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1 INTRODUCTION

The chief purpose of this analytical work is to outline a framework of systemic and endemic criticalities deriving from the **Environmental Crime**.

Specifically, with the example of the Italian experience, Environmental Crime is not a criminal act but, more dangerously, is a criminal phenomenon. More worrying because the areas of criminal interest are increasingly varied and the persons or factions that are involved appear more and more advanced and transversal.

The methodology used for this analysis activity brings together the experiences and investigative information developed by the Italian Carabinieri Special Forces¹ in recent years, drawing from their investigative activities, those indicators that lead to a better understanding of the potential of the Environmental Crime and its transversal aspects.

Therefore, the aim is to produce an analysis in which one can identify, understand and evaluate the threat in order to:

- develop targeted strategies to combat such phenomena;
- optimize the use of resources available in the fight against environmental lawlessness; - Provide an effective contribution in raising the level of awareness towards the importance of International Environmental Crime;
- stimulate a fruitful collaboration among all the Law Enforcement Agencies of the Member States;
- solicit governmental bodies, each within their area of responsibility, for the adjustment of the regulatory systems of environmental protection, if necessary, as well as enforcement investigative measures.

¹ Special Operational Group (R.O.S) and Carabinieri Environmental protection Unit hereinafter referred to as Carabinieri.

2. ENVIRONMENTAL CRIME: The Italian Experience.

When it comes to Environmental Crime, one should consider behavior which is contrary to the law and directly detrimental to a person's rights, which also include the physical and mental integrity and preservation of quality of life.

“Experience in the specific field including the results of investigations carried out, has ascertained the direct role of the major OCG in the illegal waste disposal business. Mainly due to the many areas in which it is possible to diversify illegal infiltration, and the massive amount of money that revolves around the environmental heritage of the country.

Trafficking and illegal waste disposal, pollution of rivers and springs, and illegal building are the main areas in which Organized Crime has seen the possibility of huge profits.

Attracted by the vast influx of money and support from the above mentioned networks, the OCG operating in the environmental sector have been able to spread rapidly throughout the country, and not infrequently, find valuable contacts to continue their cross-border trafficking.

For the reasons mentioned, it is not easy to identify a single modus operandi, but the analysis of the results achieved in the areas of intervention can allow one to focus on the most critical areas².

The results of analysis derived from years of investigative experience tend to distinguish two different types of environmental crime: the Common and Organized.

For *Common Environmental Crime* one can consider any occasional conduct affecting the environment referring to mono-subjective behavior involving a single person or company.

Organized Environmental Crime is typified by a common area of interest in which criminal behavior is characterized by the systematic organization of structures and equipment. In this context, as will be seen below, there will be a need to verify any such interest, and its consistency, such as with the criminal activities of the Mafia.

Without doubt, the environmental sector is an attractive economic opportunity for various criminal interests.

The waste cycle is the area that can be identified as the common denominator of the various activities of the cosmos that have an environmental relevance, such as in Public Administration or in the alternative energy sector.

² First Report on Fighting Environmental Crime – Ministry of the Environment 2009

In the Italian experience, the economic element has become overwhelmingly evident with the application of Article 260³ of the Consolidated Law on the Environment.

There will follow a brief discussion as appropriate.

2.1 THE CONSOLIDATED ENVIRONMENTAL ART. 260.

Article 260 T.U.A. (formerly Art. 53a of Law 22/97) is entitled "Organized activities for the illegal trafficking of waste"

The legal right protected by the contested provision is the environment in its most complete state since it can be affirmed that public health derives direct benefits from the protection of the first.

The Italian legal system, in terms of environmental protection, is descended from that of the Community.

The numerous legislative decrees implementing Community legislation successive in time, implement the objectives laid down by 174⁴ of the Treaty of Maastricht.

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- ³ 1 Whoever, in order to achieve an unfair advantage, with multiple transactions and through the preparation of ongoing organized activities, gives, receives, delivers, exports, imports, or otherwise improperly handles huge amounts of waste shall be punished by imprisonment ranging from one to six years.
- 2 In the case of high-radioactivity waste the penalty of imprisonment from three to eight years shall be applied.
- 3 At conviction receive ancillary penalties referred to in Articles 28, 30, 32 and 32-bis-ter of the Penal Code, with the limitation provided for in Article 33 of the same code.
- 4 The judge, with the judgment or issued pursuant to article 444 of the code of criminal procedure, orders the restoration of the of the environment and may make the granting of suspended sentence be determined by the elimination of the damage done or danger to the environment.
- ⁴ 1. Community policy on the environment shall contribute to pursuit of the following objectives:
- preserving, protecting and improving the quality of the environment,
 - protection of human health,
 - prudent and rational utilization of natural resources,
 - promotion at an international level of measures to solve regional or global environmental problems.
2. Community policy on the environment which aims at a high level of protection, taking into account the diversity of situations in the various regions of the community. It is founded on the principles of precaution and preventive action, the principle of correction, as a priority in terms of, environmental damage and on the polluter-pays principle.
- In this context, harmonization measures answering to the needs of the Environmental Protection Act, in appropriate cases, a safeguard clause authorizing the Member States to take, for environmental reasons of a non-economic nature, provisional measures subject to a Community inspection procedure.
3. in preparing its policy on the environment the Community shall take account of:
- Scientific and technical data available,
 - environmental conditions in the various regions of the community,
 - of the benefits and costs which may result from action or lack of action,
 - the socio-economic development of the community as a whole and the balanced development of its regions.
4. within the framework of their respective competences, the community and the Member States shall cooperate with third countries and the competent international organizations. The modalities of the community's cooperation may be the subject of agreements negotiated and concluded pursuant to article 300, between this and interested third parties.
5. The preceding paragraph does not prejudice to Member States ' competence to negotiate in international bodies and to conclude international agreements.

With Decree. 205/2010, Italy transposed Directive 2008/98 / EC of the European Parliament and of the Council. Paragraph 49 of the preamble sets out the objectives of the protection of the environment and human health.

By the same measure, the Art. 177⁵ of Legislative Decree 152/2006 have been reformulated for the implementation of Community objectives in general terms.

2.1.1 MODE OF CONDUCT

Although the agent can be anyone, the commission of illicit trafficking is characterized by competition among multiple offenders, among whom it is not necessary that there is the *affectio societatis*, occurring in the typical crimes of association according to Italian law (see para 3.3), **it is sufficient to have common economic interests.**

As established by the Italian jurisprudence, if the existence of a conspiracy is demonstrated, the said crime will coexist with art.260 (see para 3.4 and 3.5).

The constitutive elements of the crime are as follows:

- the stability and continuity of the organization;
- trafficking huge amounts of waste;
- abusive conduct.

Notwithstanding the clear indication of the stability and continuity of the organization as an element that is intrinsically linked with the organizational structure of criminal association, it is necessary to clarify the issues of two of the elements: the amount of illicit waste and the abusive conduct.

In particular,

- when checking the amount of illicit waste in question, the total quantity of material handled by a plurality of transactions must be taken into account, even if the latter, taken in isolation, may be modest (cf.. Cass. Pen. Sect. 3 n. 358, 20.11.2007)

⁵ The fourth part of this decree governs the management of waste, and the remediation of polluted sites even in the implementation of Community directives on waste, hazardous waste, waste oils, batteries, packaging waste, on polychlorinated biphenyls (PCBs), on landfills, incinerators, waste of electric and electronic waste, harbor waste, end-of-life vehicles, on sanitary waste and on waste containing asbestos. Without specific provisions, details or complementary, in accordance with the principles set out in part four of this Decree, adopted pursuant to directives governing the management of certain categories of waste.

- as regards to abusive conduct, any conduct that is perpetrated in violation of rules, permits, practice, circulars, or altering the content and the meaning and typical activities which appear totally different from what is authorized (cfr. Cass. pen. sect. 3 n. 358, 20.11.2007), also completely absent or expired authorizations or manifestly unlawful and not commensurate with the type of waste received (Cass. sect. 5 n. 40330, 11.2.2006).

These details are fundamental in those cases when activity is characterized by an authorization system and regulations, in an extremely complex and binding sector such as that of the environment.

The result is an automatic and necessary awareness of the complexity of investigations relating to the 260.

2.2 ENVIRONMENTAL CRIME IN THE LIGHT OF 260

For the foregoing reasons, the structure of Art. 260 T.U.A. which is one of the very few but surely the main crime involving illicit waste, is a criminal provision that is perfectly suited to a corporate structure.

Art. 260 can and should be considered a **corporate crime** because, although mono-subjective - it is purpose-built on the asset company.

Being able to live both independently and in connection with different forms of criminal conspiracy enables it to be oriented towards a multi-faceted configuration.

This is seen as a classic environmental crime, especially one connected with the traffic of waste, and it has been the subject of specific interest to mafia-type criminal organizations, OC groups such as the Casalesi clan (specific branch of Camorra)⁶.

The existing configurations have led to a complex and multifaceted mutation of interest gravitating around Environmental Crime, resulting in the variation of modus operandi that exacerbates the difficulties of investigation.

The investigations carried out may allow one to affirm that:

- there is an existential autonomy of Environmental Crime directly related to the concept of corporate crime;
- the complete versatility of the phenomenon, Environmental Crime fits into complicated business interests and entrepreneurial initiatives, and not necessarily, though without excluding, the possibility of OCG and the Mafia;

⁶ That, as will be seen, represents the only case of direct and systematic involvement of a Mafia organization in providing a *direct disposal service* on territories controlled and devastated by criminal activities.

- criminal interests take on transversal characteristics, trans nationality and research of new business areas, for example in the alternative energy sector and territories.

