimes.

### Extortion racketeering as a criminal offence

The introduction of anti-racket legislation in Italy was prompted by developments in the 1980s and 1990s, when government institutions engaged in intense law enforcement activities against organised crime. In the first half of the 1980s, a pool of prosecutors in Sicily

started the first comprehensive investigation of mafia groups, which led in 1986 to the first mafia trial.<sup>7</sup> Following the trial, public and political awareness increased not only about possible counter measures, but also about the need to protect the victims of mafia-related crimes. In 1990, the Italian parliament approved *Law 302/1990* establishing rules for the compensation of victims of organised crime and terrorism.<sup>8</sup> The law was innovative in stipulating that crimes committed by the Mafia were perpetrated against the state, and thus state institutions needed to protect and help the victims. A year later, a Sicilian businessman, Libero Grassi, was killed after refusing to pay a mafia group a share of his profits as protection money. Because Grassi decided to make his private battle public through the media, his death provoked a wave of resentment all over the country and led to Confindustria (Italian National Association of Industry) to declare itself civil party in all the trials involving racketeering. The European Parliament approved a resolution on the murder of the businessman,<sup>9</sup> followed by the adoption by the Italian parliament of the first anti-racket law in February 1992.<sup>10</sup>

<sup>7</sup> The so called Maxi trial (maxi processo), concluded with 360 indictments for mafia-type criminal organisation.

<sup>8</sup> *Law 302/20 October 1990* on rules in favour of victims of terrorism and organised crime.

<sup>9</sup> European Parliament, *Resolution on the murder by the Mafia of the businessman Libero Grassi in Palermo*, 12 September 1991.

<sup>10</sup> *Law 172/1992*, approved on 18 February 1992 and converting law-decree 419/1991 on the creation of the fund of solidarity with victims of extortion.

The Italian *Criminal Code* defines extortion in Article 629: “Any person who, with violence or threat thereof, forces another person to do or not to do something which involves an unlawful gain for the offender or another person and causes loss for others, is to be punished by an imprisonment of 5 to 10 years and by a fine of between EUR1,000 to 4,000.”

According to the provisions of the *Criminal Code* the underlying characteristics of the crime are: a) the use of violence or threat thereof; b) the unlawful benefit for the perpetrator; c) the economic loss for the victim. To be considered as systematic, however, the crime of extortion needs to be committed under aggravating circumstances, which are defined in *Law 575/1965* and *Law 203/1991*.<sup>11</sup> According to Article 7 of the former, if the racketeering is perpetrated by a person subject to anti-mafia preventive measures, the punishment is increased by between one-third and a half, whereas Article 3, paragraph 1 of *Law 203/1991* states that the punishment should be increased by the same amount when the offence at issue is committed to facilitate organised crime. The same article considers taking advantage of the conditions set forth by article 416-bis of the Italian *Criminal Code* as an aggravating circumstance of extortion racketeering.

## Anti-mafia legislation

In the past decades, the Italian authorities have adopted and implemented several policies directly targeting organised crime. These measures have expanded the number and the scope of law enforcement and judicial instruments, while complementing more conventional approaches no longer effective in light of the persistent influence of organised crime in public institutions. These measures include several provisions: they criminalise new types of illegal activities (e.g. complicity with organised crime); they broaden the powers of investigative authorities; they introduce **preventive confiscation** of organised crime assets (*confisca di prevenzione*); and they establish

the **witness and collaborator of justice protection programme**.

Since 2011, the entire *corpus* of the legislation against organised crime has been codified into *Legislative Decree No. 159*, also known as the *Anti-Mafia Code (Codice Unico Antimafia)*.<sup>12</sup> The penalties foreseen by the Code apply to people indicted of participation in mafia-type association, as it is established in article 416-bis of the Italian *Criminal Code*. The offence of mafia-type association is envisaged when the members of the groups use the violent reputation of their criminal organisation to commit a crime, or to manage or control economic activities and concessions. The promotion, direction, participation, and management of such criminal organisations are punishable by heavy penalties which range from 7 to 24 years of imprisonment. The confiscation of assets and goods belonging to the criminals or those were used to perpetrate the crime is listed as a complementary measure. In addition, in specific cases a judge can decide to order confiscation as a preventive measure. These measures are presented in more detail in the sections below.

A specific measure against members of mafia-type organisations, which is still debated at the international level, is the special imprisonment regime under Article 41-bis of the *Law on the Penitentiary System*. The provision was introduced in 1986, and its application was initially limited to situations of unrest or other serious disturbances in Italian prisons. Following the massacre of Capaci (Sicily), where an Italian prosecutor (Giovanni Falcone), his wife, and their security guards were killed by the Mafia, Article 41-bis was extended to permit the Minister of Justice for security and public order reasons to introduce additional restrictions on detainees belonging to the Mafia. In particular, inmates can be restricted from communicating with the outside world (including family members) and with other prisoners, as well as from recreational and sporting activities. This

<sup>11</sup> *Law 575/1965* on regulation against the Mafia; *Law 203/1991* containing urgent measures concerning the fight against organised crime and transparency and good delivery of administrative services.

<sup>12</sup> *Legislative Decree 159/2011*, Code for anti-mafia laws and prevention measures, as well as new provisions on anti-mafia documentation, in accordance with Articles 1 and 2 of *Law 136/2010*.



regime was introduced to remove the opportunities of organised crime members to pursue their criminal activities from inside prison. During its mission in Italy in 2008, the UN Working Group on arbitrary detention has repeatedly stated that this form of detention does not amount to torture, or inhumane or degrading treatment.

## Law enforcement and judicial response to extortion racketeering

The Ministry of Interior has the central role for fighting organised crime in Italy. It is in charge of the maintenance of public order and crime prevention. In order to better coordinate the law enforcement efforts against organised crime, in 1995 the Italian government established the General Council for the Fight against Organised Crime, subordinated to the Ministry of Interior. This body is chaired by the Minister of Interior, while the other members include the General Director of Public Security, the General Commander of the Carabinieri, the General Commander of the Financial Police, the directors of the intelligence services, and the Director of the **Anti-Mafia Investigation Directorate** (Direzione Investigativa Antimafia, DIA). The Council sets the guidelines for preventive and investigative activities, determines the necessary resources, methods, and technical means. Additionally, it monitors the results related to the strategic goals that have been set and proposes measures to correct deficiencies in the system.

Italian legislation has also created special offices which are tasked with countering extortion racketeering in the country, such as that of the Special Commissioner for the coordination of anti-extortion and anti-racket initiatives. The Commissioner is responsible for coordinating anti-extortion and anti-racket initiatives nationwide. He is a member of the committee of solidarity for the victims of extortion and usury, established by the Ministry of the Interior, which examines and deliberates on requests for access to the Solidarity Fund.

