

Chapters 1 and 2 in Savona E.U., Riccardi M. & G. Berlusconi (Eds.) (2016). *Organised crime in European businesses*. London: Routledge.

1 Organised criminals and the legal economy

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Abstract Economic activities are distributed along a continuum whose extremes are criminal activities and completely legal ones. Between these two extremes lie several other possible ways in which organised criminals engage in activities that are formally legal yet organised and managed illegally. Attention has been recently paid to legal businesses and their exploitation by criminal organisations, and to the drivers of criminal infiltration in legal businesses, including concealment of illegal activities, profit through fraud, and control of the territory.

The relationship between organised crime and the legal economy

The complex relationship between organised crime groups and the legal economy has been discussed by several authors (Anderson, 1979; Arlacchi, 1983, 2007; Catanzaro, 1986, 1988; Cressey, 1969; Fiorentini & Peltzman, 1995; Ianni & Reuss-Ianni, 1972).

Some authors argue that criminal organisations need to engage in legal activities because investment opportunities in the illegal markets are insufficient to reinvest the money accumulated with illicit activities. After a portion of the profits has been allocated to the organisation's management costs, investment in other illegal activities is usually the first option for criminals (Barresi, 1999; Ruggiero, 1996, 2010). However, investment opportunities in illegal markets may be insufficient. Criminal organisations thus need to diversify their investments by engaging in legal activities, and the proceeds of illegal activities are laundered through investments in the legal economy (Catanzaro, 1988; Centorrino & Signorino, 1997).

Other authors suggest that infiltration of the legal economy is a constant feature of criminal organisations that diversify their investments between legal and illegal markets. Therefore, infiltration in the legal economy is not conditional upon a sufficient accumulation of profits from illegal activities; rather, it is a typical feature of organised crime (Fantò, 1999; Santino, 2006). Criminal organisations launder money of illicit origin, and they also reinvest money which has already been laundered. Once the money has been invested in the legal economy, organised crime groups act like other entrepreneurs by complying with the normal market rules (Edelhertz & Overcast, 1994).

The first interpretation is in favour of a chronological nexus between the presence of criminal organisations in illegal and legal markets, whereas the second interpretation envisages a two-way process. The literature suggests that the legal and illegal economy cannot be clearly separated. In fact, economic activities are distributed along a continuum whose extremes are criminal activities and completely legal ones (Ruggiero, 2008; Smith, 1975, 1980). Between these two extremes lie several other possible ways in which organised criminals engage in activities that are formally legal yet organised and managed illegally. The legal sectors in which criminal entrepreneurs operate, together with illegal activities, define the criminal economy as a whole (Becchi & Rey, 1994).

The organised crime and money laundering literature provides insights into the relationship between criminal organisations and the legal economy (e.g. Savona & Riccardi, 2015; van Duyne, von Lampe, van Dijck & Newell, 2005). These studies concern the complex relationship between legal and illegal markets, and the investments by criminal organisations in the legitimate economy. Attention has recently also been paid to infiltration by organised crime groups of legal businesses. Some scholars have focused on legal businesses and their exploitation by criminal organisations. This entails examining the drivers of – or the reasons for – infiltration, the locations and business sectors of the businesses targeted, the process of infiltration, and the strategies used to control and manage infiltrated businesses (Savona & Berlusconi, 2015).

Organised crime and legal businesses

The relationship between organised crime groups and legal businesses is a complex one. The involvement of organised criminals in the management of a legal company may vary; and the same applies to the level of direct control exercised over the business. On the one hand, legal businesses may be owned and directly managed by criminal entrepreneurs. On the other hand, organised criminals may create a partnership with the legal entrepreneur; and illegal and legal capital may coexist in financing the business activities (Di Bono, Cincimino, Riccardi & Berlusconi, 2015; Fantò, 1999; Sarno, 2015).

Legal entrepreneurs may be motivated to cooperate with the criminal organization by the fear of retaliation; or they may actively decide to take part in illicit activities to obtain economic benefits. The members of the criminal organization benefit from the relationship with legal entrepreneurs as well. This is particularly the case when the business activity of the criminal group is linked to the activities of the legal company, e.g. in the case of a licensed pharmacy used to sell illegal drugs (Bruinsma, Denkers & Alberts, 2015; Riccardi, Dugato, Polizzotti & Pecile, 2015; Sciarrone, 2009).

Besides passive cooperation motivated by the fear of retaliation, a form of active cooperation may result from an agreement between the legal entrepreneur and the members of a criminal organisation. Organised criminals generally approach

collusive entrepreneurs whose businesses are of interest to them, and they offer them an opportunity to expand their businesses and increase the financial rewards. If the business owners consider cooperation with the criminal groups to be convenient, they are likely to facilitate the process of infiltration of their own companies (Berlusconi, 2015; Sciarrone, 2009).

Especially in the case of passive cooperation by the legal entrepreneur, extortion and coercion are typical methods of infiltration in legal markets. However, an analysis of case studies on criminal infiltration in legal businesses has revealed that the use of violence and threats, as well as corruption, is not common and generally involves Italian mafia groups (Savona & Berlusconi, 2015). In most case studies in which legal entrepreneurs are involved, the evidence suggests that they have been either collusive or unaware of the illicit activities conducted by the members of the criminal organisation (Berlusconi, 2015). For instance, Rönnblom, Skinnari and Korsell (2015) report a case in which the organised criminals pretended to acquire a business by signing the documents to change the board members, but never submitted them to the Companies Registration Office. As a consequence, the legal entrepreneur, who was unaware that the property had not been transferred, became a straw man for the criminal organisation in his own company (Berlusconi, 2015; Rönnblom et al., 2015).

An analysis of case studies on infiltrated businesses in Europe has shown that targeting businesses in economic difficulties facilitates the infiltration process, since the owners of the companies are eager to sell their shares before leading their business to bankruptcy (Berlusconi, 2015). Usury also multiplies the opportunities to infiltrate the private sector (Bertoni & Rossi, 1997). The lack of regulation of the financial system that provides an early warning system, low capitalisation of family-run companies, and the segmentation of the credit market are factors that make businesses with certain characteristics more vulnerable to financial crises and, therefore, vulnerable to organised crime. These companies are mainly small traders and service companies, craftsmen and small family firms (Bertoni & Rossi, 1997).

When these businesses are unable to obtain bank loans and are therefore in financial difficulties, criminal organisations may take the place of banks and offer their usurious loans. These loans enable the criminal groups to infiltrate the companies in difficulties until they can take them over (Ciconte, 2008). Despite evidence of the use of violence, threats, extortion or usury, in many cases the infiltration process seems to be quite straightforward in that it involves one member of the criminal group regularly starting a new business or acquiring an already-existing one from a legal entrepreneur. This process can be facilitated in some countries by the scant requirements needed to set up a company or the lack of regulation on the process of acquiring a business (Berlusconi, 2015).