It therefore seems appropriate that the analysis of the phenomenon of environmental crime should consider the traffic sector of waste in the light of the activities carried out:

- activities organized for the illegal trafficking of waste pursuant to Art. 260 T.U.A. with particular reference to cross-border shipments (Art. 259 T.U.A.);
- Cycle management of municipal solid waste (MSW) and to the system of allocation of services such as transportation, management, recovery and disposal through tenders;
- Cycle management of special waste, hazardous or otherwise, and to the system of allocation of services such as transportation, management, recovery and disposal through tenders, with particular reference to the criminal aspect of the fake treatments in the form of gyro bubble and declassification and the disposal of hazardous waste with cross-border shipments to third countries;
- New sectors represented on the involvement of the Public Administration or by alternative energy.

All this results in a context in which the expertise of law enforcement officers, in charge of environmental protection, will need additional awareness and competence. There is a need to broaden the scope of investigation into other sectors such as PA, procurement, execution, Department of Public Works and with renewable non-fossil energy such as renewable - wind, solar, geothermal, biomass, landfill gas, biogas etc. Law enforcement officers will have to offer, in their own country or abroad, their expert contribution to diverse law enforcement agencies when such an agency stumbles into the complex world of environmental crime during the course of an investigation.

2.3 ASSOCIATION TYPE

The Italian legal system provides for various forms of criminal co-operation. Those of interest to this discussion are:

- Conspiracy (Art. C.P. 110)
- Association (Art. C.P. 416)
- Mafia-type association (Art. 416 bis)

Conspiracy (Art. 110 C.P.⁷) brings together the constituent elements of:

- The number of agents, with the collaboration of at least two people;

⁷ When multiple people contribute in the same offence, each of them is subject to penalty for this established, the exception provisions of the following articles

- The realization of the fact, in which all participants must contribute, even to a minimal extent, in the offense;
- The material or moral contribution of the individual for the common realization of the offense.
- willingness to cooperate in the crime.

Association (Art. 416 CP⁸)

Punishment for the mere existence of a stable criminal agreement, consolidated over time, and which has a hierarchical structure. Characterized by an open-ended program that distinguishes the criminal association of persons from the conspiracy where the agreement is not permanent and stable, but occasional and accidental.

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⁸ When three or more people (1) associate (2) for the purpose of committing more crimes [305.306] (3), those that promote, provide or organize the association are punished, for this alone, by imprisonment from three to seven years.

For the mere fact of participating in the association, the penalty is imprisonment of one to five years.

The heads (4) are subject to the same penalty established for the promoters.

If the members are armed or make use of arms in the countryside or on public roads, subject to imprisonment from five to fifteen years (5).

The penalty is increased if the number of members is ten or more [32quater] (6).

If the association is to commit any of the offences referred to in Articles 600, 601 e 602, and Art. 12, paragraph 3 bis, of the consolidated text of provisions relating to the regulation of immigration and norms on the condition of foreigners, referred to in Legislative Decree No. 286 July 25, 1998, subject to imprisonment from five to fifteen years in the cases referred to in the first subparagraph and from four to nine years in the cases provided for by the second paragraph (7).

If the association is to commit any of the offences envisaged by Articles 600 bis .600 ter, 600 c, 600 d, 600quater1, 609 bis, when the fact is committed against a minor , 609 c, 609 d, 609 octies, when the fact is committed against a minor, and 609 undecies, subject to imprisonment from four to eight years in cases provided for by the first subparagraph and imprisonment from two to six years in the cases provided for by the second paragraph (8).

The mafia-type association (Art. 416 bis⁹)

The mafia-type association was introduced by Art. 1 of L. September 13, 1992, n. 646.

It introduced the punishment for criminal associations which utilize the power of intimidation to achieve their purposes. Therefore, it is not necessary for the association to carry out acts of intimidation, but there must be their noticeable presence, penetrating, intimidating and overbearing, the result of a lifestyle which has been consolidated over time.

This provision differs from the Association to commit a crime (article. 416) in relation to the purpose, since, in addition to the commission of crimes; the association concerned may also pursue legitimate aims of using illicit means of the power of intimidation. Consequently, only one of the purposes indicated is sufficient by the standard, the list of which is mandatory.

2.4 COMPARISON BETWEEN THE RULES

In a nutshell we can say that one of the main elements of difference between the three cases is the intensity of the cooperation between participants in the crime: it can be supported by both the occasional nature of the partnership, and the duration in time.

In the case of Art. 110 Indeed, both will have a participation in the crime when it is established that the parties have agreed to the ad hoc committee of the same, implementing a behavior characterized by a schedule aimed at the realization of

⁹ Anyone who is part of a Mafia-like Association consisting of three or more persons (2), shall be punished by imprisonment from seven to twelve years.

Those who promote, direct and organize the Association are punished, for this alone, by imprisonment from nine to fourteen years [112 No. 2].

The Association is of the Mafia type when those involved use intimidation (3) associative and constraint conditions of subjection and omertà (pact of silence) to commit crimes, to acquire directly or indirectly the management or control of economic activities, of concessions, authorizations, contracts and public services or to make profits or gain unfair advantages for himself or others, or to prevent or impede the free exercise of the vote or votes of oneself or others in connection with elections (4) (5).

If the Association is armed, the punishment of imprisonment from nine to fifteen years in the cases referred to in the first subparagraph and from twelve to twenty-four years in the cases referred to in the second subparagraph shall be applied.

The Association is considered to be armed when the participants have the availability, for the achievement of the purposes of the Association, of weapons or explosive materials, even if concealed or kept in a storage place.

If economic activities which the associates intend to take or maintain control are financed in whole or in part with the price, product or profit of crimes, the penalties established in the preceding paragraphs shall be increased by one-third to one-half.

The person/persons sentenced for the aforementioned will endure mandatory confiscation of means which served or were designed for committing the offence and of the objects that the price, product or profit, constitutes the use of [Art. 240] (6).

The provisions of this article shall also apply to the Camorra, the 'Ndrangheta (7) and other Associations, local or foreign, that using intimidating force of the Association shall pursue purposes corresponding to those of the Mafia type [32quater].

that particular criminal act. In the case of the association, however, the agreement is long-lasting and conduct is aimed at the implementation of various crime facts.

In the case of the offense ex 416 bis, which is configured through a constitutive element, the intimidating power deriving

from membership in a criminal syndicate. The new element, and at the same time strength of 416 bis, is that the mere feeling of threat and intimidation induced by the agent in towards the victim of the offense is sufficient: in other words, the same feeling of intimidation is sufficient to constitute the offense in the present case.

This formulation, designed by the legislature expressly to counter the typical dynamics and occult Mafia, met with a great deal of resistance in the national laws of other countries because it does not necessarily require the commission of an offense, defined as an extortion event, murder event, threat event and so forth. In certain terms, the event coincides with the psychological element of the agent, only manifesting intentions within a specific context, which constitutes the crime.

2.5 COMPARISON WITH ART. 260 T.U.A.

Briefly, the different structure of Article legislation. In relation to Art 260 of Decree 152/06. Or Art 416. 416 bis C.P. allows the possibility of competition between the two crimes (see judgment no. 18351 of 7.5.2008 and n. 45057/2008 and n. 25207/2008 section 3 of the Constitutional Court.).

The Constitutional Court notes that the crime under Article. 260 Legislative Decree no. N. 152 of 2006 can often be regarded as making a second and distinct conduct, which has proved to be characterized by the creation and realization, by persons not necessarily related to one another, of a criminal plan, vague and general, to which each has knowingly participated in adhering to its goals, and has put in place a series of repeated single-crimes. This conduct cannot fail to be recognized as distinct *pactum sceleris*, the autonomy of the crime of art. 416 CP. The association thus formed may also involve persons unrelated to the social structure, persons such as trusted transporters for example, and with different roles; so that even in this respect the conduct of the possible suspects are "absolutely separated from the existing company statute" and should be qualified "as symptomatic of the *affectio societatis* referred to in art. c.p. 416".

The criminal association exists whether criminal offences are committed or not. Therefore it becomes obvious stating how criminal association

and art. 260 T.U.A. can occur contemporarily even with other felonies related to forgery or fraud.

2.6 Art. 260: CHANGE OF JURISDICTION (ART. CO 11. 1 OF DL 136/2010)

With the change in the law in question, the jurisdiction of the crime of Art. 260 T.U.A. was entrusted to the National Anti-Mafia Directorate. The legislature was deemed appropriate and necessary for the investigation of all phenomena related to waste trafficking. Investigations were carried out by specialized units and investigators who were already predisposed to dealing with crimes that take place and develop within diverse territories.

Within the National Anti-Mafia Directorate, the importance of the phenomenon has found even greater accolades since an elite team of judges was established to coordinate the activities related to Environmental Crime at a national level. In essence, the allocation of new power occurred through the insertion in paragraph 3 bis of Art. 51 Code of Criminal Procedure, which also includes offenses typically associated with Organized Crime and that allows:

- The possibility ex art. 13 of D.L. 152/91 to place wiretaps and eavesdropping where there is sufficient evidence of a crime, and not necessarily where criminal activity is taking place;
- The possibility of starting - pursuant to Art. 7 – asset investigations pursuant to Art. 25 of Law 646 of 1982, aimed at the imposition of capital measures pursuant to Law 575/65.
- Undercover operations pursuant to Art. 9 of Law 146/2006 as supplemented and amended by art. 8 of Law 136/2010;
- The possibility of the application of personal preventive measures with the Legislative Decree 6 September 2011, no. 159 - Code of anti-Mafia laws and preventive measures, as well as new provisions in anti-Mafia certificates¹⁰.