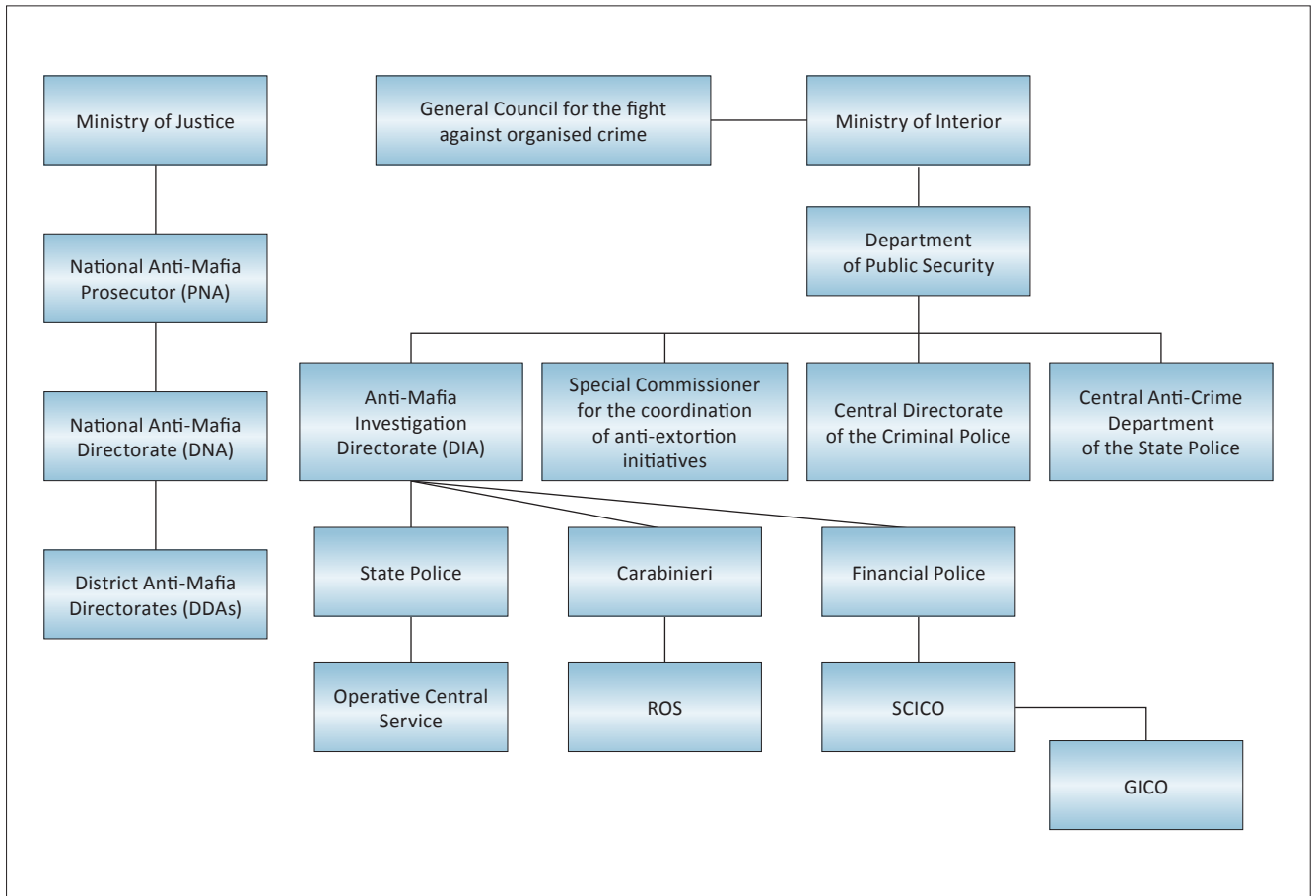
Furthermore, several special units have been created within Italian law enforcement to fight organised

crime. The **Central Anti-Crime Department** has been established in the Italian police to coordinate investigations against organised crime, as well as to coordinate prevention and control activities of the State Police on Italian territory. This department within the State Police is structured in three major units: the Operative Central Service, the Territorial Control Service, and the Scientific Police. The other specialised unit is the **Central Directorate of the Criminal Police**, whose main functions include intelligence gathering, providing and broadening scientific and technical support to police officers and the judiciary, coordinating protection measures for witnesses and collaborators of justice, and international cooperation. The Central Directorate also provides operational coordination between the State Police, the Carabinieri, the Financial Police, and DIA.

Other special units include the **Special Operation Group** (ROS) of the Carabinieri, the **Central Investigation Service on Organised Crime** (SCICO) and the **Organized Crime Investigation Group** (GICO) of the Financial Police. ROS and SCICO have investigative competences in cases related to organised crime, and with the Operative Central Service of the Police collaborate under DIA, which is in charge of conducting preventive investigations against organised crime groups and mafia-type organisations. The Ministry of Justice and the specialised **National Anti-Mafia Directorate** (Direzione Nazionale Antimafia, DNA) are the other key institutions in the fight against organised crime. The DNA comprises of prosecutors specialised in the investigation and countering of organised crime, and it is directed by the National Anti-Mafia Prosecutor.

All official statistics on extortion racketeering and crime records in general are collected by the Ministry of Interior within the **SDI database** (Sistema d'Indagine or investigative system). Introduced in 2004, SDI is the largest database used by the Italian police to monitor and gather data on criminal activities. With the introduction of this new system, consulting and analysing information related to crimes became a regular task carried out by all operational and investigative bodies. The system also allows integrating research with external databases

**Figure 2. The Italian institutional framework for countering organised crime and extortion racketeering**



Source: Italian Ministry of Interior, Italian Ministry of Justice, authors' elaboration.

providing a considerable mass of information. With regards to extortion, the data refers to all known typologies of the offence, including one-off extortions among individuals, which constitute the majority of reported cases.

**Main investigative bodies: DIA and DNA**

DIA was established by *Legislative Decree 345/1991*,<sup>13</sup> supplemented by *Law no. 410/1991*, in order to mitigate the rivalry between Italy's top three law enforcement bodies: State Police, Carabinieri, and Financial Police. DIA is responsible for coordinating the intelligence gathering and conducting investigations specifically with regards to organised crime. DIA's operations are intended to uncover the

structures of organised crime groups, their national and international branches, their goals and *modus operandi*, and all organised crime related activities, including extortion racketeering. One of its key tasks is to monitor the suspicious transactions and propose preventive measures against potential suspects. The Ministry of Infrastructure and Transport, together with the Authority for the Supervision of Public Works, the Central Anti-Crime Department of the State Police and DIA are responsible for monitoring major public construction projects (e.g. high-speed highways and hydroelectric power plants, which are particularly vulnerable to mafia infiltration).