Once infiltrated, businesses can be subject to different types of control and management. Shell companies, whose main purpose is the concealment of illegal activities, often do not perform any kind of productive activity, since the creation of wealth through the production and sale of goods or services is not one of the objectives for which they have been created (Catanzaro, 1988). As a consequence,

they are characterised by no or minimum productive activities, which may result in low revenues (Transcrime, 2013). Low profits may also be due to the fact that infiltrated businesses often face economic difficulties, either because of a specific choice by organised criminals to target companies close to bankruptcy or as a consequence of bad management by the members of the criminal group (Di Bono et al., 2015).

Businesses infiltrated in order to commit frauds tend to present low levels of fixed assets, indicating that they are unlikely to invest the capital in buildings, machinery and other means of production (Di Bono et al., 2015; Schneider, 2004; Transcrime, 2013). By contrast, organised criminals prefer high levels of current assets and cash because they help them liquidate the business in the event of a law enforcement investigation and avoid the risk of asset confiscation. Should the criminals be aware of a financial investigation (e.g. thanks to a tip-off or some other disclosure), they may try to sell the company assets before these are seized by the judicial authority, and move the resulting liquidity to safer places (e.g. offshore bank accounts) (Catanzaro, 1988; Di Bono et al., 2015).

Finally, infiltrated companies – and particularly those used to launder the profits of illicit activities – generally show low levels of financial debts, indicating that they do not resort to banks and other financial institutions for loans to finance their activities (Di Bono et al., 2015; Transcrime, 2013). At the same time, criminal groups need to conceal the origin of the money used to finance the infiltrated businesses. Possible options include the creation of complex corporate schemes to account loans as debts towards companies of the same group, or towards subsidiaries, shareholders and parent companies. Debts to suppliers and other debts, in fact, may be used to conceal the injection of illicit proceeds into businesses controlled by criminal groups (Di Bono et al., 2015; Transcrime, 2013).

The drivers of criminal infiltration in legitimate businesses

Organised crime groups are induced to infiltrate legitimate businesses by several drivers. The maximisation of profit can coexist with other drivers, such as political, social and cultural motivations. The objective of organised criminals in the legal economy is, in fact, to maximise the benefits, which include benefits other than economic (Becker, 1968). A recent analysis of case studies on criminal infiltration of legal businesses in five European countries has helped identify several drivers of infiltration, including money laundering, profit through formally legal activities, profit through frauds, and concealment of illegal activities (Savona & Berlusconi, 2015).

Criminal groups may infiltrate legal businesses for more than one reason at a time; and different drivers of infiltration may intersect. For instance, the use of legal businesses to conceal illegal activities may lead criminals to use the same businesses to legitimise illicit profits (Riccardi, 2014; Transcrime, 2013; Wall & Bonino, 2015). A similar variety in the drivers of organised crime infiltration of

legal businesses can also be found in the chapters of this book. At the same time, drivers of criminal infiltration are not necessarily all present at the same time; and depending on the specific situation, one may prevail over the others.

Organised crime groups active in the Netherlands, Sweden, and the United Kingdom have been found to infiltrate businesses mainly in order to commit frauds (Bruinsma et al., 2015; Rönnblom et al., 2015; Wall & Bonino, 2015). For instance, Swedish organised criminals use businesses to provide restaurants and small shops with untaxed alcohol and cigarettes. The fact that alcohol and tobacco are subject to excise tax enables large-scale tax fraud when the goods are imported legally and then resold to restaurants and kiosks without paying taxes. Having control over or running a business with a licence to import alcohol or tobacco is thus an opportunity to carry out excise tax fraud (CSD, 2015; Rönnblom et al., 2015).

Most of the Slovenian case studies have concerned legal businesses infiltrated to conceal illegal activities, mainly prostitution. These cases confirm the criminals' interest in bars and night clubs with the purpose to perpetrate forced prostitution. The bars give the outward impression of legitimate businesses providing dance routines for their customers; meanwhile, forced prostitution occurs in the background. Evidence of human trafficking has also been found in connection with the provision of women to be employed in such bars (Meško et al., 2015; see also Chapter 4 in this book). On the contrary, evidence of infiltration to gain social consensus or to control the territory has not been found in Slovenia.

In Italy, some case studies have considered organised crime groups investing in legal business entities in order to maximise their social consensus and to control a particular market of the local economy. Organised criminals may decide to infiltrate businesses operating in sectors that provide goods and services to the population (e.g. education, health care) and create new jobs to promote a respectable image of themselves in contrast with that of mere criminals (Fantò, 1999; Ravenda, Argilés-Bosch & Valencia-Silva, 2015; Sciarrone, 2009). Italian mafias also infiltrate sectors with high territorial specificity (e.g. hotels and restaurants, gas and water supply, construction) to control an area physically and to create strategic collusive relationships with politicians and local entrepreneurs (Giampietri & Sarino, 2015; Riccardi, 2014; see also Chapter 8 in this book).

Organised crime groups may invest money in legal businesses to launder the profits from criminal activities, especially through money service and cash-intensive businesses such as bars and restaurants, and retail trade (Dvoršek, 1995; Meško et al., 2015; Organised Crime Task Force, 2013; Rönnblom et al., 2015; Wall & Bonino, 2015). However, in some countries, such as Slovenia, most organised criminals seem to be minimally involved in money laundering through legal businesses (Meško et al., 2015), confirming that many criminals simply use the profits from illicit activities to fund a lavish lifestyle (van Duyne, 1996).

Criminal groups may have direct or indirect control of the businesses used to launder money (RKP, 2012a). Such businesses may be used by criminals as layers to hide the proceeds of crime and conceal incoming and outgoing illicit flows (Riccardi, 2014). In the case of commercial activities, inflated bills and accounting

manipulation may enable criminals to justify the money earned from illicit activities (Becchi & Rey, 1994; Bini, 1997; Gratteri, 2011).

Banks and other financial institutions are required to report suspicious transactions to their country's Fiscal Intelligence Unit (EU Parliament and the Council, 2015). In some countries, the probability of such transactions being reported has increased over the years (Brå, 2011a). As a consequence, the interest of criminal groups has shifted, and currency exchange offices have started to be targeted either by recruiting their employees or by starting new businesses in this sector (Brå, 2008, 2011a, 2011b; EBM, 2013; Noroozi & Lind, 2013; RKP, 2013).