The legislature has thus held that Art. T.U.A. 260 may represent one of the crimes by which could demonstrate the proper goal of mafia-type association, consisting of committing crimes to acquire, directly or indirectly, the management or control of economic activities, concessions, permissions, procurement and public services....

¹⁰ Articles 1 and 2 of the law No. 136 August 13, 2010 and L. 27-12-1956 No. 1423 "preventive measures against dangerous persons for safety and public morality"

3. THE EUROPEAN “AWARENESS”

The concise examination of the Italian regulatory framework and its operational capabilities becomes crucial in the comparison between the fore mentioned and the degree of international awareness.

Environmental Crime has widespread recognition in criminal risk assessment. This recognition is found in both the Serious and Organized Crime Threat Assessment (SOCTA 2013) and in "Environmental Crime Threat Assessment (ECTA 2013).

Both documents show a widespread awareness of the dynamics of criminal activity, highlighting major international Environmental Crime and transnational trends. The SOCTA 2013 also sheds light on how Environmental Crime has become one of the interests of a certain branch of Organized Crime, especially in a time of economic crisis, when companies need to reduce running costs, and could therefore be much more inclined to accept particularly advantageous offers.

In particular, the environmental sector is treated as follows:

3.1 EXTRACT SOCTA 2013: THE EUROPEAN SITUATION Waste trafficking

The increase in the amount of waste produced and the high prices of disposal in the area attract the interest of OCG. The traffic of illegal waste has as its objectives West Africa and China, with EU countries reporting an increase in illegal dumping or disposal. The waste is handled within the EU by road and good infrastructure in European ports facilitates the illicit trafficking of hazardous wastes to countries outside the EU (Africa and Asia). Illicit traffic can have a serious impact, both short and long term on the environment and on that of society. The environmental impact is manifested in the increase in pollution levels and the imbalance of natural life cycle. Such illegal disposal endangers public health, with consequent high costs of restoration. The current economic crisis is tempting companies involved in waste recycling to cut costs related to the production process, this in turn could encourage such companies to accept OC offers of illegal disposal.

The E.C.T.A. 2013 offers a more detailed account as follows:

- The difference between joint Environmental Crime and Organized Crime;
- The need to use a shell company, the so-called legal economy;
- The need to find new criminal markets;
- The ability to analyze different regulatory systems to exploit loopholes.

3.2 ABSTRACT ENVIRONMENTAL CRIME THREAT ASSESSMENT

Illegal waste trafficking is a profitable and low-risk activity, that is widely under estimated and rarely under criminal investigation, as it is in the interest of few OC groups.

Illicit trafficking is criminal activity intrinsically connected with the legal economy, and can enjoy the current moment of financial crisis and the need to reduce costs. Both criminal groups and legitimate companies may be involved in illegal waste trafficking. The criminal groups involved exploit the absence of standardized testing regimes within the EU and use fake documents as the basic modus operandi. The traffic of WEEE (electronic waste) to Africa and Asia is on the rise because it appears to be very beneficial owing to the recovery of the precious metals they contain. **Italian OCG continue to be involved in illicit trafficking and attempt to provide disposal services in both public and private sectors.**

In addition to the priorities in SOCTA 2013, the emerging threats have also been included. Environmental crime is one of those in which tighter controls are recommended. The following assessment follows and enhances that which was analyzed in SOCTA and aims to provide a detailed account of environmental crime in the EU. The illegal trafficking of waste regards the transport and all intermediate operations to the disposal of waste outside the rules laid down by the Member State and the EU. Depending on the type of waste, traffic can occur in individual states, or between states to states outside the EU. The transport of waste and the illegal trafficking of waste are treated in various international and European agreements such as the Basel Convention and European directives and regulations. OCG are involved in the illicit trade as traffickers, intermediaries and facilitators. Trafficking involves the transport, the sale of the industrial waste, including hazardous waste such as Municipal Solid Waste (MSW), end-of-life vehicles and WEEE.

European countries produce large quantities of each type of waste, and although it is difficult to quantify the volume of waste in EUROPE, the weight of this crime should not be underestimated. Member states have seen a growth in the demand for illegal disposal often caused by a very tight regulations and the rising prices of lawful disposal.

Following this, some states have seen a significant increase in the amount of illicit waste seized which was mainly for export. The waste is handled within the EU and outside the EU. MSW and industrial waste

are normally handled within the same country or member countries to avoid disposal fees or other associated costs. National waste is sometimes disposed of in illegal dumps within countries or in states that have less stringent legislation or less invasive controls. WEEE and other hazardous wastes are also used within the EU or shipped towards Africa and Asia. The business concept is to maximize profits and minimize costs by serving as facilitators, offering disposal services at lower costs of the legal market by taking advantage of the economic crisis.

A fundamental aspect in illicit trafficking is the legal business structure, LBS, because not all of the traffic offense is necessarily related to OC activity. Some companies resort to illicit trafficking for purely business issues. **The level of involvement in illicit traffic in a duly registered company with respect to the involvement of OC is currently unknown.** The illicit trade has benefited from the growth of the global transportation infrastructure, the emergence of a global market for waste trafficking has attracted the interest of OCG who have access and the ability to manage and organize the movement of large quantities of waste, using the largest ports in Europe.

The modus operandi of the OCG involved vary according to the type of waste and its destination. Generally, OCG try to exploit the legislative weaknesses in other countries, often using shell companies which are legally registered, but that are able to offer much lower prices.

Illicit trafficking often relies on the forgery of certificates and other documents by changing the name or the identity of the waste generator. Thus, illegal disposal can be done in various ways by using shell companies to hide illegal disposal methods behind seemingly lawful proceedings. In this way, the waste may be poured into a river basin or lake resort, on farmland or back into the production cycle or MSW disposed of even though it is hazardous industrial waste with an impact that can be devastating both to the environment and human health.

The Regional Dimension

Western Europe produces most of the waste transiting to the east to be disposed of or dumped in the final site. WEEE and parts of the vehicles are shipped instead to India, Vietnam and China.

Organized Crime Groups

We have limited information on the existence of OCG interested in the illegal trafficking of waste in addition to traditional Italian groups.

The OCG involved in this criminal field, depending on the type of waste, requires high specialization and ability to avoid scrutiny. OCG

must understand and exploit certain legislative gaps and to have extensive knowledge of the processes of the waste cycle and disposal methods. **Experts and specialists working on behalf of the OCG provide technical advice and legislation to avoid responsibility.**

To control the entire chain of waste disposal from the production or harvesting to transport or actual disposal of illicit waste, OC can use several legitimate front companies, the so called shell companies, each responsible for a specific part of the process that requires the cooperation of various persons such as; manufacturer, transporter, experts, consultants, lawyers, engineers and so forth, but also the cooperation of other OCG in the countries of destination.

Shell companies are an integral part of OC and are used as a facade to conceal criminal activity and provide a semblance of legitimacy. Through these companies, usually owned by the same criminal group, the entire chain of waste trafficking is monitored and illicit funds are frequently channeled through such companies with ease. Since a vast amount of such criminal activity is of a complex nature, OCG often rely on technical experts in various fields, especially from the financial sector, in order to maximize the proceeds facilitating the externalization of the lawfulness of the transaction.

Italian OC is particularly interested in this area, especially with OCG Camorra and the 'Ndrangheta, which thanks to their flexibility and ability to adapt to changes in the market and legislation, maintain strong contacts with the companies that manage waste trafficking.

3.3 THE DEFINITION OF EUROPEAN ORGANIZED CRIME

SOCTA Report 2013

The SOCTA refers to the definition of international organized crime developed in the document referred to in the Framework Decision on the Organized Crime of 24 October 2008. It defines criminal organizations as a structured association, stable over a period of time, consisting of a union of two or more people acting together with the aim of committing crimes punishable by deprivation of liberty, punishable by not less than 4 years imprisonment to obtain, directly or indirectly, the economic benefits or material gain.

Following this definition, the acquisition of data to be analyzed for the assessment of organized crime within the SOCTA lists the following qualifying criteria:

- Collaboration of two or more people;

- OCG's activities remains undefined or are conducted for an indefinite time;
- Indicted or convicted of serious offenses punishable by imprisonment of not less than 4 years that have the purpose of achieving profit or other material benefit;
- Internationally active inside and / or outside of the EU Member States.

As for the concept referred to as serious crime, this refers to criminal activity deserving to be monitored, but does not fall within the definition of the European OC concerning individuals or individual conduct.

Criminal groups OC

Statistics indicate approximately 3600 OC groups operating on an international level. Money laundering is a common factor in all criminal groups because it is essential to support the group's activities and profits are estimated in a range from thousands to millions of Euro.

Criminal groups are structured in various forms following two models.

- A vertical structure, a hierarchy.
- A horizontal structure, a network.

More than 40% of criminal groups prefer a horizontal structure that provides the ability to quickly adapt to the needs of the area, to the economy and to ensure greater mobility and connectivity. Statistics indicate an ever increasing trend towards the horizontal network. Often hierarchically organized criminal groups, both in the international framework in the European one, prefer shared leadership and a flexible hierarchy.

The analysis concerning the nationality of the criminals and the countries in which they develop the main activity has shown that criminal groups are moving towards internationalization. For example, both Belgium and Portugal refer to criminal groups consisting of more than sixty nationalities, with criminal interests in more than 35 countries, that clearly indicates a significant level of international cooperation on a criminal level.