DIA is a member of the Expert Working Group for the Fight against Eastern European Organised

<sup>13</sup> *Legislative decree 345/1991 on urgent provisions for the coordination of information and investigative activities in the fight against organised crime.*

Crime of the European Anti-Fraud Office (OLAF) and a partner of the Europol National Unit. DIA also assists in the production of analytical working file archives (AWFs), which serve as the main instrument of investigative cooperation for the building of the Europol Information System (EIS).<sup>14</sup> Furthermore, DIA elaborates criminal analyses and implements information and operational projects for preventive actions concerning surveillance and specific investigations for Europol.

The judicial counterpart of DIA is DNA, which was established by *Legislative Decree 367/1991*,<sup>15</sup> supplemented by *Law 8/1992*. DNA coordinates the activities of the 27 District Anti-Mafia Directorates (DDAs). The DNA does not have authority to carry out investigations on its own but gathers information and oversees the collection of evidence. Additionally, DNA regularly holds meetings with the DDAs in order to harmonise their judicial practices and methods.

The DNA prosecutor cooperates with other prosecutors in organised crime related investigations, resolves possible conflicts concerning the manner in which they are conducted, and undertakes those preliminary investigations initiated at the DDA level, for example when general directives are not complied with or coordination is not effective. DNA does not have powers to propose preventive measures such as seizure of assets or to order the interception of communications. Furthermore, according to *Law 367/2001*<sup>16</sup> when public prosecutors require the acquisition of evidence abroad, they are obliged to inform the **National Anti-Mafia Prosecutor** (PNA) in cases where mafia-related offences are concerned.

The PNA is the director of the DNA and is appointed by the Supreme Judicial Council (Consiglio superior della magistratura). PNA coordinates the investigations conducted by each DDA in order to ensure the sharing of information between all the concerned law enforcement agencies and the DDAs.

DNA also has a **Study and Documentation Service** tasked with acquiring and analysing relevant information on organised crime, including drug trafficking, trafficking in human beings, money laundering, asset confiscation, environmental crimes, foreign criminal organisations, and infiltration in public procurement. There is an agreement between DNA and the Authority for the Supervision of Public Works in order to enable the two institutions to elaborate “red flags” that can serve to detect possible mafia group’s infiltration. Under *Legislative Decree 369/2001*,<sup>17</sup> supplemented by *Law 431/2001*, DNA participates in the Committee for Financial Security and it is tasked to explore suspicious financial transactions linked to mafia-type organisations.

Furthermore, an information service for facilitating the activities of DNA and DDAs has been established and it is supported by the General Directorate for Automated Information Systems of the Ministry of Justice.<sup>18</sup> **SIDNA/SIDDA** are the DNA/DDA systems of information. SIDDA results from the interconnections of all the local DDAs databases, where information on prosecutions and judiciary acts relevant to organised crime are organised on a regional basis. SIDNA is the national-level information system managed by the DNA. SIDNA collects not only information from SIDDA, but also from other databases including those of the

<sup>14</sup> The EIS is a database of offences, individuals involved, and other related data to support member states, Europol and its cooperating partners in their fight against organised crime, terrorism, and other forms of serious crime. The data are submitted to EIS by member states by automated data sharing systems.

<sup>15</sup> *Legislative decree 367/1991* on the coordination of investigations in proceedings for the crimes related to organised crime.

<sup>16</sup> *Law 367/2011* on the ratification and implementation of the Agreement between Italy and Switzerland, complementing the European Convention on Mutual Assistance in Criminal Matters of 20 April, made in Rome on 10 September 1998 and subsequent amendments to the *Criminal Code* and the *Criminal Procedure Code*.

<sup>17</sup> *Legislative Decree 369/2001* on urgent measures to suppress and combat the financing of international terrorism.

<sup>18</sup> The General Directorate of Automated Information Systems (Direzione Generale dei sistemi informativi automatizzati) is part of the Ministry of Justice and is in charge to plan, design, develop, and manage the automated information systems of the judicial offices and the justice administration. It is also responsible for integrating and interconnecting the automated information systems of other administrations.



Ministry of Justice, the National Institute of Social Insurance, and the Tax Register. Due to its relevance, the SIDNA can be accessed by each DDAs, the PNA and his deputy.

DNA has also established an **International Cooperation Service Unit**, composed of the prosecutors that participate in the European Judicial Network (EJN). With regard to mafia-related offences, the DNA serves as a central contact point of EJN in Italy. The Italian Ministry of Justice is the leader of a recent EU pilot project for establishing a common information system that will assist cooperation among the investigative bodies of the member states within the Eurojust framework. The European Commission decided to support this project on the basis of the relevant experience of DNA in maintaining the SIDNA/SIDDA system.

## Criminal justice measures and tools for tackling extortion racketeering in Italy

According to Italian legislation, law enforcement agencies can utilise all existing investigative instruments against extortion racketeering: surveillance, interception of communications, undercover investigations, informants, witness protection services, joint investigation teams, financial investigative tools, and collaborators of justice. The measures listed below are part of the Italian legislation against organised crime, hence they are also implemented in cases of extortion racketeering as organised crime.

### The application of special investigative tools in cases related to extortion

**Interception of communication**, including wiretapping, remote search, and wiretapping play a key role in the majority of cases against organised crime groups, because these methods can gather valuable evidence to be used to prosecute criminals. In some instances, the information collected through the interception of communications may only have a supporting role in

the gathering of additional evidence, rather than being used as evidence in court proceedings. Furthermore, new technologies are constantly being introduced and deployed to enable, facilitate, and exchange communication. This requires a dynamic nature of the scope of interception as a special investigative means.

**Telephone tapping and interception of on-site conversations** are widely used in Italy as an investigative tool in order to combat organised crime. This kind of surveillance is regulated by the *Criminal Procedure Code* (articles 266 to 271), which contains very strict provisions. However, in investigations against organised crime, *Law No. 203/1991* allows electronic surveillance “whenever the interception is necessary in order to carry on investigations related to an organised crime offence [...] for which sufficient indicia exist” (Article 13). A substantiated warrant of electronic surveillance needs to be issued by a judge at the request of the public prosecutor. The warrant can be granted for a maximum of forty days, but can be further extended by a judge. In case of urgency, the warrant, or the extension, may be provisionally issued by the public prosecutor. In such a scenario, however, it should be presented to a judge within 24 hours with a request for validation.

Italian legislation permits the use of **pre-emptive interceptions** under Article 226 of the implementation rules of the *Criminal Procedure Code*. This type of interception is applied only for investigating organised crime and terrorism in order to gather useful information and to prevent the perpetration of further serious offences. Information obtained cannot be used as evidence in trials, but can inform new investigations.