Another driver of criminal infiltration of legal businesses is profit from legal – or formally legal – activities (Garofalo & Berlusconi, 2015; Savona & Berlusconi, 2015). Criminal groups may target legal businesses to acquire their assets, or they may invest in businesses to obtain considerable earnings and benefit from their profitability (Brå, 2012; Rönnblom et al., 2015). Sectors with low levels of technological innovation and professional skills are particularly attractive because of low research and development costs (Becchi & Rey, 1994). Companies active in business sectors characterised by public subsidies and public contracts, such as renewable energy and waste disposal, may also be vulnerable to infiltration by criminals aiming to maximise their profits through formally legal business activities. In fact, criminal groups may use legal businesses to gain public contracts and increase their profits (Fantò, 1999; Meško et al., 2015; Transcrime, 2013).

Unlike shell companies used as covers for illicit activities, these businesses engage in production activities and are profit oriented, although organised criminals often have unrealistic ideas about a company's profitability and underestimate the costs (Becchi & Rey, 1994; Bini, 1997; Brå, 2007, 2012; Catanzaro, 1988; Costantino & Fiandaca, 1986). Legal activities are only formally legal when their profitability is linked to illicit activities such as the discouragement of competition or irregularities in the labour market, e.g. when a company is targeted because it is a business competitor of other infiltrated businesses (Arlacchi, 1983; Brå, 2012).

Legal businesses may also be used by criminal groups to gain profits from, and conceal, illicit activities such as fraud and the trafficking of illegal goods (Rönnblom et al., 2015; Wall & Bonino, 2015). Legal businesses may be facilitators or crucial in committing crimes such as insurance or VAT frauds. In Sweden, cases have been found of social welfare fraud through legitimate companies (Rönnblom et al., 2015; see also Chapter 6 in this book). Legal businesses in the United Kingdom have instead been found to be used mainly to organise and perpetrate crash-for-cash and VAT frauds involving a complex scheme of legal shell companies (Wall & Bonino, 2015; see also Chapter 7 in this book). Organised criminal groups, in fact, may control legal businesses and exploit them to commit various types of corporate fraud (e.g. insurance fraud, insolvency and bankruptcy-related fraud) and fiscal fraud (e.g. VAT and tax fraud, benefit fraud) (Bruinsma et al., 2015; Garofalo & Berlusconi, 2015; Rönnblom et al., 2015; Wall & Bonino, 2015).

Benefit fraud, for instance, is particularly common in countries with advanced social welfare systems that provide a variety of benefits such as sickness and un-

employment benefits to employees (Brå, 2011b; ISF, 2011; RKP, 2012b; see also Chapter 6 in this book). In this framework, organised criminals may infiltrate legal businesses in order to receive subsidies from the state to create new job opportunities. Or they may hire employees from among their family members and friends, drive the business into bankruptcy, and have public institutions pay the employees' benefits for the months following the bankruptcy (Rönblom et al., 2015). Fake documentation such as medical certificates may also be produced by employees with the help of doctors so that they can qualify for sickness benefits and defraud the state (Brå, 2011b).

Furthermore, legal businesses may provide cover for criminal groups' illegal activities (Mills, 2013; Silverstone, 2011; von Lampe, 2006). Organised criminals may use legal businesses to conceal illicit activities such as drug trafficking or prostitution. For instance, the members of a criminal organisation may use the vehicles and storehouses of their transport company to conceal and smuggle illegal goods (Palomo, Márquez & Ruiz, 2015). In particular, transportation companies have proved particularly suitable for hiding the illicit trafficking of drugs (Bruinsma et al., 2015; Ferwerda & Unger, 2015; Palomo et al., 2015; see also Chapters 3 to 5 in this book). Similarly, restaurants may facilitate the sale of untaxed alcohol, and bars and clubs may be used to cover prostitution rings (Brå, 2006; Dvoršek, 1995; Korsell, Skinnari, & Vesterhav, 2009; Meško et al., 2015; see also Chapter 4 in this book).

Bars and cafés, grocery stores, luxury companies, and hairdressing salons are also used as covers for heroin and cocaine dealing and trafficking. Bars can also be used as centres for illegal gambling, whereas clothing companies and shops can become covers for the production and retail of counterfeit goods (Hales & Hobbs, 2010; Meško et al., 2015). Infiltrated businesses may also be exploited to perform transactions which would otherwise be considered suspect and to conceal them as production costs (Anderson, 1979; Fiorentini, 2000).

Cultural and personal reasons may also induce criminal groups to infiltrate legal businesses, and they may influence the choice of the business sector (Garofalo & Berlusconi, 2015; Savona & Riccardi, 2015; Transcrime, 2013). Criminals may invest in certain businesses because they are close to their culture, education background or family tradition. This may explain, for instance, the infiltration of vehicle repair garages, sex shops and tattoo parlours by some Nordic motorcycle gangs (Petrell & Houtsonen, 2015a; see also Chapter 10 in this book) or the acquisition of companies engaged in the wholesale of typical local food products by Camorra groups (Riccardi, 2014).

Criminal groups may infiltrate legal companies to create new jobs and to assign subcontracts to other enterprises, thus maximising their social consensus (Arlacchi, 2007; Becchi & Rey, 1994; Bini, 1997; Fantò, 1999). Mafia organisations are particularly interested in obtaining social consensus from the local population. They consequently seek to infiltrate strategic sectors such as education and health care. For the same reason, these groups may also target labour-intensive and territorial-specific business sectors to create new jobs (Fantò, 1999; Ravenda et al., 2015; Sciarrone, 2009). The improper use of legal businesses to create employ-

ment for friends or relatives, however, is not restricted to Italian mafias. A Swedish study found cases of criminals being hired by a business and receiving a salary after threatening the owner (Brå, 2012).

The use of legal businesses to maximise social consensus may also help criminals gain status within both the legal and the criminal spheres. Indeed, running or controlling a legal company may legitimise a person as a legal entrepreneur rather than a criminal, thus strengthening his influence over the community (Brå, 2007, 2012). Running a legal company in certain business sectors may also be positively regarded by criminals. This is the case, for instance, of restaurants, which can be used by organised criminals to meet co-offenders to plan future operations and to cover illicit activities (Brå, 2007; Korsell et al., 2009; Rönnblom et al., 2015; Transcrime, 2013).

