

ORGANISED CRIME GLOBALISATION AND ITS LINKS WITH INTERNATIONAL TERRORISM

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RESUMEN: Este estudio analiza los vínculos del crimen organizado de estilo mafioso con el terrorismo internacional, dando cuenta de los perfiles fundamentales de ambos los fenómenos. Las formas más peligrosas de la delincuencia organizada internacional terminan cruzando entre sí a lo largo de las rutas de lavado de dinero, incluso cuando no interactúan directamente: desde las muchas organizaciones de tipo mafioso a las expresiones multifacéticas de cualquier tipo de terrorismo - cuyas recientes empresas terribles han profundamente conmovido almas de todo el mundo -, desde los tráfico de más atroces, incluido lo de los órganos y de las personas, hasta la "malafinancia" internacional, que todo oculta y absorbe, constituyendo una especie de malefica "Alfa y Omega" de cada hecho criminal en daño de la comunidad

ABSTRACT: This study analyses the links of mafia's organized crime with international terrorism.

The most dangerous forms of organised crime end up by crossing each other along the routes of money laundering, even when they do not interact directly: ranging from the many Mafia type organisations to the multi-faceted expressions of any type of terrorism whose recent dreadful undertakings deeply touched everybody's souls; from the most heinous trafficking, including that of organs and persons, to the international "misfinance" that conceals and absorbs everything.

PALABRAS CLAVE: expresiones multifacéticas, malafinancia

KEYWORDS: heinous trafficking, international misfinance

1. ORGANISED CRIME TRANSNATIONALITY

The need for an actual development of cooperation among states – under a qualitative as much as under a quantitative point of view – is more and more urging due to the increasing “internationalisation” of organised crime – a concept which will never be exceedingly stressed.

The transnational nature of criminal organisations is not a mere theoretical category yet a precise and definite specification highlighted by the varied experiences gained.

The most profitable traffickings effected by organised crime have such scope and approach as to necessarily imply a transnational structure. This inevitably brings about that the various domestic criminal associations need to be reproduced in other countries where these traffickings transit and develop; basically they need to extend and branch out, to “clone themselves” on an international scale, that is they need to be closely connected one another and to establish close links with criminal organisations of the other countries involved in these traffickings. Thus, the various mafias mutually copy themselves, “genetic mutations” often occur as a consequence of this transplant from one place to the other, from one country to the other. Because of this, it is increasingly difficult to set this phenomenon against a background. Yet this is the way whereby, in the course of time, the Sicilian mafia turns into US or Canadian Mafia; the ‘ndrangheta in Calabria become connected with Australian organised crime, Turkish mafia branches out in Italy, Colombian mafia expands on the US and European territory, Japanese and Chinese mafias branch out throughout Asia as well as in other areas, Russian and Eastern Europe mafias are looming in the western scenario.

This has a single and undisputable meaning: it is the transnationality of organised crime. No country may feel reasonably safe and almost all countries, one day or another, end up being organised crime exporters and importers at the same time.

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With regard to organised crime, we all know that the ultimate and exclusive aim of the relevant crimes is to obtain the best possible profit, an unlawful enrichment. In this regard, experience teaches that – no matter the place, irrespective of the epoch and of the legal system – the best possible profit can be obtained when you manage in cleaning illicit assets of their criminal origin. That is to say, the unlawful enrichment reaches its climax when it becomes usable in any respect, when organised crime succeeds in turning illicit proceeds of crimes – extortion, kidnapping for ransom, trafficking of arms, drugs, human beings and so on – into assets deprived of criminal traces or, even better, when it manages in pervading the legal economy. When the criminal economy is merged with and mixed up with the legal economy it turns into legal economy.

Money laundering poses a serious danger to a stable economy that is undermined as a result of huge amounts of money flowing into the market, in financial circles, these amounts of money only approximately abiding by the market rules.

In fact, when these money flows reach the market, the aim pursued is other than a correct investment in conformity with the economic order; specifically, the real aim is to turn criminal proceeds into assets and economic activities laundered of their criminal origin which is precisely the inner purpose of money laundering. This is why the launderer acts completely beyond market rules, competition, beyond a proper cost/benefit ratio. This is why there is a very high risk that this economic order may be polluted or destroyed.

The ancient Romans used to say pecunia non olet, meaning to stress that a sum of money, whatever its origin, is always nothing but a sum of money. On the other hand, the transaction carried

out by an entrepreneur who act legally and abides by the law is similar, with respect to its financial features, to the operation effected by the member of a criminal group.

Nevertheless, under a closer examination, if you go in-depth, you reach the conclusion that it is in no way true that pecunia non olet; money, on the contrary, smells. Not only does money smell, but the financial transactions whereby it is shifted and transferred smell too.

Money smells, tastes – and indeed, to many people it has a very good taste – and it is also coloured meaning that it can “portray” specific moments and stages. But we might also remark that money has an added capacity, sort of a speaking capacity. Of course it is not sounds made by your tongue breathing through your vocal cords. Yet money has a capacity to tell, to disclose. A cooperating witness may possibly reconstruct crimes, disclose scenarios and criminal situations which have been spreading out for decades. Nevertheless he may be unaware or unwilling to illustrate specific circumstances regarding financial or currency operations. Indeed, the more sophisticated financial, banking and company operations are, the more they spread out in various countries and in different times – through a highly skilled financial architecture – the more they can be able to disclose criminal scenarios. And this in a much better and conclusive way than any cooperating witness might tell. Actually, the real issue is not whether these operations have a capacity to disclose, but whether there is someone who has the capacity to listen to them. In other words, the issue is whether there is someone who can, want and is able to listen, to ask questions, to reconstruct and translate the criminal meaning that some financial transactions inwardly bear.