**Covert investigation** is considered an investigative tool of last resort. It is considered intrusive and highly risky and, as a result, evidence needs to be presented that other investigative tools had been exhausted. It is also an instrument strictly confined only to the investigation of serious crimes and terrorism. Although covert investigations have been utilised by the Italian law enforcement agencies for years,

the implementation of the UN Convention against Transnational Organised Crime (2000) in Italy has led to the harmonisation of the provisions on covert investigations.

Currently, the use of covert investigations is regulated in Article 9 of *Law 146/2006*<sup>19</sup> and articles 97 and 98 of the *Decree of the President of the Republic 309/1990*.<sup>20</sup> The latter decree is specifically designed to use covert investigations in the context of drug offences. In 2010, Article 8 of *Law 136/2010*<sup>21</sup> introduced extortion, usury, kidnapping for ransom, and counterfeiting as offences that can be investigated by undercover

agents. As a consequence of being involved in covert investigations aimed at finding evidence within a criminal organisation, undercover agents would have immunity from prosecution when committing certain crimes, which are strictly defined by the law – money laundering; use of money, goods or benefits of illegal origin; crimes against personal freedom; crimes related to the possession, use, and trafficking of weapons, ammunitions, and explosives; hiding criminal associates, and drugs purchases. The highest level police commanders authorise these operations and the public prosecutor must be informed in detail of any undercover operation. For investigative

### Box 1. Operation *Crimine-Infinito*

Operation *Crimine-Infinito* was an investigation conducted by the DDAs in Reggio Calabria and Milan from 2003 to 2011 against the 'Ndrangheta. The investigation led to the arrest of more than 150 and sentencing of 110 people found guilty of several crimes, including mafia-type associations, murder, drug trafficking, obstruction of voting, money laundering, corruption, extortion, and usury. The police operation is particularly relevant as it was the first to identify a structured 'Ndrangheta organisation in a region in the north of the country, which was not historically linked with the birth and development of mafia-type organised crime. Moreover, this operation was the first that led to the arrest and conviction of so many people for mafia-type offences in a region without long presence of mafia-type organised crime.

The operation uncovered over 16 'Ndrangheta groups (*locali*) operating on the territory of the Lombardy region. Importantly, the investigators identified a criminal structure with three management levels: a lower level active in small, confined geographical areas; a middle level coordinating at regional level the local branches; and a third level, which constituted the leadership of the groups and was in charge of maintaining contact and receiving orders from Calabria.

The operation involved the use of a number of special investigative tools. In particular, the police and the Carabinieri recorded over 25,000 hours of wiretapping and 20,000 of electronic surveillance. Moreover, this operation involved the use of joint investigative teams, and a close collaboration between two Anti-Mafia District Directorates. The indicted offenders had exerted extortion on several occasions, in order to gain control over businesses and the territory they were active in. Authorities established that over 130 arson attacks were conducted against private businesses, and over 70 cases of intimidation with weapons, including bombs, were carried against individuals.<sup>22</sup>

<sup>19</sup> *Law 146/2006* ratifying and implementing the Convention and Protocols of the United Nations Convention against Transnational Organized Crime.

<sup>20</sup> *Decree of the President of the Republic 309/1990* consolidating the laws governing narcotic drugs and psychotropic substances, the prevention, treatment and rehabilitation of drug addicts.

<sup>21</sup> *Law 136/2010* containing a special plan against the Mafia and delegation to the Government regarding anti-Mafia legislation.

<sup>22</sup> Order for the application of coercive measures, Ordinary Court of Milan, N. 43733/06 R.G.N.R. and N. 8265/06 R.G.G.I.P., p. 75, and pp. 132-149.

purposes, the seizures of illegal goods and the arrest of criminals can be postponed by the prosecutors if requested by the police.

The use of **specialised economic and financial investigations** to dismantle organised crime groups proved to be particularly useful. Financial investigations are regulated by Article 2-bis of *Law 575/1965*, which states that law enforcement agencies, prosecutors, and the DIA can inquire into the living standards, financial assets, and economic operations of suspected criminals in order to prove mafia-type offences, such as extortion. During these investigations, the police and prosecutors can submit requests to any public administrative body and private companies for disclosure of all relevant information. Economic and financial investigations are aimed at the suspension of any economic activity laundering the proceeds of crimes and the seizure and confiscation of assets.

## Asset confiscation

Confiscation as a specific measure for the fight against mafia-type organisations was introduced by *Law 646/1982*, also known as the Rognoni-La Torre Law, after the names of the promoters. It introduced Article 416-bis of the *Criminal Code*, which foresees the confiscation of assets of mafia members. The rationale is that “crime should not pay” and the final goal is to weaken mafia-type criminal organisations by depriving them of their assets.

Since 1982, the Italian legislation has changed and has introduced new provisions. Nowadays, it foresees three different types of confiscation: conviction-based confiscation; confiscation as preventive measure and the extended confiscation. The main differences are the proceedings within which these measures are applied and the required burden of proof. However, all three measures share common prerequisites:

- They target assets that are proceeds, product or price of a crime at the disposal of the offender or third parties on behalf of offender.
- They target properties, for which the suspect does

not have a clear explanation of the licit origin of the assets.

- They target properties in cases where there is an unjustifiable disproportion between the declared income and the actual economic activity of the offender.

The main grounds for confiscation are either formal affiliation with a criminal organisation or collaboration without formal membership. The relationship needs to be based on reasonable grounds which can be detected through a pending or concluded criminal case. While proof of affiliation is not required in order to identify the social threat of the suspect, the knowledge of functional participation in the activities of the criminal organisation is a minimum requirement. These legislative novelties follow the purpose of “objectification” of the anti-mafia precautionary provisions, aiming at countering criminal organisations and their tools for enrichment. The new provisions separated the procedure for preventive measures from the criminal one.

**Conviction based confiscation** is applied after a final sentence for serious crimes. The Italian *Criminal Code* provides for this confiscation in Article 240 of the *Criminal Code* and for the seizure in Article 321 of the *Criminal Procedure Code*. Beside the fulfilment of the requirements listed above, the assets should have a direct link with criminal conduct. Its application regards different crimes, including serious and organised crimes. It includes the crime of mafia-type organisations referring to Article 416-bis of the *Criminal Code*. Nowadays, this measure is used less frequently because of the need of a final sentence and of an assessment of the necessary link between the asset and criminal conduct.