There is also evidence of organised crime infiltration of legal businesses to control the territory and exert influence over policymakers. This is particularly the case in Italy (Giampietri & Sarno, 2015; see also Chapter 8 in this book), whereas other countries seem to be characterised by a variety of criminal actors targeting diverse sectors to meet varying needs (Petrell & Houtsonen, 2015b; Riccardi & Salha, 2015; see also Chapters 9 and 10 in this book). Criminal organisations may aim to achieve control over a particular sector of the local economy through participation in legal market activities, e.g. by infiltrating the public construction industry and manipulating subcontracts (Fantò, 1999; Savona, 2010). Mafia organisations typically aim to control a portion of the territory, especially when they operate in regions with a traditional mafia presence. The control of the territory can be achieved by infiltrating the legal economy in sectors with a high territorial specificity – e.g. construction, hotels and restaurants – and fostering collusive relationships with local administrators and politicians (Berlusconi, 2014; Riccardi, 2014).

A recent study on criminal infiltration of legal businesses in Sweden (Rönnblom et al., 2015) has found that the drivers of infiltration also include acquiring status within the criminal or legal sphere, and gaining access to stolen or illicit goods markets. The former is linked with social consensus.

The distinction among different drivers of criminal infiltration of legal businesses is useful for analytical purposes. However, it does not imply that criminal organisations infiltrate legal businesses to fulfil one driver at a time. For instance, the same infiltrated business may be used to launder the profits from illicit activities and earn revenues from legal activities (Anderson, 1979; Fantò, 1999; Fiorentini, 2000). Furthermore, these drivers constitute the reasons why organised crime groups may infiltrate legal businesses. The choice of a particular territory and business sector, as well as the business to be targeted, are influenced by both their characteristics and the drivers of infiltration (Garofalo & Berlusconi, 2015).

This book collects current knowledge on organised crime infiltration of legitimate businesses in eight European countries: Finland, France, Italy, the Netherlands, Slovenia, Spain, Sweden, and the United Kingdom. For each country, it focuses on specific drivers of infiltration, identifying the territories and business sectors targeted by criminal groups, and their vulnerabilities to infiltration. The

structure of the book reflects the variety of drivers of infiltration. The book is in fact divided into four parts, three of which present current knowledge on criminal infiltration of the legal economy in eight European countries. On the basis of the information collected for each country, Chapters 11 and 12 discuss the development of a methodology to measure the impact of infiltration on the European legitimate economy and to assess the risk of infiltration across territories and business sectors, respectively.

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2 Measuring organised crime infiltration in legal businesses

Michele Riccardi and Giulia Berlusconi

Abstract This chapter discusses the methodological challenges in defining, operationalising and measuring organised crime infiltration in legal businesses. It first reviews existing definitions and measures of organised crime; it then focuses on infiltration, outlining the differences with respect to the concepts of organised crime investments and money laundering. It discusses the strengths and the weaknesses of existing measures and methodological approaches (e.g. analysis of statistics on confiscated assets, of personal holdings, of case studies), suggesting further directions to improve the collection of data and research in this field.

Measuring organised crime infiltration in legal businesses requires addressing several issues. Building on Black, Vander Beken and De Ruyver (2000) and von Lampe (2004), three methodological steps can be identified. First, key concepts – the notion of organised crime and that of infiltration – must be defined and specified through a set of inclusion rules. Second, key concepts must be operationalised into variables to be used for their measurement. Third, the variables must be linked to available empirical data. This chapter first discusses the challenges in defining, operationalising and measuring organised crime (hereafter OC); it then focuses on how to define and operationalise infiltration in legitimate businesses. It describes the strengths and weaknesses of existing measures and explores further directions in terms of research and data collection.

Defining and measuring organised crime

Defining organised crime

One of the main issues in organised crime research is the lack of a common definition, together with the complexity of the phenomenon to be described (von Lampe, 2004). Many definitions have been developed by international organisations, law enforcement agencies and scholars (Adamoli, Di Nicola, Savona & Zoffi, 1998; Albanese, 2000; Finckenauer, 2005; Hagan, 2006; Kenney & Finckenauer, 1995; van Dijk, 2007). However, there is no agreed-upon definition of what organised crime is (van Duyne & van Dijk, 2007).

The design of empirical or operational definitions requires determining what should be included in the measurement and what should be excluded: in other words, identifying the unit of measurement. Counting units include either activities or actors (van Duyne & van Dijk, 2007). The former approach focuses on certain types of criminal activities and illegal markets; the latter on the criminal groups active in those markets (Paoli, 2002; von Lampe, 2004). As a consequence, some studies measure groups, whereas others measure activities (Zoutendijk, 2010). Albanese (2008), for instance, proposed a model to assess the risk of organised crime in a given area, and he treated illicit markets as units of analysis. He argued that, if illegal activities are properly assessed and ranked, targeting these activities will make it possible to tackle the high-risk organized crime groups involved.

The recent EU-funded OCP and ARIEL research projects (Savona & Riccardi, 2015; Savona & Berlusconi, 2015),¹ which analysed organised crime investments and infiltration in the European economy, adopted a ‘mixed’ approach which considered both the actors and the illicit activities in which they were involved. Building on Europol SOCTA 2013 (Europol, 2013), the projects defined an organised crime group as:

any criminal actor – from large organisations to loose networks of collaborating criminals – that falls under the definition provided by the EU Framework Decision on the Fight against Organised Crime (2008/841/JHA)² and/or is involved in serious crimes as identified by art. 83(1) of the Treaty on the Functioning of the European Union.³

¹ Project OCP – Organised Crime Portfolio (www.ocportfolio.eu) – was co-funded by the European Commission, DG Home Affairs and carried out in 2012–2013 by an international consortium coordinated by Transcrime, Joint Research Centre on Transnational Crime (www.transcrime.it). Project ARIEL – Assessing the Risk of the Infiltration of Organized Crime in EU MSs Legitimate Economies: a Pilot Project in 5 EU Countries (www.arielproject.eu) – was also co-funded by the European Commission and coordinated by Transcrime in 2014–2015.

² Art. 1 of the EU Framework Decision on the Fight against Organised Crime defines a criminal organisation as:

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

(Council of the European Union, 2008)

³ Art. 83(1) of the Treaty on the Functioning of the European Union (TFEU) identifies ‘serious crimes’ as: ‘terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime’ (Euro-

(Savona & Riccardi, 2015; Savona & Berlusconi, 2015)

Such broad definitions of organised crime have been criticised for their vagueness (Calderoni, 2008; Finckenauer, 2005; Hagan, 2006; Maltz, 1996; von Lampe, 2004; Zoutendijk, 2010). However, they make it possible to include a variety of criminal organisations and actors, not just crime syndicates, and to take account of the differences among European countries, also in terms of organised crime legislation (Savona & Riccardi, 2015; Savona & Berlusconi, 2015; von Lampe, 2004).