The financial data on criminal groups confirm access to abundant resources through money laundering, which often takes place within the same criminal structure, as well as through investments in real estate or through legitimate activities that are subsequently an important resource to be able to invest in criminal activity.

It should be emphasized that criminal groups that have high financial resources are more prone to resort to corruption. With a second objective to be achieved, and with the technical capacity and operational procedures to achieve the same goals, there is frequent cooperation between different criminal groups both

nationally and internationally. This mainly because of the need to operate beyond the territorial boundaries or even to secure specific services.

The more organized and dominant groups are able to interact with subordinate groups to which they can subcontract or subsidize specific activities or to which they can offer their skills or their financial support. Once contact is established, the dominant group is able to directly control the subordinate criminal group. The dominant groups use the subordinate groups to extend their influence and make headway in many illicit markets. Such cooperation also offers collective protection against police checks. Criminal groups, through acts of corruption or by having legal experts at their disposition, are able to obtain information about the weak points in legislation that can be exploited.

Often the activities of criminal groups are associated with the use of violence, used to maintain power, often within their own criminal group, and against rival gangs or the victims of their criminal activities. But often the use of violence is counterproductive because it attracts the interest of law enforcement agencies. Therefore, this situation imposes a very moderate use of violence when strictly necessary, and of a premeditated manner.

3.4 THE EUROPEAN AWARENESS: CONSIDERATIONS

From the above mentioned analysis, an evident mismatch should be noted between the Italian and European point of view on such matters.

An incongruity has emerged which is an indication of the Italian phenomenon, nevertheless, there is also a need to understand the international nature of the phenomenon of Environmental Crime, and how the different legal approaches to the subject and the lack of effective synergy between the various FFPP on the specific topic may:

- Frustrate the efforts made by each individual state.
- Provide ample room for maneuver for persons involved Environmental Crime.

Nevertheless, it is believed that the Italian experience has led to the development of a capacity for monitoring and contrast that it could be considered a reference point in analyzing Environmental Crime activity. Consequently becoming a step towards a total awareness of such crimes as a being without borders, with transversal characteristics and versatility, that make it of interest to both Common and Organized Crime.

To contrast the phenomenon there must be:

- A greater degree of awareness, preparation and specialization of the judicial authorities and the law enforcement agencies responsible for monitoring and combating Environmental Crime;
- An effective synergy between Member States and between the various FFPP specialists.

The above introduces the analytical part of this work.

DRAFT

ANALYSIS

REGARDING

**“THE OCGS – EVEN MAFIA-LIKE - INVOLVEMENT, IN THE
ILLICIT WASTE TRAFFICKING AND CLUES ON THE
TRANSNATIONAL DIMENSION**

4 GENERAL OUTLINES

The illegality related to the waste cycle, as extensively discussed in the introduction for the substantial illegal profits involved; help constitute the most significant expression of so-called Environmental Crime.

The scenario of the offense is essentially defined along two lines:

- The *lawlessness* by individual subjects, regardless of the behavior of others, consisting in violations of industry regulations. Where such illegality reaches levels of consistency, these become socially harmful to an extent comparable with those of aptly named Environmental Crime;
- *Environmental Crime* refers to activities carried out in an organized manner for unlawful profit. A serious and dangerous phenomenon because it is originated towards illicit profit and supported by ample opportunity to gain, from which certain sectors of the business world are drawn to, with the possibility to increase profits by the fraudulent reduction of costs for the disposal of waste products. This area of activity is of great interest for Organized Crime, both common and Mafia.

We have mentioned before that there are clear elements which indicate Environmental Crime as being **Enterprise Crime**, which as has been widely argued under Italian law, and has necessarily assumed the rank of Organized Crime.

The examination of investigations shows that illegal trafficking of waste is among the top choices of entrepreneurship aimed at economizing business running costs.

The overlap between crime and the Environmental Crime enterprise, as previously stated, came into being with the application of Art. 260 in correlation with the rules governing the competition of persons involved and association with Art. CP 416.

There are countless cases that could be cited in which the common denominator is the systematic organization and the total overlap of the asset to the corporate criminal. Such cases are very common although they are characterized by the common denominator of Organized Crime and are referred to as Criminal Enterprise.

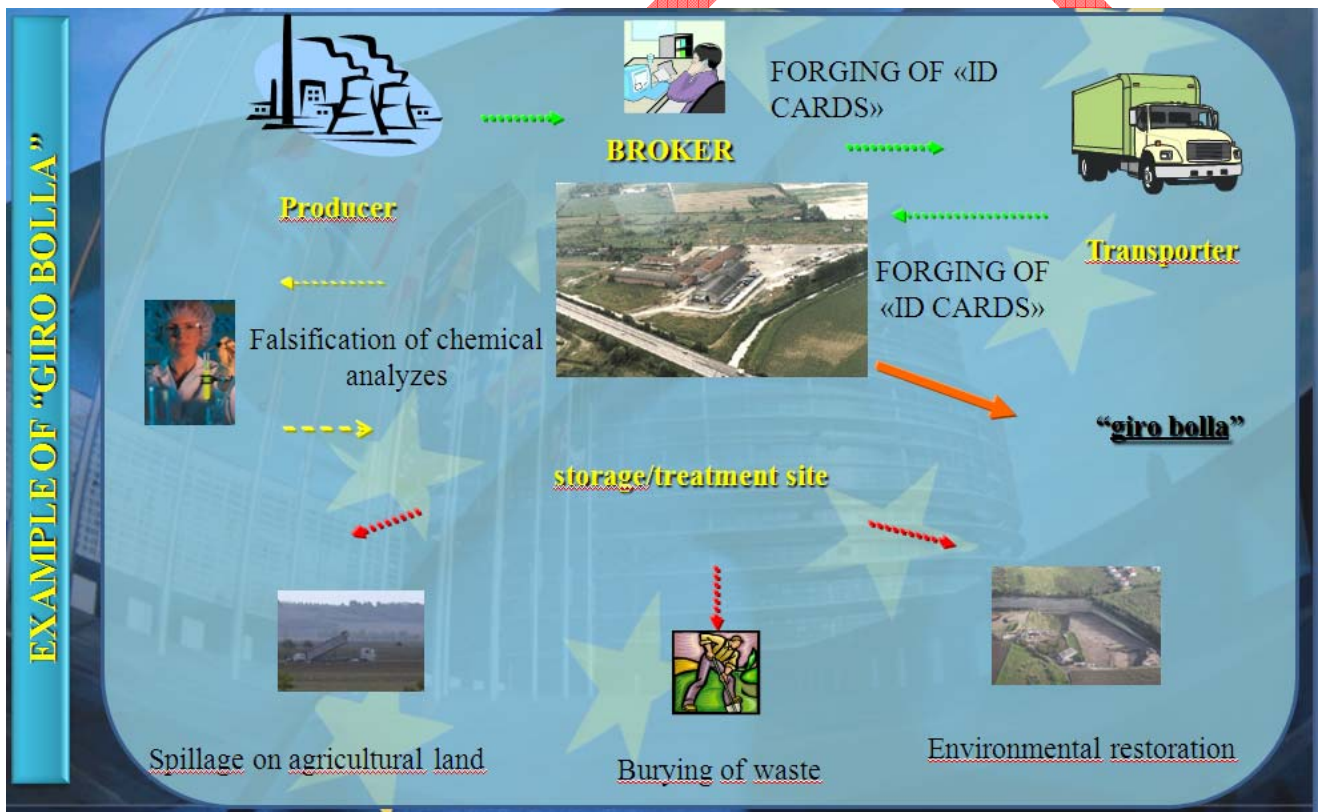
All the cases in question have as their common elements:

- As being related to the ongoing activity, a business with the setting up of automated or manual means of transport;
- The ability to continue illicit profit making through illegal waste management;

- The declassification of waste through the falsification of documentation.

4.1. THE “GIROBOLLA”

Essentially, all conduct related to the concept of Corporate Crime refers to what has been called the **Girobolla System**, namely the **fictitious declassification of waste through the falsification of transport documentation and analytical certification**. This behavior enables those involved to fraudulently dispose of such waste - following channels which are more or less legitimate - or use waste as secondary raw materials, eliminating the costs of disposal, entering them into the circuit of commodities such as fertilizers for use in agriculture or environmental restoration.



The common denominator that describes the criminal action Art. T.U.A. 260 provides:

- That the action falls within the scope of a collusive agreement which has been in place for some time;
- Association in order to initiate activities for the illegal trafficking of waste;

- The aim of achieving an unfair advantage through continuous activity of an entrepreneurial nature, and the adaptation of vehicles utilized in illicit transportation.
- Such Illicit waste management may concern:
 - Illegitimate administrative licenses enabling the treatment and disposal of waste;
 - Declassification of large quantities of waste for disposal, or improper use as secondary raw material.

In the course of investigations the involvement of the Public Administration emerged, both in fraudulent conduct against the State, and in that of acts of corruption or bribery in administrative offices in order to have approval, consent, and/or to ensure tenders.

So as to give a sense of the level of specialization of the organizations dedicated to Environmental Crime have, we cite the recent operation named BLACK LAND (Az. RGNR 7287/13 and 5741/14 RG GIP of Bari Court, Italy) which drew to a close in April 11, 2014, in the Puglia, Campania and Basilicata regions of Italy, with the implementation of restrictive measures against fourteen suspects and the seizure of property and real estate for a total value of approximately twenty-five million Euro.

Seizure included composting plants, authorized areas for environmental restoration but illicitly used as landfill waste, transport and construction companies and ten trucks.