**Non-conviction based confiscation** or confiscation as preventive measure is applied independently of criminal proceedings. *Legislative Decree No. 159/2011* (the Anti-Mafia Code) consolidated and re-organised all existing laws and legislative tools against organised crime and illicit assets. It includes provisions for the management and disposal of the confiscated assets. The Decree foresees seizure

**Table 2. Number of confiscated assets by region (1983 – 2015; as of 31<sup>st</sup> December 2015)**

| Region                | Companies | Real estate | TOTAL |
|-----------------------|-----------|-------------|-------|
| Sicily                | 885       | 7,976       | 8,861 |
| Campania              | 637       | 2,793       | 3,430 |
| Calabria              | 335       | 2,738       | 3,073 |
| Apulia                | 217       | 1,984       | 2,201 |
| Lazio                 | 380       | 1,455       | 1,835 |
| Lombardy              | 276       | 1,430       | 1,706 |
| Piedmont              | 31        | 320         | 351   |
| Emilia-Romagna        | 49        | 255         | 304   |
| Abruzzo               | 6         | 261         | 267   |
| Sardinia              | 12        | 245         | 257   |
| Tuscany               | 22        | 178         | 200   |
| Veneto                | 6         | 174         | 180   |
| Liguria               | 17        | 74          | 91    |
| Umbria                | 4         | 70          | 74    |
| Marche                | 6         | 52          | 58    |
| Friuli Venezia Giulia | 2         | 40          | 42    |
| Basilicata            | 6         | 25          | 31    |
| Trentino-Alto Adige   | 1         | 17          | 18    |
| Valle D'Aosta         | 0         | 6           | 6     |
| Molise                | 0         | 5           | 5     |

Source: Data from ANBSC collected by *Confiscati Bene* ([www.confiscatibene.it](http://www.confiscatibene.it)).

(Article 20) and confiscation (Article 24) when the value of the assets is disproportionate to the stated income and the economic activities of a suspect, and when evidence suggests that they result from illegal activities. This measure targets the assets, not the person.

**Extended confiscation** was introduced by *Law Decree 306/1992* on urgent amendments to the new *Criminal Procedure Code* and provisions against mafia organisations, and particularly by Article 12-sexies, which provided mandatory confiscation in cases of criminal convictions or plea bargains for certain serious crimes. It is applied within the criminal proceeding but it can be issued for any assets, even when not related to specific crimes. The requirement of unjustifiable disproportion is applied. In this case, the burden of proof is reversed: the defendant should

prove the licit origin of the assets. As preventive measure, the seizure is foreseen by Article 321 of the *Criminal Procedure Code*.

### Collaborators of justice

A collaborator of justice is a convicted criminal who decides to collaborate with law enforcement authorities and prosecutors. These collaborators provide useful information for investigations in exchange for a reduced sentence and protection of them and their relatives from other criminal members. Extraordinary protective measures can be applied when the regular measure applied by the police forces, or by the Ministry of Justice appear to be inadequate to guarantee the personal safety of collaborators with justice or protected witnesses.<sup>23</sup> These measures, which include personal, economic,

<sup>23</sup> Article 9 of *Law 82/1991*.

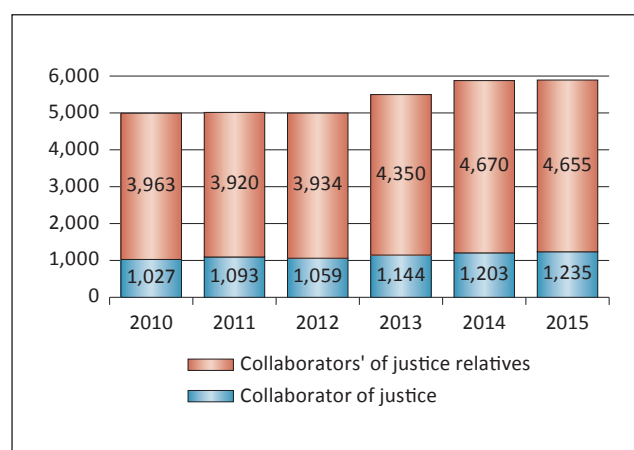
and judicial provisions, are regulated mainly by *Law 82/1991*, amended by *Law 45/2001*.<sup>24</sup>

Collaborators sign an agreement with the State, which obliges them to provide useful information about the organised crime group in exchange for financial assistance and protection. Collaborators of justice are the most important impact factor in the fight against the Mafia, since they provide information about the crime groups regarding their goals, networks, planned and committed crimes. This information allows authorities to collect much easier and quicker evidence required for the arrest of high-profile crime bosses, and illegal asset seizure.

The need for legislation on the protection of collaborators and witnesses of justice became especially evident in the 1970s and 1980s when several Italian organised crime groups began assisting the authorities. Thus, *Law 82/1991* established within the Ministry of Interior and the Ministry of Justice a Central Commission for protection of collaborators with justice and witnesses. The Commission assesses the conditions of danger and threat for the collaborator with justice. Furthermore, the law envisaged the implementation of a Central Service for Protection within the Ministry of Interior. This agency manages a special programme of protection that includes temporary or permanent change of identity and/or location, economic assistance, and resocialisation. *Law 203/1991* introduced the possibility of reduced prison sentences for collaborators with justice, while *Legislative Decree 119/1993* made it possible for witnesses and collaborators with justice to change their identities. The latter was greatly influenced by the Witness Protection Program in the United States. By mid-2015, 1,235 collaborators of justice and 85 protected witnesses had received assistance for their collaboration,<sup>25</sup> and the number has been steadily

growing since 2010 (Figure 3). This has led to significant success in the fight against the Mafia and it has, either directly or indirectly, resulted in the arrest of several Mafia bosses.<sup>26</sup>

**Figure 3. Collaborators of justice and their relatives under protection (2010 – 2015; as of 30<sup>th</sup> June 2015)**



Source: Italian Ministry of Interior.

## Pro-active measures for tackling extortion racketeering in Italy

In addition to the specialised bodies to fight extortion racketeering and the criminal justice measures for investigation and prosecution of organised crime including extortion, the Italian state has adopted a number of pro-active measures to tackle organised crime and particularly extortion racketeering, many of which are unique within the EU. These measures include: establishment of a fund for the solidarity with the victims of organised crime, extortion and usury; a complex programme for protection of witnesses; involvement of civil society in the fight against organised crime; social reuse of confiscated criminal assets.

<sup>24</sup> *Law 82/1991* converting into law, with amendments, of *Legislative Decree no. 8 of 15 January 1991*, containing new measures on kidnappings for ransom and for the protection of those who collaborate with the justice system; *Law 45/2001* modifying the rules of protection and treatment of the sanctioning of those who collaborate with the justice system as well as provisions for witnesses.

<sup>25</sup> Ministero dell'Interno, Dipartimento della Pubblica Sicurezza. Giugno 2015. *Relazione al Parlamento sulle speciali misure di protezione sulla loro efficacia e sulle modalità generali di applicazione*.