Measuring organised crime

Despite the challenges in defining and operationalising key concepts, in recent years numerous exercises have been conducted to measure organised crime at local, national and international level. Measuring organised crime has manifold benefits. It helps to understand the scope of the problem within and across territories, thus facilitating the allocation of resources and priorities for interventions. In the case of repeated measures over time, it also makes it possible to identify trends and to evaluate the effectiveness of countermeasures (von Lampe, 2004).

Most attempts to measure organised crime are made by governments and law enforcement agencies, rather than scholars (von Lampe, 2004). The first exercises were annual situation reports on organised crime, such as the one published by the German federal police agency Bundeskriminalamt (BKA) since 1992 (Zoutendijk, 2010). These reports are based on information on ongoing criminal investigations, and they provide details on organised crime cases, the types of offences, the offenders (e.g. their nationality), and the estimated profits (von Lampe, 2004).

Over the years, there has been a shift from the measurement of organized crime to the assessment of its threat. In threat assessments, the nature and the extent (seriousness) of a phenomenon, not just its presence, must be evaluated (van Duyne & van Dijk, 2007; van Duyne, 2006). Organised crime threat assessments (OCTA) have been released by several agencies including Europol (Europol, 2013, 2011, 2009), the Dutch National Police Intelligence Service (IPOL, 2014), and the UK Serious and Organised Crime Agency (National Crime Agency, 2014). However, these studies have been criticised by some scholars because they lack common definitions (von Lampe, 2004) or because they do not meet the requirements of reliability and validity (Zoutendijk, 2010). This also applies to the limited number of academic studies in this field (e.g. Albanese, 2001; Vander Beken, 2004) because also in this case definitions of key concepts are missing or operational definitions are too vague (Zoutendijk, 2010).

pean Union, 2012). In addition to these, Savona & Riccardi (2015) covered further criminal activities (namely illicit trade in tobacco products, counterfeiting, illegal gambling and match fixing, extortion racketeering, usury, fraud and organized property crime) which are not listed in the TFEU but were considered by the authors relevant to the study of the economics of organised crime groups in Europe (Savona & Riccardi, 2015, p. 26).

In order to take full account of the complexity of the phenomenon, some authors (Savona, Dugato & Garofalo, 2012; Dugato, De Simoni & Savona, 2014) have proposed measures of organised crime which consider not only dimensions related to its activity (e.g. groups and illegal activities) but also the enablers that facilitate or impede such activity, and the responses by the state and civil society. For each dimension, several variables have been identified to create composite indicators of the presence of organised crime groups in a given territory (Dugato et al., 2014). Yet these scholars, rather than measuring organised crime, have assessed its risk. Adopting the taxonomy proposed by the Financial Action Task Force for money laundering risk assessment (FATF, 2013), they have focused not only on the threat (organised crime itself) but also on the contextual vulnerabilities and, to a lesser extent, on their consequences (or impact) on society and the economy. Another example in this regard is the risk-based methodology developed by the Ghent University Crime Research Group, which was conceived as an improvement of the Belgian Annual Report on Organised Crime (Black et al., 2000). This method also considers the environmental factors related to organized crime (e.g. socio-economic and political factors), and identifies their impact on the likelihood of threat and potential harm.

Composite indicators, such as the one developed by Dugato et al. (2014), are increasingly used by scholars and law enforcement agencies to measure organized crime. In 2013 Transcrime developed the ‘Mafia Presence Index’ (now under update) to assess, through proxies like mafia homicides and confiscated assets, the presence of mafia groups across Italian provinces (Calderoni, 2014; Transcrime, 2013). Similarly, van Dijk (2007) measured the level of organised crime across countries through the so-called ‘Composite Organised Crime Index’, which combined data on the perceived prevalence of organised crime in the country, instrumental violence, grand corruption, money laundering, and black economy.

Defining and measuring infiltration in legal businesses

Defining and operationalising infiltration

After defining and operationalising the concept of organised crime, it is necessary to specify the notion of infiltration. In most European countries criminal infiltration of legal businesses is not criminalised per se. Therefore, neither legal definitions of the phenomenon nor police or judicial data are available. Infiltration is not an individual offence, but rather a process encompassing a range of offences: for example, corruption of public officials, money laundering, intimidation and extortion of entrepreneurs or market abuse infractions. These sentinel crimes are not always present at the same time; they may occur at different stages of the infiltration process and may vary across time and places. Police or judicial data are usually available on sentinel crimes, but recombining them into single cases of infiltra-

tion is very difficult – and meaningless without a script of the infiltration mechanism.

One of the first attempts to define and schematise the process of organized crime infiltration in legitimate businesses was made by Savona and Berlusconi (2015) for the ARIEL project. They defined it as ‘any case in which a natural person belonging to a criminal organisation or acting on its behalf, or an already infiltrated legal person, invests financial and/or human resources to participate in the decision-making process of a legitimate business’ (Savona & Berlusconi, 2015, p. 19). The definition comprises four elements: a criminal organisation; a natural person belonging to a criminal organisation or acting on its behalf, or an already infiltrated legal person; the investment of financial and/or human resources; participation in the decision-making process of a legitimate business.

The first element is a criminal organisation. As mentioned, the authors built on the definition of organised crime adopted by Europol (2013) and also used by Savona and Riccardi (2015) in their study of the economics of OC in Europe (project OCP). The second element is the presence of a natural person belonging to a criminal organisation or acting on its behalf, or an already infiltrated legal person. The literature usually considers criminal organisations as collective bodies which take decisions (including investment choices) as a whole. Nevertheless, infiltration of legitimate businesses is carried out by individuals (or groups) who are members of the organisation or act as figureheads (e.g. relatives, lawyers, professionals) (Berlusconi, 2015; Levi, 2015; Sarno, 2015; Transcrime, 2013). It is not always possible to distinguish between cases of infiltration driven by personal motives and those dictated by the criminal group’s strategy (Savona & Riccardi, 2015), although it is proven that the selection of sectors, territories and legal forms of investment may vary widely across different groups within the same organisation (Riccardi, 2014b; Transcrime, 2013). In some cases, infiltration is committed by another legal person (e.g. company, cooperative, foundation) already controlled by the criminal organisation or some of its members, and often employed as an additional layer to conceal the criminal beneficial ownership (Berlusconi, 2015; Sarno, 2015; Riccardi, Soriani & Standridge, 2015).

The third element concerns the technique of infiltration. Financial investment (such as acquisition of a share of the equity) is not an essential requirement because legitimate businesses can be infiltrated also by employing human resources, for example by appointing a member of the criminal organisation as company director or administrator in order to participate in (and eventually acquire control of) the business management. Criminals may rely on even more indirect strategies to influence legal entrepreneurs or managers and supervisors employed by a legal business: for example, violence and intimidation, extortion racketeering, or even usury. In this last case, the entrepreneurs resorting to criminal loans often abandon control of the business to their criminal financiers.