The investigation revealed, including various other forms of criminal conduct, the existence in an organized manner of unlawful activity and the continuous disposal of large quantities of special waste produced by some Campania agencies, which was then deposited in illegal dumps located in the various Italian provinces.

The investigation has documented in detail the conduct of criminal activity as follows:

- The dry fraction was deposited at the premises of a cooperative society and, after being transported to a storage facility, was gradually disposed of by illegal means, through the neglect and burial in abandoned quarries, agricultural land and protected areas;
- The wet fraction was sent to a composting facility where the waste, in real time and without undergoing specialized treatment, was simply crushed and mixed, after which it was transported, with the aid of false shipping documents, and in the absence of the required documentation for the transport of waste, was later disposed of in a former quarry where there was ongoing environmental restoration.

As part of the Old Rags operation, dated May 6, 2013, in the provinces of Benevento, Caserta and Naples, the military of NOE of Caserta implemented thirty-two restrictive measures against persons involved in various ways in an organization dedicated to the illegal trafficking of waste. The action stemmed from complex investigations revealing a spontaneous and effective partition of the territory by three separate criminal associations, mainly composed of:

- Five international companies operating in the import of textile waste through fictitious passages and certifications, and, such waste was marketed on a vast scale to countries in the developing world;
- Two ONLUS associations operating in the collection of such waste in Campania;
- Several families without authorization.

At the same time, the law enforcement agents carried out the seizure of eight companies, five small businesses and two associations, all involved in illegal activities, for a total estimated value of twenty million Euro.

4.2. LA TRANSNATIONALITY OF ENVIRONMENTAL CRIME

Additional qualifying elements of the complexity, cross-disciplinary, multi-faceted and entrepreneurship Environmental Crime, in addition to the aforementioned of the areas of PA are:

- The well-established trend towards TRANSNATIONALITY.
- The identification of new areas of economic significance.

4.2.1 The definition of Transnational Crime

With the L. 16.03.2006 n. 146, Italy ratified the Convention and the Protocols to the UN Convention against Transnational Organized Crime¹¹. In particular, the new law defines as

- Transnational Crime, such crime punishable by imprisonment of not less than four years, if it involves an Organized Criminal Group, including if such criminal action is committed; a. in more than one State;
- in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- in one State, but involves OCG engaging in criminal activities in more than one State;**
- in one State but has substantial effects in another State.

In the above introduction, the investigative analysis effectively demonstrates the phenomenon of Transnational Environmental Crime.

4.2.2 CASES OF ENVIRONMENTAL AND TRANSNATIONAL ORGANIZED CRIME

Such cases range from simple Giobolla applied when needed for internationalization of waste, to the construction of a complex corporate interweaving of strategies and stakeholders involved, thus convoluting investigations of law enforcement agencies.

A case of Giobolla, "simple" in the conduct complex but specialized in the assessment phase of the crime, can be traced in PUGLIA PET, an investigation conducted in the years 2010-2012.

¹¹ Adopted by the General Assembly on November 15, 2000 and May 31, 2001

By monitoring the recovery activity in a company headquarters, the presence of another commercial activity was found, with which it appeared the latter had rented the business unit from the former.

By checking the registered office of the latter company authorities revealed that:

- a. the registered office was - in fact - a place of business dealing with the recovery of non-hazardous wastes, received from third parties, consisting exclusively of packaging such as plastic bottles and packing materials, whose production cycle was divided into several phases; collection, transport, storage, sorting, crushing, washing and floatation, waste separation, drying and final storage of the raw second material.
- b. the plastic fraction was obtained after selection with a continuous system and then packed in big bags, one part of which was classified as waste (identification forms of garbage - FIR) whereas, in fact, it was given false chemical certification which allowed its passage to a company established in Shanghai, China, as raw second material.
- c. chemical analysis allowed investigators to determine the illegality of the procedures for waste management and treatment, with the subsequent seizure of the container containing kg.12733 of toxic waste.

The recovery of the plastics industry finds also further evidence in a more complex investigation dating back to 2005-2008 which determined the unlawful conduct of a criminal organization headed by a Venetian enterprise, which illegally treated large quantities of waste, hazardous and non by;

- Accepting non-certified incoming waste lacking documentation or EWC codes or under false pretenses;
- Accepting hazardous waste while lacking required environmental permits.
- Mixing and compacting the various types of hazardous waste;
- Failing to process waste delivered;
- Illegally exceeding the maximum quantities of waste to be processed or stored.

- Illegally disposing of waste material by false attributions of EWC codes and their channeling:
 - Illegal cross-border shipment from the Italian ports of Venice, Trieste, Genoa, Ravenna and Livorno towards the Republic of China in violation of EU rules but formally in line with the requirements of the wastes listed in Annex II EC Reg. No. 259/93 (all now. III of the new reg. n. 1013/2006);
 - the recovery of waste at plants located in the country, prohibited for the real nature of such waste.

This activity was supported by a Chinese broker to the company, providing logistical support in the cross-border export operations, and false inspection certificates, assessment of which took place prior to shipment.

Similar criminal conducts relate to the field of the recovery of the mechanical parts of vehicles to cover illegal disposal of hazardous waste. I am witness to the activities carried out, for example, in Tuscany where, through the Port of Livorno:

- By means of fallacious recovery, certificates of mechanical parts for subsequent re-sale to registered enterprises operating in the self-repair of vehicles, a Ukrainian citizen, the legal representative of Italian society, processed hazardous waste (EWC code 160104*) in Syria.
- A criminal organization went on to send spare parts for unprocessed vehicles to Senegal without adopting the procedures set out in the EC Regulation n. 1013/2006.

In 2006, in Liguria, an organization was dismantled that was led by a Chinese citizen who, in association with others, acted as a broker offering a variety of risk-aware businesses nationwide. A low-cost service for the disposal of wastes consisting of plastics that, together with the classic Girobolla, consisting in the falsification of documents, exported to Hong Kong and from there to the PRC, falsely starting recovery in that country. Seven hundred and eighty-three tons of waste was verified.

Another area of high interest is represented by Operating WEEE.

In Sardinia, in 2009, a criminal organization dedicated to abusive waste management was dismantled. Handling the disposal of large quantities of electronic waste, WEEE, disguised as recovered electrical equipment of which thirty-six tons was exported to Malaysia.

The transnational nature of environmental crime is not, however, only characterized by the sending of waste to non-EU countries. The waste cycle can also affect EU countries.

Such was the case of the investigation known as Spider Web, dating back to 2010, that led to the execution of eleven precautionary measures issued by the judicial authorities of Naples, and, the seizure of all corporate assets instrumental to the company, amounting to approximately thirty million Euros.

Investigative measures were put in place in the Marche region of Italy following an inspection of waste treatment plant of the company ECOSERVICE of Corridonia MC, because operators wanted to examine the reasons for the refusal of a batch of garbage that had been sent by the same ECOSERVICE, to a landfill in Taranto, in the Puglia region of Italy.

The rejection was due to the incorrect classification of the waste that was defined, non-hazardous rather than hazardous, as had been determined by analytical controls.

The investigations allowed the verification of the fact that ECOSERVICE received special hazardous waste from refineries in the areas of Gela and Priolo and from reclamation sites in the provinces of Campania and Lazio and, as a result of treatments, which were later revealed fictional, bestowed a falsely characterized hazardous waste to landfill sites not only in the Italian regions of Puglia and Marche but also in Germany.

Illicit disposal and treatment of hazardous waste emerged, consisting of dangerous soil and rocks, mud, refinery slime, ash, slag, and boiler dust, whose natural destination was supposed to be a hazardous waste landfill or incineration. The hazardous waste in question was not subject to any treatment, with the exception of illegal blending operations, and the waste was systematically classified as non-hazardous through:

- The adoption of fake analytical parameters.
- The use of analytical certificates divergent to what was actually delivered.

Such operations were permitted by the awareness of criminal behavior both at an entrepreneurial level and with the management of landfills by:

- The total involvement of the chemical laboratory ANALYSIS CONTROL SRL that, present within the same premises as ECOSERVICE, adapted analysis in line with criminal needs.
- Afforded logistical support and information regarding corrupt officials.

The given investigative export of waste in Germany (German landfill WEV WESTSSACHSISCHE in Dortmund) an element of serious alarm must be noted as waste was disposed of, contrary to all other Italian landfills, with the Cer 19:02:04. - Mixtures of hazardous wastes.

Nevertheless, certain batches inspected by the manager of the German hazardous waste landfill were not eligible owing to the need of further treatment and / or disposal in waste incineration plants.

It should be emphasized the criterion of ECOSERVICE was to send waste landfill to another state member company. The company core business was the transit of hazardous waste without facing the expected costs of treatment and proper disposal.

Similar activities¹² of international importance - and extreme technical complexity - were carried out by CCTA in the region of Lombardy, Italy, in 2011, in which an organization composed of businessmen and public officials illegally dealt with large quantities of hazardous waste from remediation sites. In particular, some waste was declassified with the CER 191301* in place of the correct code CER 061305 and, as a result of fictitious mixing, waste was sent to disposal with false coding 170503*, involving the German Wetro - Puschwix (D) landfill.

Other wastes with a high value of Total Organic Carbon (TOC) and with physical characteristics different from those indicated on the certificates of analysis and transport documents, were subjected to artificial mixing and sent with erroneous coding EWC 190204*, for final disposal at the German Wetro landfill as well as to the AVG Hamburg (D) incinerator.

¹² Criminal proceedings No. 11 and 11106 32538//11 RGNR-MILAN-Italy

4.3 OVERVIEW ON NEW FIELDS OF INTEREST OF ENVIRONMENTAL CRIME - ALTERNATIVE ENERGIES

Environmental Crime is an area of intense interest to criminals in sectors which result economically attractive.