<sup>26</sup> In 2010, Giuseppe Liga, head of the most powerful mafia group in the city of Palermo was arrested following testimonies by collaborators of justice.



## Fund for solidarity with the victims of organised crime, extortion and usury

Italy has established a fund for solidarity with victims of organised crime, extortion, and usury.<sup>27</sup> The fund was created by merging two previous solidarity funds, respectively for the victims of mafia-type crimes, and for the victims of usury and extortion. The fund is managed on behalf of the Ministry of Interior by **Consap**,<sup>28</sup> a public company whose main function is to manage the concession of public insurance services. Although the funds have been unified by law, two Committees are still entrusted with the allocation of the assistance. The two Committees are based at the Ministry of Interior and the Commissioners nominated by the government and they have deliberative powers.

The Committee of solidarity with victims of mafia-type crimes is chaired by a Commissioner and has 6 members, representative respectively of the ministries of interior, justice, economic development, economy and finance, labour, health, and social policy, and Consap. They have a 4-year mandate that cannot be renewed. The Committee of solidarity with victims of extortion and usury is chaired by a Commissioner and has 9 members, representing the ministries of economic development (1) and economy and finance (1), Consap (1), anti-racket and anti-usury associations (3), and the National Council on Economy and Work (CNEL) (3).

The committees are chaired by the Special Commissioner, who decides upon the amount of the benefits for the victims of organised crime offences and in particular of extortion and usury. Victims can obtain monetary compensation or a loan. The allocation of the benefits to the victims of extortion and organised crime follows a strict procedure. Following an official report to police forces, victims can be granted access to the Solidarity Fund by filling in a form that is available on the websites of the Italian

prefectures and the State Police. In each prefecture, there is a contact person, in charge of providing information and support for the application for the Solidarity Fund. The amount of the compensation is decided by considering the direct economic loss suffered by the victims, the lost earnings, and the physical damages suffered either by the victim or his/her family.

## Protective measures for victims of extortion racketeering

According to the provisions for the protection of collaborators of justice and witnesses as stated by *Law 45/2001*, victims of racketeering may be granted a protection measure as witnesses of justice. By modifying previous legislations,<sup>29</sup> *Law 45/2001* has defined the difference between collaborators and witnesses of justice. Thus, while collaborators are persons who had been part of an organised crime group and accuse themselves and others of certain crimes in exchange for protection and leniency, witnesses are victims who give their testimonies regarding crime investigations in exchange for protection. In most cases, the witnesses are persons who have either refused to pay, or have decided to discontinue doing so.

To qualify for protection, witnesses need to be under imminent danger as a result of their testimony against organised crime members. Moreover, the person to whom protection is provided shall be reliable in his/her statements and provide information that is crucial for the successful development of the investigation and the criminal proceedings.

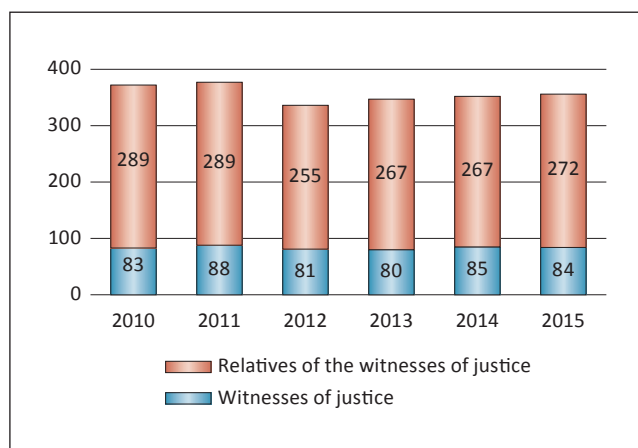
The special protection measures include protection services and technical devices of security. If such protection measures prove to be insufficient, a special protection programme is implemented, which can involve transfer of the protected person and his family to a safe place, provision of personal and economic

<sup>27</sup> *Legislative Decree 225/2010* on the extension of deadlines set by laws and urgent measures on taxes and support to businesses and families.

<sup>28</sup> Consap (Concessionaria Servizi Assicurativi Pubblici, [www.consap.it](http://www.consap.it)) manages public insurance services, as well as other public interest functions entrusted to it on the basis of legal regulations, concessions and agreements by the State.

<sup>29</sup> In particular *Law 82/1992*.

**Figure 4. Witnesses of justice and their relatives under protection (2010 – 2015; as of 30<sup>th</sup> June 2015)**



Source: Italian Ministry of Interior.

assistance, change of identity, and assistance in establishing of a new life. The protected person(s) is obliged to agree to respect a number of rules, such as to comply with security norms and continue to co-operate with the justice system. In the case of discontinued collaboration, the protection programme can be revoked.

### The involvement of civil society in the fight against extortion

Since the 1990s, Italy has developed several measures to aid victims of extortion racketeering. Their objective is to protect and support victims and witnesses, who decide to report criminal offences. One of the main legal acts in this regard is *Law 302/1990*,<sup>30</sup> which *inter alia* encourages the creation of civil society organisations to resist and combat the phenomena related to the racket. The law states that “[t]he application may be filed through the legal representative and with the consent, by associations or organisations registered in a special list kept by the prefect and having among its purposes to provide assistance and solidarity to those harmed by extortion activities.” These provisions prompted the establishment of a number of anti-racket associations and foundations operating

mostly in small communities. Following the adoption of the first measures, small firms came together to create anti-racketeering associations that merged into the Italian Anti-Racket Federation (FAI) in 1996. Subsequently, three other anti-racket associations were also established: Addiopizzo, Libera, and SOS Impresa.

**The Italian Anti-Racket Federation (FAI)**<sup>31</sup> is the flagship organisation of the anti-racket movements. The Federation is an umbrella organisation that gathered many single and local anti-racket associations into a single entity. Thus, the anti-racket movement strengthened and gained the legitimacy to interact with the institutions at all levels. The wide recognition by the institutions also enables the Federation to help victims of extortion who have not yet reported their situation to the police and provides a safe point of reference and support. FAI carries out three primary activities: raise awareness on how and where to buy goods and services in mafia-free shops and companies; assist victims of extortion during criminal proceedings in which they are witnesses and in dealing with compromised financial situations, through the creation of anti-racket help desks; bring civil action in extortion criminal proceedings.