The fourth element that identifies criminal infiltration is participation in the decision-making process of the legitimate business. Organised crime, through a member, a straw man, or another legal person, is able to influence decisions on business strategies and future investments, as well as hiring, promotions and sala-

ry increases, subcontracting and supply contracts, security and controls. The influence over the decision-making process can be exerted through ownership of (a percentage of) the shares and/or control over the management. The control can be exercised by a member of the criminal organisation (internal direct control), a straw man acting on behalf of the organisation or an already infiltrated legal business (internal indirect control), or through intimidation, violence, or corruption of a manager or a supervisor employed by the business (external control). Cases of internal and external control over the management can be extended to include low-level employees, provided that the employee takes decisions on hiring and promotions, subcontracting and supply contracts, or security and controls, even at the local unit level.

Infiltration vs. investment vs. money laundering

The concept of organised crime infiltration in part overlaps with the concept of organised crime investment, which is in turn related to the notion of money laundering. However, some differences can be identified, and they are now discussed.

In recent years, numerous studies (some gathered in this book) have analysed the so-called portfolio of investments of organised crime in various countries (see Levi, 2015 for a review): in Italy (Dugato, Giommoni & Favarin, 2015; Riccardi, 2014b; Transcrime, 2013), in the Netherlands (Ferwerda & Unger, 2015; Kruisbergen, Kleemans & Kouwenberg, 2015), in Spain (Palomo, Márquez & Ruiz, 2015; Steinko, 2012), in France (Riccardi & Salha, 2015), in Ireland (Soriani, 2015), in Finland (Petrell & Houtsonen, 2015), in Bulgaria (CSD, 2012) and at European level (Savona & Riccardi, 2015). The definition of ‘investment’ adopted by most of these studies is sufficiently broad to encompass

any possession and/or acquisition of any type of asset in the legal economy (e.g. movable goods, registered assets, real estate properties, companies or their shares) by individuals belonging to a criminal group, acting on its behalf and/or involved in one of the criminal activities previously identified.

(Savona & Riccardi, 2015, p. 26)

The first difference refers to the nature of the ‘target’: while organised crime investments may concern assets of any kind (e.g. real estate properties, cars, vehicles, jewels, bonds, and other movable assets), infiltration concerns only businesses of any type (from individual enterprises to limited companies, also including those listed on the stock exchange) operating in any type of business sector.⁴ The

⁴ In truth, infiltration can also target other types of legal entities and organisations, such as public administration agencies, city councils or regional governments. In Italy, for example, city councils may be dissolved and put under the administration of the Interior Ministry as a result of a decree proving their infiltration by mafia groups (on the basis of Art. 143 D.Lgs 267/2000).

second difference regards the *modus operandi*, i.e. the type of resource employed: while, as said, infiltration can exploit both financial and/or human resources, and does not necessarily lead to ownership of a (share of) the company, investments usually rely on the employment of monetary resources and imply the acquisition/possession of the asset (Savona & Riccardi, 2015).

It should be noted that in the cases of both organised crime *investment* and *infiltration*, when financial resources are employed, it is not always possible to identify the origin of the capital: it may be ‘dirty’ money (i.e. proceeds of illicit activities carried out by the criminal organisation or some of its members), laundered money (i.e. the proceeds of illicit activities carried out by the criminal organisation that have already been laundered before the investment) or ‘clean’ money (i.e. the proceeds of, at least formally, licit activities carried out by the criminal organisation or by some of its members, e.g. profits from other legal businesses or the gain from the sale of an inherited property).

The latter represents the main difference between investments and infiltration, on the one hand, and money laundering on the other. Criminals laundering money employ, by definition, ‘dirty’ capital. It is the result of a predicate offence, and it passes through a not necessarily sophisticated process – the placement, layering and integration scheme as defined by Reuter and Truman (2004) – in order to be enjoyed by the criminal while cleansing it and concealing its illicit origin. Organised crime infiltration in legitimate businesses may be driven by money laundering purposes, but not necessarily so (see Chapter 1 for a review of the drivers of infiltration). As a result, it does not ‘represent full integration in the sense that the classic model of legitimation conceives it’ (Levi, 2015, p. 290).

Measuring infiltration

Because of all these overlaps, to date the measurement of criminal infiltration of legitimate businesses has inevitably intersected with the analysis of criminals’ investments and money laundering activities. But even when these are grouped together, the amount of empirical knowledge on the issue remains small. This section does not aim to review the findings of the empirical research on organized crime infiltration/investments/money laundering (see Levi, 2015); but rather to discuss the strengths and weaknesses of the methodological approaches and of the measures adopted by scholars in these studies.

Seized and confiscated assets

The first attempts to conduct empirical analysis of criminal infiltration were made in Italy (Riccardi, 2014b; Transcrime, 2013), and they used companies confiscated from mafia groups as proxies for infiltrated businesses (see Chapter 8). By using these data, researchers were able to study the geographical and sectorial distribution of businesses infiltrated by mafias, also measuring their correlation with contextual variables (e.g. industry profitability, level of tax evasion in the territory) (Riccardi, 2014b), their accounting and management strategies (Di Bono, Cincimino, Riccardi & Berlusconi, 2015; Donato, Saporito & Scognamiglio, 2013;

Transcrime, 2013), their ownership structures (Riccardi et al., 2015; Sarno, 2015), and their interactions with competitors and suppliers (Gurciullo, 2014).

Seized and confiscated assets have been used as proxies for the portfolios of criminal groups in many countries. But the analyses have not been restricted to confiscated companies in that other types of goods have been considered as well: real estate properties, registered assets (e.g. cars, boats), movable goods (e.g. jewels, watches). Generally speaking, rather than analyses of the infiltration of businesses, they can be interpreted as studies on investments by criminal groups in the legal economy. Research analysing organised crime investments using data on confiscated assets has been conducted, for example, in Finland (Petrell & Houtsonen, 2015, see Chapter 10), France (Riccardi & Salha, 2015, see Chapter 9), Ireland (Soriani, 2015), Spain (Palomo et al., 2015), Netherlands (Ferwerda & Unger, 2015; van Duyne & Soudijn, 2009) and, again, Italy with respect to both businesses (Riccardi, 2014b; Transcrime, 2013) and real estate (Dugato et al., 2015).