In these areas, we find an even more pronounced need for sophisticated criminal figures in terms of finding new areas of interest, and in unearthing of any regulation or control deficiencies on the part of agencies.

A case represented by the survey conducted by the Carabinieri is Trieste, Italy, in the year 2011. The activities ended in 2011 with the arrest of three people, and involved the criminal activity of two different groups of people against the A2/A S.p.a, which manages the Monfalcone Plant (GO) Italy, used to produce electricity and biomass.

Fraudulent use emerged of plants having a calorific value lower than expected. Biomasses were provided by the company that was created artificially through the purchase of biomass waste in Tunisia. Such waste was purchased with the false characterization of secondary raw material (end-of-waste material) and with a false certification of its calorific value, before being processed by the plant through the allocation of CER codes, in order to allow unlawful waste disposal.

Another case is represented by the Blackout investigation¹³, carried out in Puglia, Italy, and engaging a complex and structured criminal organization that, through the creation of a shell company, purchased land on which planning permission had been given for the installation of photovoltaic parks.

The land was divided into twenty-one NCT lots, each of which was granted a twenty year lease, the average duration of a photovoltaic system, and the lots were released to other companies created specifically for the installation of photovoltaic systems.

This system was aimed to the creation of many different legal entities related to the same persons and was a deliberate circumvention instrumental of legislation, with the aim of avoiding the aggravated environmental verification

¹³ See criminal case No.4489/409/12 and 2013 of the Court of Brindisi, Italy

procedure for systems that exceed 1 mw, through the development of a unique agricultural fund in which each company appears committed to building a unique plant with less than 1 mw (involving a simple communication process as far as documentation is concerned) but which, in reality, contributes to the creation of a single 20 mw plant.

This sector does not concern illicit trafficking in waste, but is a case of Criminal Organization Art. C.P. 416 in relation to Art. 316 ter cp. (Misappropriation of funds at the expense of the State).

All certifications and documentation needed to request the provision of incentives, are forged thanks to Public Administration involvement with municipal technicians that have received and endorsed the documents submitted

The activity ended in September 2013 with twelve persons arrested and the preventive seizure of all equipment and the sums received as government incentives.

4.4 CONSIDERATIONS

It appears undeniable that the crimes cited in Art. T.U.A. 260, as “corporate crime”, meet the qualifying requirements required to be included in the European definition of Organized Crime.

Starting from this assumption, convinced affirmation can be made if the crime of T.U.A.260 contributes to other crimes, and in particular, with purely associative ones.

Equal conviction is expressed in relation to the system and organization of Environmental Crime that, while not as autonomous criminal array, represents a large area of interest to diverse and complex criminal forms of associative character, involving transversal and transnational areas which are diverse from the mere handling of waste.

The continuation of this work will be approached on this basis.

5 THE INVOLVEMENT OF ORGANIZED CRIME -THE INVESTIGATIVE STORY

Historically the interest of CO in the direct management of waste trafficking was established when a particular fringe of Camorra, known the Casalesi Clan with diverse criminal business interests, realized that by using typical control implemented through violence and military style dominance, they would capture the market for expensive waste disposal in response to the request of a certain industrial sector, and so, achieve unbeatable disposal prices of those recommended by legal companies.

Therefore, a complex criminal scheme originated from the availability of vast territories and the methodology of GIROBOLLA:

- a offering the disposal of hazardous waste at competitive prices;
- b. offering declassification of hazardous waste to non-hazardous to using falsified chemical analysis and documentation;
- c improperly disposing of waste, or placing waste back into the circuit as a raw material.

In essence, the toxic waste, while remaining unchanged in its pollutants, changes its legal status into cycles other than those that would be appropriate to follow.

Therefore, the prime operators in this criminal conduct must be:

- a the conscious entrepreneur using corporate assets;
- b the intermediary: who formulates the advantageous commercial proposal and is fully aware of the unlawfulness of the waste cycle;
- c the carrier: aware of transporting undocumented material that is to be subjected to mock treatments;
- d a chemical laboratory providing fictitious chemical analyses;
- e a storage or treatment center that falsely certifies the passage and stabilization of such waste.

Initially, the sectors most affected by the unlawful disposal, specifically in the case of the Campania region, were the concrete cycle and the cycle of hazardous waste.

The concrete cycle because, through abusive quarries from which to extract building materials and expanding control the illicit construction market, OC created useful sites for the unlawful disposal of hazardous waste.

The cycle of hazardous waste because, thanks to the VIOLENT control of territory, the Casalesi Clan was able to expand its market control by being able to all but eliminate disposal costs and offer an extremely competitive service.

The conditions that favored the spread of such illegal activity were mainly:

- the high profits made from the huge profit margin of illegal disposal compared to regular disposal costs, and the low risk and ease of earning involved. Serious harm was therefore inflicted on free enterprise, as orders and contracts are awarded to those companies to who, in relation to their illegal conduct, were able to lower market prices. For their part, producers of waste have a vested interest in containing disposal costs, which represents only a passive voice on the balance sheet of the company;
- a minor perception of the social hazard of such crimes, even in the face of extensive economic and environmental damage. If, in fact, there is no doubt regarding the progressive increase in consciousness and sensitivity to environmental issues, it is, nevertheless, clear that we are still a long way from taking strong positions as regards to this phenomenon in relation to other types of criminal events, which have a stronger media impact, but ultimately involving social damage to a considerably lesser extent.
- the national dimension of the phenomenon, which results in noticeable coordination problems between the Judicial Authorities.

To support the above mentioned affirmations, in the initial phase of criminal concept (see criminal case No. 42972/05 R.R.G.N., concluded in February 2008), the legitimate routine tariff emerged as being from £ 300./Kg. for municipal solid waste at £ 1,200./Kg. for tannery sludge, while the costs incurred for illicit waste disposal did not exceed the 120-£ 130./Kg.

One must then take into account of those materials that are not initially classified as waste products at the time of production, or those that are falsely classified as by-products or secondary raw materials.

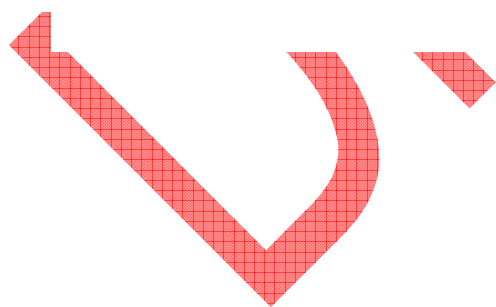
From the outset of the production stage, illegality involves all phases of the management cycle. The manufacturer, in a quest to contain disposal costs will hand over waste to companies engaged price cutting, without verifying their reliability. Sometimes it is the manufacturer who knowingly promotes the offence when he falsely declares producing less than the real amount, diverting the difference into the illegal market, disposing it directly into the environment, or when, with the help of chemists and analysts, falsely determines the classification.



When there is no initial illegal action, the fraudulent transactions may be entered into in the later stages, particularly those in the transport and intermediate storage phase. At this phase waste is gradually deprived of its original hazardous characteristics, by means of the simulation of processing operations or recovery, the falsification of shipping documents (Girobolla - see n. Para 4.1), or through false analysis documentation.

Within the web of waste interests an all important figure is that of the intermediary of commercial waste. Such persons deal with putting producers in contact with carriers and centers of intermediate storage and final disposal site, and oversee all phases of organization and complicity. The final results are often found to be:

- The spreading on the ground of pseudo-fertilizers from activities of sludge composting. Such compost is not subjected to any treatment or, however, is not suitable for the purpose because of being derived from industrial processes which include high concentrations of heavy metals;
- Input in production cycles, cement plants and furnaces for the production of bricks, waste consisting of industrial sludge, dust fume, fly ash and slag from metal working;
- The use of hazardous waste in environmental restoration or road embankments or in hollows transformed into real toxic landfills;
- Burial or abandonment on the ground or surface waters of undocumented industrial waste or illicitly sent for disposal or treatment at facilities which, for a fee, sign the relevant forms of identification of waste;
- The accumulation of large quantities of waste recycling centers which result insolvent before starting treatment;
- Disposal of hazardous waste in facilities dedicated to municipal waste;
- The sending of hazardous waste to facilities only authorized to dispose of non-hazardous waste or to sites such as landfills or environmental restoration areas that are not eligible to receive certain types of waste;
- The combustion of waste, hazardous or otherwise, that give off dense smoke and produce dioxin.



The illicit interests in this waste cycle are part of a plurality of subjects that contribute to a crisis situation.


They can be identified as follows:

- Criminal organizations that procure profit from tenders, management of landfills and, more generally, of all induced transport, handling, facilities and site location of the waste cycle;
- Local governments, which for various reasons (be it neglect, corruption, Mafia influences or employment problems) prefer to employ private firms that contract, from time to time, the operations related to the cycle of the integrated collection of MSW, Municipal Solid Waste, or only WC, Waste Collection, in open violation of the law that requires them to use the Local governments Consortiums - established by regional law 10 of 10.02.1993), of which they, their representatives in the Assembly or even the Board of Directors belong, and who regularly pay shares to the consortium;
- The private companies that operate in the field of WC or collection of MSW;
- The Basin Consortium workers, over 2000 units¹⁴, receiving remuneration which is closely linked to the ongoing emergency situation, in the face of substantial under-employment. It is clear how each of them has a special interest so that the economically viable crisis situation remains unchanged.