Together with FAI, the **General Confederation of the Italian Industry (Confindustria)**<sup>32</sup> has joined some of the anti-racket activities, including the creation of anti-racket help desks to sustain the members who decided to denounce criminal organisations asking for protection money and to participate as witnesses in trials. Confindustria also proceeds to expel any member who has been involved in racket, usury, and other mafia-type crimes, and brings civil actions against single extortionists as well as in the major criminal proceedings against mafia-type organised criminal groups. Moreover, Confindustria has signed an agreement with the Ministry of Interior, Bank of Italy, all the national business associations, and the anti-racket and anti-usury associations to make public the list of banks operating in the management of the

<sup>30</sup> *Law No. 302/1990* in favour of victims of terrorism and organised crime.

<sup>31</sup> Additional information available at: [www.antiracket.info](http://www.antiracket.info)

<sup>32</sup> Additional information available at: [www.confindustria.it](http://www.confindustria.it)

fund of solidarity with the victims of extortion and usury. Thanks to this initiative, victims of extortion are now able to easily identify the main bodies involved in the management of the fund, and the collaborations among banks, Ministry of Interior, Confindustria, and anti-racket association all over Italy is made easier.

**“Libera. Associations, names and numbers against mafias”**<sup>33</sup> was established in March 1995 with the purpose of involving and supporting those who are interested in the fight against organised crime. Libera is a network of more than 1,200 associations, groups, and schools committed to building political-cultural and organisational synergies capable of spreading the culture of legality. The law on the social use of the assets confiscated from organised crime, education in democratic rule of law, anti-corruption, camps for anti-mafia education, and anti-racket activities are some of Libera’s most prominent commitments. The organisation is structured around several different priorities: education, reuse of confiscated assets, remembrance, sport, international and SOS-Justice desk.<sup>34</sup>

One of the long lasting commitments of Libera is related to the social reuse of confiscated assets. Law 109/1996 allows private organisations, cooperatives, municipal, provincial and regional administrations to use for social purposes all properties acquired from illegal activities. The law has allowed for conversion of more than 4,500 properties in social services structures. Confiscated lands in Sicily, Calabria, Campania, Apulia, and Lazio have been used by cooperatives of students to produce organic goods.

**Addiopizzo**<sup>35</sup> was established in May 2005, when it published its manifesto for the first time. The main objective of the organisation is to offer the victims of extortion (‘pizzo’ in Italian) an alternative way of doing business. The most original among the many undertakings of Addiopizzo, is the so called “critical consumption,” which they have defined as a pact

between citizens, consumers, and economic actors aimed at creating an economy independent from the Mafia. The idea is to orient consumption towards the legal economy and reward those who oppose racketeering.

The organisation has developed and promoted the so called “extortion-free map”, which brings together hundreds of entrepreneurs and business owners who support and comply with the critical consumption campaign. The maps in Italian, English, and German are placed in different shops that are part of the campaign. Membership requests are evaluated by a guarantee fee, documents (procedural, legal, administrative, journalistic), and/or additional evidence of any nature that would support the evaluation by the Commission with regard to its inclusion in the list. It also requires the person to sign a formal declaration and written solemn commitment to the citizens/consumers, promising not to succumb to extortion. They also commit to respect legality in the exercise of their economic activity, as a condition necessary for entering and staying in the list of economic operators to sustain. The list is distributed and circulated to all participating consumers.

**SOS Impresa**<sup>36</sup> was founded in 1991 in Palermo as a result of an initiative of a group of entrepreneurs. Its goal is to defend their free entrepreneurial initiative and resist racketeering. SOS impresa has developed several campaigns to encourage victims to report extortion to the authorities. The organisation is most renowned for the media campaign entitled “Those who choose [not to pay extortion] are the State.”<sup>37</sup> The association has produced an advocacy video about victims of extortion, which aims to raise awareness for the types of support that the Italian government provides to victims. SOS impresa promoted the development of defence strategies against extortion and encourages the adoption of several anti-racket initiatives. Furthermore, the association provides legal

<sup>33</sup> Additional information available at: [www.libera.it](http://www.libera.it)

<sup>34</sup> The SOS-Justice desk is a service that Libera provides to victims of organised crime. The service aims at supporting and helping the victims with administrative bureaucracy, complex legislation, and during statements as witnesses in court.

<sup>35</sup> Additional information available at: [www.addiopizzo.org](http://www.addiopizzo.org)

<sup>36</sup> Additional information available at: <http://www.sosimpresa.it>

<sup>37</sup> The original slogan in Italian is: “Chi sceglie, sono lo Stato.”

assistance and solidarity with victims of organised crime, primarily those who have been affected by extortion. The activities of SOS Impresa include publishing on its website reports on the trials and investigations related to extortion racketeering and organised crime, the transcript of each trial in which it pleads as civil part, and organises several initiatives locally and nationally (e.g. the No Usura Day). They organise meetings, debates, and conferences in order to raise the awareness of institutions of the impact of organised crime on the local and national economy.

These anti-racket associations play a crucial role in overcoming the isolation that affects most of the victims of extortion. They result from a joint commitment of various economic operators that have organised themselves to give a stronger and more effective response to extortion through mediation between public institutions and victims. This initiative has led to the identification and punishment of many organised crime members through the testimony of the victims. The anti-racket associations support victims not only by assisting them in reporting and requesting access to the Solidarity Fund, but also by providing psychological and social support throughout the criminal proceedings.

### Social reuse of confiscated assets

Italy allows regional and local authorities to administrate confiscated assets in order to compensate local communities affected by serious and organised crime. This option was introduced by *Law 109/1996*<sup>38</sup> as a result of a popular initiative led by Libera. The law introduced the rules for the reuse of assets confiscated from criminal organisations, for social purposes. The social reuse component is an excellent tool for fighting organised crime, because of its important symbolic and economic significance.

The National Agency for Assets Seized and Confiscated from Organised Crime (ANBSC) is the main body in charge of the legal actions concerning seized and confiscated assets. Its role includes the overall management of the confiscated assets, returning

confiscated assets to the state, maintaining properties and transferring those to regions, provinces, municipalities and third parties. One of the ANBSC's key tasks is follow-up monitoring of transferred assets to avoid the misuse of assets or their appropriation by criminal groups. The agency puts a strong emphasis on transparency, since according to the law ANBSC should keep public records on the location, current use and status of all assets confiscated.