Use of these data has made innovative contributions to study of the financial aspects of criminal organisations, but it has some limitations. First, it may lead to underestimations or overestimations of certain types of goods depending on the focus of law enforcement on certain crimes, the ease of taking certain types of assets into custody, and the legal instruments at the disposal of prosecutors (Transcrime, 2013, p. 95). Second, it does not allow comparisons to be made, since asset recovery regulation varies widely across regions and countries (Savona & Riccardi, 2015, p. 224). Third, it may furnish an outdated picture of criminal investments, because very long periods often elapse between the financial investigation and final forfeiture of the asset (Transcrime, 2013, p. 95). Fourth, it may not cover those types of criminal infiltration which do not require ownership of the asset. Moreover, good data are lacking: only a few countries, at least in the EU, produce systematic statistics on the asset recovery process, and only a few provide disaggregated information for each confiscated asset – the only information which allows in-depth statistical analysis (Europol Criminal Asset Bureau, 2015; Savona & Riccardi, 2015).

As a result, rather than providing a picture of the actual OC portfolio, confiscated goods may be a measure of how good prosecutors and police are in tracing and recovering criminal assets. For example, in most EU member states the majority of seized goods are cash and bank accounts, while confiscation of businesses is very rare. The reason for this, as suggested by some authors, is not a lack of interest among criminals in investing in companies, but the difficulties (and the lack of interest) of law enforcement in tracing them (Savona & Riccardi, 2015).

Personal holdings and expenditure patterns

An alternative, but less frequent, approach is to consider the personal holdings of offenders, or their expenditure patterns. Meloen et al. (2003) mixed police and financial records and conducted a detailed study on the composition of the holdings of 52 criminals in the Netherlands, distinguishing among hoardings (e.g. cash),

consumption (e.g. vehicles), and investment goods (e.g. immovable properties, securities). This approach has yielded valuable insights into where offenders employ their illegal earnings, but it has not focused on how the ownership of these assets (including companies) was acquired.

In the UK, 222 prisoners convicted for drug crimes were interviewed to explore their patterns of consumption and laundering (Matrix Research & Consultancy, 2007). According to the responses, cases of laundering through legitimate businesses are very rare, while dirtiest cash is spent on lifestyle or to pay mortgages, or is reinvested in drug trafficking. A similar approach was adopted by Webb and Burrows (2009), who interviewed imprisoned human traffickers in the UK. Despite some evidence of criminal investments in shops, hotels and restaurants, the study did not provide information on how these businesses had been infiltrated. Also Petrunov (2011) studied the strategy of managing and laundering money acquired from human trafficking through interviewing 152 sex traffickers, sex workers, police officers and prosecutors in Bulgaria. But a focus on the infiltration process was lacking.

Figures on personal holdings and expenditure patterns have a strong potential, and they are less biased by regulatory asymmetries than are data on seizures and confiscations. However, they have drawbacks too. First, due to privacy reasons, it is very difficult to access the personal records of offenders (e.g. bank accounts, tax declarations, income statements). On the other hand, self-reported figures may be affected by survey bias and a lack of transparency by respondents. Second, this approach almost exclusively focuses on individual holdings and individual expenditures, while it does not take account of those which can be attributed to the criminal organisation as a whole. Third, personal holdings by definition concern only owned assets, so that consideration is not made of cases in which control is acquired and exercised through other means (e.g. straw men, managers, shell companies) which do not require a direct asset ownership.

Case studies

Overall, the two approaches discussed above have a major shortcoming: they make it possible to understand where (which type of asset, which business sector, which region) criminals employ their proceeds, but they do not explain why and how. For example, data on confiscated companies can reveal that a certain sector registers more cases of infiltration than others, but they do not provide information on either the purpose or the modus operandi followed by criminals to infiltrate them.

In order to address this gap, and the other issues presented above, researchers have often resorted to the analysis of case studies. This approach makes it possible to gather information not only on the type of asset or business sector involved but also on the nature of the criminal actor, on the technique used to infiltrate/laundry money, on the purpose of the investment – in other words, on the entire infiltration/investment/money laundering process. Inevitably, the quantitative approach is

sacrificed in favour of a more qualitative and narrative one, e.g. in the form of script analysis.

Case studies have been used to analyse a variety of money laundering and investment activities: for example, organised crime investments in the Netherlands (Kruisbergen et al., 2015, on 150 cases from the Dutch Organised Crime Monitor, equivalent to 1,196 assets); money laundering in Spain (Steinko, 2012, on cases taken from 363 court sentences) and in Germany (Suendorf, 2001, on 40 cases); the relationship among organised crime, money laundering and the real estate market in Canada (Schneider, 2004, on 150 cases); the ownership and management strategies of mafia-owned companies in Italy (Transcrime, 2013, on around 100 cases of infiltrated businesses); infiltration by organised crime of the wind power sector in Italy (Caneppele, Riccardi & Standridge, 2013, on about 15 cases) and by mafias in Northern Italy (Alessandri, Montani & Miedico, 2014). Moreover, case studies are quite successfully used by FATF in its reports on the types and trends of money laundering, and they are also often included by most European FIUs in their annual reports.

Information on cases is usually gathered from judicial files and court documents (as in Steinko, 2012), police investigation files (as in Schneider, 2004, or in Kruisbergen et al., 2015), and institutional reports, but also from academic literature, media and newspaper articles. Some studies rely on all these sources together (e.g. Savona & Berlusconi, 2015; Savona & Riccardi, 2015; Transcrime, 2013). Cases can be selected according to whether they include specific offences (e.g. 'money laundering', 'participation in a criminal association', 'possession of the proceeds of crime', depending on the focus of the study and on the relevant legislation), to the type of criminal actor involved, to the type of asset (e.g. real estate properties, companies), to a selected time range, or to specific monetary values.

Projects OCP (Savona & Riccardi, 2015) and ARIEL (Savona & Berlusconi, 2015), on which most of the chapters of this book are based, adopted a very similar methodological approach. The former applied it to the study of organized crime investments, and the latter to criminal infiltration of legitimate businesses. For example, Savona and Berlusconi (2015) collected evidence responding to the definition of infiltration presented in the previous section from a plurality of sources, including judicial files, institutional reports, LEA reports, academic studies, media and newspaper articles. The wide range of sources used was intended to address the gaps in terms of data availability across countries: for example, whereas cases can be easily found in LEA reports in Italy and Ireland, in Spain and the United Kingdom they cannot. The evidence gathered was coded in order to highlight aspects such as the geographic region of infiltration, the business sector, and the criminal organisation involved. It was then organized into a database structured so that each record represented a reference to one business sector or one region. As a result, the database included 2,380 references to OC infiltration (Savona & Berlusconi, 2015, p. 23). The strategy used by Savona and Riccardi (2015) for the collection of evidence of OC investments was similar.