2. NEW ISSUES RELATED TO TRANSNATIONAL CRIME. MUSLIM FUNDAMENTALIST TERRORISM

There is a ghost frequently wandering around the skies of Europe these recent years: it is the ravaging and dreadful ghost of terrorism. Not that in the recent or far past such heinous terrorist facts did not occur in various European countries. Yet, following the Twin Towers tragedy, people started to feel that an unprecedented danger was threatening Europe, that something impalpable yet indwelling was looming up, indeed a ghost: Muslim fundamentalist terrorism. The huge hotspots in Iraq and Afghanistan increasingly turned into spreading centres of a terrorist spiral capable to actually terrify the whole international community. The threats sombrely repeated by the terror strategy were not pointless as Italian military forces dreadfully experienced in Baghdad. And the ghost of Muslim fundamentalist terrorism got closer and closer to European countries. This scenario is further complicated by two significant factors. The first is the circumstance that the huge movements of people and migration flows are ballooning on a world level at a growing rate, they have a deep impact on European countries and, among them, on Italy. As already happened in the past in other areas, this inevitably brings about mobility on the side of organised crime and capability to expand and settle down in new communities that, as such, are not adequately prepared to face it. So in Italy we have to tackle unprecedented criminal phenomena: Russian and Eastern Europe mafias, Albanian criminal groups, Colombian criminal organisations, Nigerian and Maghreb mafias, Chinese organised crime and so on.

One more factor making this scenario more complex is that among the various communities migrated to Europe and Italy there are many of Muslim origin. Of course, with respect to the Muslim community, and for the other foreign groups alike, it is necessary to point out that most of their members have nothing to do with organised crime and international terrorism. And yet the steady presence of settlements and milieus that - because of their common origins and religious beliefs - might constitute a reference point to Muslim fundamentalist terrorists makes the terrorist threat more actual and alarming.

However various investigations conducted so far led to discover situations where terrorism received support on the Italian territory.

The complexity of this scenario is easily understood, then, as is the resulting need to effectively fight against organised crime and terrorism, especially with respect to their economic and financial aspects.

Moreover, the two phenomena frequently have more and more fading boundary lines: just think of Sendero Luminoso in Peru or FARC in Colombia and their relevant links to drug trafficking; just think of similar heroin trafficking by the Talebans in Afghanistan and so on.

A successful fight against money laundering and funding of terrorism requires special efforts on the development of various factors among which a few should be mentioned as priorities: a steady control of electronic money circulating on transfer networks (ex. the Target wire transfer European network which allows to transfer big amounts of electronic money in real time); an active supervision on stock and bond investments, on goods and by-products that allow organised crime to have a decisive impact on ownership or management of industrial and trade businesses; a specific and effective analysis of company merging and aggregation resulting in such economic powers as the holdings being capable to tackle institutional controls and to affect the market. However, the liveliness and uncertainty – just to make an understatement – of financial markets, both on a domestic and on an international level, seem to reasonably stress the growing need for proper analysis and effective controls on compliance with law.

Analogously, we should once again point out – as dreadfully proved by the massacre in the US – that international terrorism need to be continuously fed by means of money laundering which is increasingly looking as the real cancer, an actual “black hole” in the international community. In fact, the reason to extend the system of suspicious transaction reporting to terrorism is meaningfully highlighted by the fact that as much as 1600 suspicious transaction reports were received by the Italian Exchange Bureau (UIC) from October 2001 to June 2003. The actual usefulness and real impact on the fight against international terrorism will be able to be assessed only after a significant lapse of time, of course. Nevertheless, the amount of STRs apparently proves a prompt reply on the side of those who make the reports and highlights that it would be convenient to extend them to terrorism as part of a varied approach. This includes the introduction of art. 270b in the criminal code that makes it a criminal offence and punishes the criminal conduct of those who fund, also indirectly, associations for the purpose of international terrorism.

In this respect, it is worth stressing that a system involving a criminal liability not only on the side of physical persons but also – with special provisions course - on the side of company-like legal persons might bear a special deterrent power against money laundering.

As a consequence, in such a system, in cases of crimes connected to money laundering on the national territory and with the direct or indirect support of legal persons, these might have a direct liability irrespective of their geographical location. With respect to money laundering, this would amount to a real milestone being able to make it much more effective on the international scenario.

The most dangerous forms of organised crime end up by crossing each other along the routes of money laundering, even when they do not interact directly: ranging from the many Mafia type organisations to the multi-faceted expressions of any type of terrorism whose recent dreadful undertakings deeply touched everybody’s souls; from the most heinous trafficking, including that of organs and persons, to the international “misfinance” that conceals and absorbs everything. Therefore, any civilisation wishing to develop and protect itself is bound to be faced with money laundering, along these routes. Finally, this truth appears to open its way in the international community insofar as people are getting aware of the need to fight against international terrorism also, if not above all, from a financial viewpoint and to promptly adopt the whole of the resulting initiatives.