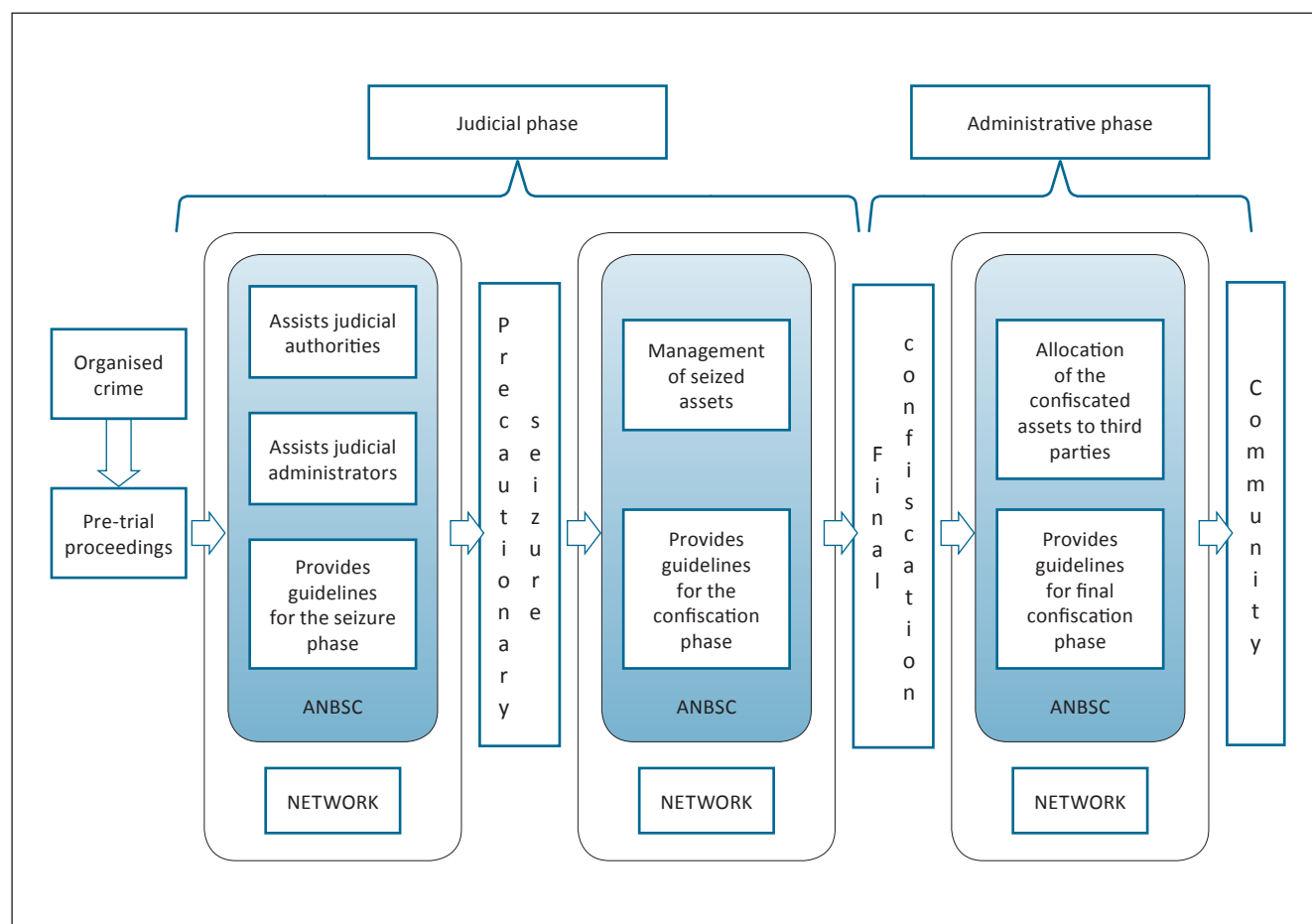
The ANBSC has a key role in the disposal process, as it guarantees the integrity of the assets under confiscation until their delivery to the final beneficiary. As the ANBSC provides technical and legal expertise regarding the asset, it coordinates its activities with the municipality where the property is located in order to gather detailed information about the asset. Once the inspection is completed, local authorities are involved in monitoring and making sure that the beneficiaries use the asset for legitimate purposes.

ANBSC involves the potential beneficiaries in the utilisation of the assets at the stage when there is a final confiscation order by the court. At this stage, the involved entities and institutions can advise ANBSC of their interest in acquiring the asset and present their project in detail. The potential beneficiary is expected to specify the purpose of using the asset and whether they intend to use it directly or not. Sometimes private entities such as associations and non-governmental organisations are involved indirectly in the management of the assets, on the basis of an official agreement between them and the local authorities. Once the local entities receive the confiscated assets, they are required to make publicly available all relevant information about the assets acquired for social reuse, including the destination and the actual use of the assets, which is periodically updated.

The ANBSC monitors how the asset is used within the first year after the allocation. It may revoke the allocation, if the assets have been used for purposes different from the ones agreed at the time of their allocation.

<sup>38</sup> *Law 109/1996* regulating the management and allocation of seized or confiscated assets.

Figure 5. The ANBSC role in the confiscation procedure



Source: RECAST consortium 2014.

## Box 2. Calcestruzzi Ericina Libera, Società Cooperativa

The Calcestruzzi Ericina<sup>39</sup> is an illuminating case with respect to social reuse of confiscated assets. The company was established in 1991 in Trapani, Sicily for the production of concrete, and it was owned by Vincenzo Virga, a local Mafia member. Following allegations of Virga's connection with Mafia boss Matteo Messina Denaro and an investigation that revealed over 60 cases of extortion carried out by him in Sicily, all company's shares were seized in 1996. The company was confiscated four years later, and Virga arrested. The recovery of a book containing the names of victims of racketeering, the amount of money paid, and the dates led to the conviction of Virga and other 15 people for extortion, possession of weapon and involvement in organised crime. After the confiscation, the management of the company was assumed by an administrator appointed by the legal custodian of the company Luigi Miserendino. The production was drastically reduced and the annual income of the company decreased from EUR 2.2 million to 1.1 million. Despite this crisis, ex-employers of the company decided to continue the production and buy Calcestruzzi Ericina. Local organised crime groups tried to boycott the company's business by means of intimidation and isolation. The second strategy, in particular, made it difficult to find clients despite the competitive prices. The ultimate aim was to permit the acquisition of the company by intermediaries of the Virga family. The

<sup>39</sup> Additional information available at: [www.calcestruzziericina.it](http://www.calcestruzziericina.it).



magistrates, however, prevented it and initiated a procedure for the allocation of the company for social reuse. Calcestruzzi Ericina became a jointly owned business, managed by a cooperative society of ex-employees, and succeeded in obtaining new contracts in 2002. In 2004, the judicial administrator ensured that the National Association of Aggregate Producers and the company Pescale managed the conversion plan of the Calcestruzzi Ericina, which involved the construction of a recycling platform for building material waste and product new concrete. In 2008, Calcestruzzi Ericina Libera, a cooperative society, was founded, and in 2009 the company was assigned to the cooperative of ex-employers by an administrative decree issued by the Prefecture of Trapani.



*Co-funded by the Prevention of and Fight against Crime Programme of the European Union*

*This project has been funded with support from the European Commission. This publication reflects the views only of its authors, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.*