Investigative elements enable us to demonstrate the general trend towards cross-disciplinary and Environmental Crime, in particular:

- a the exploitation of P.A. to acquire, for example, control of the integrated cycle of municipal waste or to force or avoid obtaining permits and supervision;
- b the identification of other markets which have less constraints and legislative controls where to send waste under the guise of raw materials.

5.1 THE OPERATIONS OF ORGANIZED CRIME: The special case of the Casalesi Clan



The above summary highlights how the now historic involvement of the Casalesi Clan throughout the territory enabled the management of waste cycle, as well as the historical conditioning of the concrete sector with quarries for the extraction of aggregates, including plants for the production of concrete and bitumen and so forth, resulting in unprecedented devastation.



¹⁴ The figure emerges from research carried out on open sources

It seems appropriate to mention that other Mafia organizations have had, and have, similar interests characterized by a different criminal approach through:

- the control of undertakings which legally handle the waste cycle;
- the infiltration in Public Administration and politics for activities and sites that are well suited to the illegal disposal of waste of any kind.


In recent years, law enforcement activities have concluded that the Campania region holds first place as regards the above mentioned situation, documenting links between OCG Camorra crime and collection and disposal of waste enterprises.

An articulated investigative operation initiated in 2004 ("Normandy"-investigation proceedings Nos. 37219/R/02 and 04/39197 General Register of DDA in Naples) documented the strong entrepreneurial vocation of the Casalesi Clan, specifically highlighting the dynamism of certain entrepreneurs who, thanks to clan leader Francesco SCHIAVONE obtained tenders for the service of waste collection in several towns in Caserta, Italy.

More criminal investigation concluded by the Carabinieri Force, attested to the commitment of the criminal clan in that specific sector. The criminal methods used are of associated entrepreneurial capacity and the classic Mafia territorial domain methodology using intimidating force.


The conduct could include:

- management of waste streams from industrialized areas and confluent in composting or disposed of in illegally abusive sites (operation "ECHO" BOSS ", " RED GOLD "2), through the declassification by Girobolla;
- the instrumental incorporation of companies or consortia engaged in waste collection and made payable to mock businessmen or persons organic to the Clan, through which, by intimidating force of, who go on to win, tenders or contracts for the collection of waste in several towns in Caserta (operation "DOMITIA", "FINAL JUDGMENT").



Of significant importance was the recently completed investigation and activities concerning the landfill of Chiaiano of Naples, Italy.

Monitoring centered on the economic and entrepreneurial interests of Organized Crime in the field of waste and, in particular, in the context of the implementation and management of the Chiaiano dump. Investigations began in 2008 and ended in December 2013 resulting in seventeen restrictive measures.



The three main investigative areas were:

- Camorristica (actions carried out by OCG Cammora) infiltration of the town dump operations;
- management of the aforementioned dumps;
- Corruption on the part of Public Officials who allowed illicit activities to proceed without interference in exchange for personal gain.

The investigation, conducted by the Carabinieri Force, who using wire-tapping techniques and the statements of some collaborators of Justice made it possible to reconstruct the link between entrepreneurship and clan.

On the judicial front, the sentence imposed on Francesco BIDOINETTI is deserving of interest. The sentence of 20 years imprisonment imposed the November 13, 2013 to Francesco BIDOINETTI, by the Naples Tribunal involved groundwater poisoning and environmental disaster compounded by Art 7 l. 203/91, with the abbreviated rite of 30 years for the landfill management RESIT of Giugliano in Campania, Italy.

Such renowned cases, exclusive to a particular fringe of Mafia-type organized crime, provide more than one element that in recent years has testified:

- **the increasingly deep bond between the Public Administration, politics and Organized Crime that has interests in the environmental sector;**
- **a gradual refining of criminal techniques and illicit entrepreneurial capacity of those involved.**

5.1.1 THE INVOLVEMENT OF ORGANIZED CRIME. Current situation. CAMORRA

The above summary highlights how the Casalesi Clan has been brought to its knees owing to the innumerable judiciary proceedings, and even more so, by the loss of consensus in an area that the Clan itself has exposed to a violent and unprecedented environmental devastation.

The above does not exclude a different criminal approach to the management of waste cycle.

It is testimony to, for example, the investigation named EUROT conducted by the Antimafia Prosecutor (DDA) in the district of Naples, Italy, engaging in a company operating in the field of the recycling of textile material.

In particular, the organization illicitly treated waste resulting from the collection of used clothes that were:

- a withdrawn from collection centers
- b fictitiously subjected to recovery operations such as selection and sanitation;
- c delivered to the premises of the company whilst falsifying documentation concerning the activities carried out, including the loading and unloading logs in such a way as to disguise the traffic and match fake data transport documents, created by the carrier, with the registers of the company.

From investigations it emerged that illicit trafficking in waste was conducted by five subjects, making use of the conditions laid down in Art. 416 bis c.p., using the intimidating power of the Birra clan of the Camorra, active in the area of Ercolano NA, Italy.

The activity, carried out between Campania and Tuscany between 2010 and 2012, ended with the execution of eighteen restrictive measures.

Therefore, the involvement of the criminal organization Camorra can also be traced back to the corporate Crime hypothesis, distinguishing itself from exception represented by the Casalesi Clan.

5.1.2 THE INVOLVEMENT OF ORGANIZED CRIME. Current situation. COSA NOSTRA

The Cosa Nostra in Sicily has long been involved in activities connected to the waste cycle. From the initial parasitic approach, restricted to any economic activity within the territory, through the imposition of fictitious services and specialized equipment with no qualified personnel (known as cold freight¹⁵) and equipment with qualified personnel (hot freight¹⁶) The Mafia organization has refined the techniques of infiltration, through direct control of businesses and the ability to influence Public Administration.

The monopolistic supply management in the waste market makes contact inevitable between a substantial part of stakeholders in waste management (entrepreneurs, civil servants, etc.) and Mafia leaders.

In this context, some significant investigations have shown that the interest of Cosa Nostra towards this sector is in strong expansion.

Investigations, beyond having ascertained the spread of the technique of Girobolla, have found such conducts as:

¹⁵ Cold Freight involves goods with no operator engaged in its use.

¹⁶ Hot freight involves provision of the goods and its personnel.

- the indirect management of landfills destined to accommodate both solid waste and special waste of whole provinces and which made it possible to:
 - manipulate all earthmoving work and supplies for waste disposal (activities already assigned to Mafia);
 - determine the monopolistic management of disposal of waste (e.g. citrus processing waste – investigation named "NURSERY"-proceedings No. 1541/07 General Register D.D.A. Messina);
- the intermixing of OC and Government sectors to facilitate the approval of executive projects or in obtaining regulatory approvals and funding in areas such as photovoltaics or management of landfills and the realization of bio-stabilization (investigation "TORRENT", proceedings No. 7497/08 General Register D.D.A. Messina-operation "REVELATION"-P.P. 2009/General Register D.D.A 12362. Palermo);
- the award of public contracts by means of the classic Mafia techniques;
- the imposition of delivery of materials and/or services that have been awarded contracts to companies in the environmental sector (investigation "EARTHQUAKE"-P.P. 20775/2011 General Register D.D.A Palermo).

5.1.3 THE INVOLVEMENT OF ORGANIZED CRIME. Current situation. PUGLIA CRIME

As regards to Organized Crime on the Puglia region of Italy, interest in the environmental sector has been documented in the investigation called "POISON" which was concluded in 2007.

The investigation reveals a Mafia organization that ran, among other things, the criminal interests of illicit waste trafficking.

In particular, investigations discovered how a small group of people with decision-making capacity, and certainly persons able to impose themselves with intimidating power, succeeded in organizing simple but impressive movements of waste consisting of:

- a acquisition of hazardous waste by numerous companies in the Central and southern parts of Italy;
- b formal provision for, and controlled undertaking by the organization that provided the liberation of constraints represented by waste identification documents, thanks to a complacent analysis provided by a chemist inside the criminal organization;

- c. returning to the waste producer the 4th copy of the waste identification form;
- d. non-execution of the production cycle of compost, which by law require mixing treatments and a period of not less than 90 days to its maturation, although with fictitious tax documentation the same appeared to be produced with the aid of fictitious invoices by cooperatives;
- e. actual disposal of untreated waste, known as such, throughout the country or by seeming to spread compost which had never been produced or the direct burial of waste into the designated landfill;
- f. forfeiting illicit profit on disposal made even greater by the absence of compost production costs and greater rotation of quantity available.

This feedback provides a good example of how Mafia organizations, operating in a vast array of sectors, are finding new areas where to diversify their activities.

Organizations in Puglia have also shown interest and criminal activity (see operation "REMAKE 2") towards:

- extortion; using pressure on companies for environmental services and supplies
- local political pressure to obtain concessions for the construction of waste sorting plants and renewable energies.

5.1.4 THE INVOLVEMENT OF ORGANIZED CRIME. Current situation. ' NDRANGHETA

In Calabria the criminal context under consideration is reflected in the investigation "RONIN", relating to OCG ' Ndrangheta infiltration in contracts, with particular reference to waste disposal and management of landfills, at the hands of the criminal gangs LIBRI and CONDELLO.

Investigations, concluded the 01.03.2006 executing an order for custody against thirteen suspects, allowed to document the existence of agreements between these criminal gangs for the acquisition of numerous public contracts by companies related to them, thanks to benefits resulting from collusion with local authorities.



In particular, in environmental procurement an agreement was finalized for the allocation of the profits obtained from the fraudulent management of landfills in the region.

In this framework, the Mafia entrepreneur had managed to win several contracts, meeting all the costly financial and technical requirements demanded by the terms of tender.