A narrative approach based on the analysis of case studies makes it possible to go beyond numbers and to gain a more comprehensive understanding of the infil-

tration process. However, it can be questioned because individual cases are not necessarily representative of the phenomenon as a whole, as pointed out by Levi (2015, p. 280): ‘it is not clear how (un)representative known cases are of unknown cases’; and they are not very useful for sound quantitative analysis. Moreover, differences in terms of regulation, data availability, and nature of the sources make it very difficult to produce cross-country comparisons. But criminal infiltration, like organised crime and money laundering, is transnational by nature, and cross-country biases are unavoidable challenges to be faced with in these kinds of studies.

Other methodological issues in measuring infiltration of legal businesses

Other methodological issues arise, in particular if the intention is to carry out financial statement analysis of infiltrated businesses. First, the literature shows that accounting manipulations are very likely in the case of companies owned by criminals and used to commit illegal activities such as money laundering or fraud (Di Bono et al., 2015; Transcrime, 2013). Therefore, company accounts do not often provide a true picture of the economic and financial situation of the infiltrated business. In particular income statements are more easily and more often falsified than balance sheets to minimise the taxable income.

Second, infiltrated companies may change their management strategy over time, and this behaviour may be reflected in accounting terms. For example, criminals may start disinvesting and liquidating companies’ assets as soon as they suspect that they are under investigation (Di Bono et al., 2015; Donato et al., 2013; Riccardi, 2014a). When confiscated companies are analysed, researchers should pay attention also to the effects produced by judicial administration on a company’s accounts. For this reason, the study of infiltrated companies should not focus only on a certain point in time; ideally, it should cover a time range broad enough to span from the infiltration to the investigation, and then to seizure of the business. Unfortunately, historical records in business registers are not easy to find, nor are financial statements or ownership data, so that retrospective analysis of infiltrated companies is often very challenging (Savona & Berlusconi, 2015; Transcrime, 2013).

Future directions in research and data collection

Organised crime infiltration in companies is a complex phenomenon, and its study is still pioneering. It is more advanced in some regions (e.g. Italy) which have experienced mafia intrusion in the legal economy for decades; it is less developed in other countries which are still asking what infiltration is and whether it really constitutes a crime. And as for any other exploratory study, it would be wrong to focus on only one future direction of research. Instead, it is suggested that all the fol-

lowing areas should be improved in order to extend the ‘arsenal’ at the disposal of scholars and practitioners in this field.

Improving the identification of cases of infiltration

Cases of organised crime infiltration in legal businesses could be identified more precisely through better specification of the sentinel crimes involved in the infiltration process: money laundering, market manipulation, public or private corruption, etc. A script analysis of the already collected cases could help to identify these offences, also taking account of differences in terms of regulation and legal definitions across countries. Following the script, and adopting a bottom-up approach, those judicial cases including the sentinel crimes identified (or a combination of them) could be more easily recognised and thus collected; and then constitute the basis for gathering further information on the infiltration (e.g. ownership data on the infiltrated businesses, financial accounts).

Focusing on sentinel crimes, rather than cases themselves, would have two main advantages: first, it would shift the attention from actors to activities, thus circumventing the never-ending debate on what organised crime is while focusing on what criminals do. Second, it would be more useful for practitioners (prosecutors, investigators, lawyers, professionals) because it would offer them a legal basis to apply the research findings in their everyday activities.

Improving the availability of judicial files and of data on confiscated assets

This approach would be effective only if access to judicial files is improved. In most European countries, court sentences and other judicial documents can be obtained from individual prosecutors, but this does not guarantee a systematic and comprehensive collection of all the relevant cases. Instead, access to centralized databases of judicial files should be improved and opened to researchers; and the tools for searching across these datasets should be strengthened, for example by enabling multiple queries per type of criminal offence, nationality of the offender, type of asset involved, and monetary value.

EU agencies should foster also the collection of better statistics on seized and confiscated assets (in line with Art. 11 of Directive 2014/42/EU) and guarantee access to researchers. Previous reports have highlighted that these data across EU member states are lacking and of a poor quality (Savona & Riccardi, 2015; Europol Criminal Asset Bureau, 2015). In particular, microdata (i.e. per each individual asset) should be made available to researchers so that sounder statistical analysis is possible.

Exploring new methodological approaches and new sources of information

As said, quantitative analysis of hard data (e.g. statistics on confiscated companies, personal holdings of offenders) is not sufficient to gain full understanding of

the drivers and the *modi operandi* of criminal infiltration in legitimate companies. It is necessary to mix such analysis with a more narrative approach that looks at the story of the infiltration, the actors involved, and the contextual factors.

To this end, ‘softer’ information on the cases identified should be collected: for example, by expanding the interviews to include offenders, prosecutors, investigators, entrepreneurs (both victims and facilitators of infiltration), professionals, and other intermediaries. Individual interviews, focus groups or surveys could be set up for this purpose; or existing ones (e.g. surveys on offenders’ illegal earnings) could be adapted for this scope.

In order to improve the financial analysis of infiltrated businesses, approaches typical of business studies – primarily forensic accounting and corporate governance – could be adopted. In parallel, the analysis of company accounts could be enriched by means of interviews with managers, judicial administrators and suppliers so as to circumvent accounting manipulations and obtain a more accurate picture of the economic performance and the management strategy of infiltrated companies (Di Bono et al., 2015).

Moving from analysis of past cases to assessment of the risk of infiltration

Finally, a risk assessment approach could be adopted also in the study of criminal infiltration in legal businesses, in the same way as it has been successfully applied to other fields such as money laundering or corruption (see Chapter 12). Adopting the FATF taxonomy used in money laundering risk assessment (see Dawe, 2013; FATF, 2013) to evaluate the risk of criminal infiltration would require identifying and measuring the threats of infiltration, the vulnerabilities which facilitate it (e.g. loopholes in the regulation, weaknesses in the business structure of a company or of a sector), and the impact (consequences) that infiltration would have on the market, the economy, and the society as a whole.

The risk could be assessed by considering risk factors on various dimensions: territory, business sector, management strategy, ownership structure (see Chapter 12). And it could be customised according to the nature of the end-user. This approach would make it possible to transfer the results of the research on criminal infiltration into tools useful for the everyday activities of practitioners: for example, intermediaries (banks, notaries, lawyers) subject to AML obligations to conduct customer due diligence; or public bodies (e.g. municipalities, regional governments) to assess the risk of infiltration in (and manipulation of) public procurements; or LEA and ARO agencies to identify the companies on which to focus investigation and monitoring.

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