To do this the Mafia entrepreneur teamed up with a Venetian businessman with whom he formed several shell companies operating in the field of environmental remediation and waste disposal, and evolved towards more sophisticated systems of cooperation between public and private sectors (through so-called joint enterprises) involving some local authorities.

Additional feedback is made available from the investigative activity named INFINITO, developed jointly by DDA in Milan and Reggio Calabria, and that revealed the roots of the 'Ndranghetista matrix in Lombardy and, more generally, in Northern Italy.

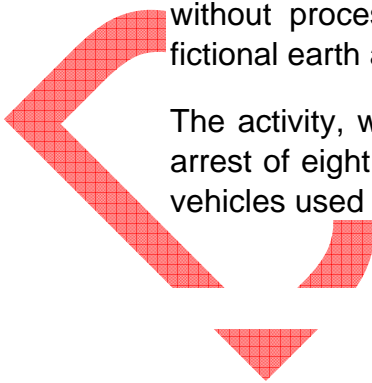
There are some derivations of such investigative activities, emerging in cases of illicit trafficking in wastes in construction, a sector in which the infiltration in the socio-economic fabric of reference occurred.

In essence, the OCG, in order to achieve an unjust profit and capital revenues from cost savings arising from unlawful recovery activity carried out, ran huge amounts of hazardous waste, originally classified CER 170107-17054-170904 (257 transports, for a total quantity of 8024 tons), from sixteen construction sites, which was not susceptible to legal disposal and methods.

- depositing waste in caves under the guise of harmless material.
- or burial in areas of disused quarries with the complicity of conveyors, facilities managers or disposal sites...

without processing or treatment but after declassification of waste into fictional earth and rock excavation (non-waste).

The activity, which began in 2010, were concluded in June 2013 with the arrest of eight people and the seizure of three companies and twenty-nine vehicles used for earthmoving.



6 MAFIA-LIKE OCGs: CLUES OF TRANSNATIONALITY

6.1 INTRODUCTION

Before checking the case studies is necessary to provide an analytical¹⁷ framework giving the general ability through the internationalization of Italian Mafia abroad.

This framework, although referring to other fundamental investigative contexts, aims to highlight the capacity of criminal groups to adapt to changing requirements regarding regulatory boundaries with extreme simplicity.

As we have seen, Environmental Crime should not be interpreted as a standalone crime but as an array of areas where criminals can nurture various criminal interests.

Since Environmental Crime coincides with that of Enterprise Crime, very dear to Mafia OC, it appears necessary to verify whether, and how, their presence is felt outside Italian borders.

6.2 MODUS OPERANDI OF ITALIAN MAFIA ABROAD

6.2.1 THE 'NDRANGHETA

For many years now, Mafia-type organizations in Italy have expanded their criminal interests beyond national borders with ramifications in different European countries and beyond.

The Calabrian ' Ndrangheta is internationally the more active among the Italian Mafias, with particular reference to drug trafficking. Maintaining operational interests in Europe, America and Oceania, as well as important links in the Middle and Far East and Africa, the 'Ndrangheta has been able to extend its interests in major international drug markets, with a role of pre-eminence acknowledged by other Mafia organizations.

The current high competitiveness in international drug trafficking sees the ' Ndrangheta at the top of the industry. In this context, the organization has been able to strengthen logistics and coordination structures, with alliances or cartels focusing on the riches and criminal capacity needed in order to optimize the management of illicit affairs. To protect their interests

¹⁷ Source: Specialized Operational Carabinieri Group - ROS.

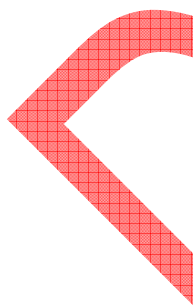
in drug-producing countries such as Colombia, Bolivia, Venezuela and Spain, the 'Ndrangheta makes use of so-called brokers, or persons not necessarily organic to the cartel but living permanently in the countries of production, to follow negotiations and to arrange shipments of narcotics to Europe. The load may be purchased with money from different OCG and then sent by sea in a lump sum (see operation TAKEOFF), or divided into small consignments entrusted to couriers flying into Europe (known as the RAIN system - operation DIONYSUS 2010).

A further area of interest of the 'Ndrangheta abroad is the reinvestment of capital by means of money laundering. The structure has developed a complex mechanism of coverage, through supporting figures in the territories of residence, allowing for easier penetration into entrepreneurial and commercial circuits, mainly in tourism, catering and real estate investments, (operations CRIME, PATRIMONIALE and FEHIDA 2), able to conceal the proceeds of their illegal activities.

Also of interest are extortions and infiltration regarding public contracts, although the 'Ndrangheta is trying to maintain a very low visibility outside national boundaries.

Calabrian organizations have undergone a significant structural transformation, necessitated by the need to reduce the tension and contrast between associations and, above all, to maximize profits in different sectors of the legal economy in an effort to stem damage inflicted by judicial issues to OC.

The choice to adopt, for the aforementioned purpose, such a criminal structure so far unknown to law enforcement agencies, was first documented by multiple investigations which, under the coordination of District Prosecution Offices in Milan and Reggio Calabria, were unified in the case known as CRIME.



In an unprecedented intervention in the recent history of the fight against the phenomenon, in July 2010, the State Police carried out three hundred and four precautionary measures against the 'Ndrangheta from Reggio Calabria, under investigation for Mafia Association, trafficking, possession of drugs, murder, and illegal possession of firearms, fraudulent transfer of assets, usury, extortion and other crimes.

The items collected in individual activities and linked by two proxies, have provided the convergent and unitary framework of organizational structures

of the 'Ndrangheta, and unlawful common interests outside the region. Evidence emerged to demonstrate how OCG had, after a slow evolutionary process caused by the damage inflicted some collaborators of Justice in the early 1990's, created a new organizational configuration, capable of coordinating various criminal interests, especially in the areas of public procurement and infiltration of international drug trafficking.

In particular, investigations documented how the clans from the province of Reggio Calabria remain the central propeller of the entire 'Ndrangheta, and are the main point of reference for all activities should they be regional, national or foreign.

Indeed, The presence of a group named PROVINCIA, point of contact of three "MANDAMENTI" (smaller areas of criminal jurisdiction which are further divided into "LOCALI") distributed in the province both on the Tyrrhenian and the Ionian coasts, was ascertained,.

A hierarchical order within the group, however, ensures that individual autonomy margins remain, and is ensured by the traditional OC ranks – *Sgarro* – *Santa* – *Vangelo* and roles of *Capocrimine*, *Mastro of Giornata* and *Contabile* of the different levels of the organization.

The investigative activity detected that the aforementioned model has been extended abroad with the establishment of locations that, albeit with broad autonomy, still refer to the provincial 'Ndrangheta of Reggio Calabria through local representatives. In particular, the operation has been documented by local law enforcement agencies in Switzerland in Frauenfeld; in Germany in the town of Singen-Rielsingen, Ravensburg Frankfurt, Stuttgart and Engen; in Canada in Toronto and Thunder Bay in Australia in Stirling.

In Europe, the 'Ndrangheta's best-structured conglomerate was found to be in Germany, where the Calabrians have established corporate ad hoc circuits for recycling and money laundering by exporting Mafia dynamics of origin, usually characterized by the absence of interventions on the territory.

Significant anomaly with respect to such dynamics is represented by the Duisburg massacre (D) of 15.08.2007, in which six people of the PELLE-VOTTARI clan were killed, which led to high levels of interest on the part of German investigators and local public opinion.

In the months following the massacre, the so-called German-Italian Task Force was established , with the participation of the police forces of Italy and the German BKA, originally geared to reconnaissance and analysis of information concerning the presence, in

Germany, of subjects related to the ' Ndrangheta, then extended to German screenings of other Italian Mafia-type organizations.

The activities of money laundering abroad were documented, in particular in:

- Germany where numerous Mafia projections originating in the Italian areas of San Luca (RC), Gioia Tauro (RC) of Crotone and Sibari, have invested large sums of money in businesses, hotels and restaurants , which facilitate the distribution of narcotics;
- The Netherlands and Belgium, areas of capital reinvestment, is a strategic hub for drug routes and a support network for fugitives;
- Spain, where considerable investment has been made in the tourism and real estate sector, while remaining the center for drug trafficking routes from South America and from Morocco,
- Finally, Portugal where the projections of clan of San Luca (RC) are investing in real estate and the catering business, in analogy to what has already been found in Germany.

6.2.2 CAMORRA

General framework

The projection abroad of OCG originating from the Campania region of Italy is increasingly frequent and operative, especially in some European countries such as Spain, Germany, France, and the Netherlands is considered to be the real crossroads of drug trafficking of South American narcotics. While, the projections in the Eastern European countries are mainly aimed at tobacco smuggling to money laundering through real estate investments and business activities. Finally, in Eastern Europe and, particularly in Albania, frequent agreements with local organized crime involve foreign tobacco smuggling and sex trade human trafficking.

Resident cells in foreign territories have provided a crucial support network for the clans of origin as regards to trafficking activities, providing direct links to South American narcotics traffickers, for money laundering, as well as for aid and logistical support to fugitives or criminal leaders who, for various reasons, find themselves forced to move away from the area where they normally operate.

Drug trafficking is the main and most profitable activity

for several OCG that, over time, through well-established relationships with qualified members of drug cartels, have become reference points for other Italian organizations.

The latest investigative activities has also confirmed how OCG originating from Campania act as fully-fledged financial brokers across alliances to fund imports through the system of “shares” that each clan pays in order to obtain a percentage of the imported drugs.

As regards to investment in Iberia, investigative activities have documented the role of the PASHA clan, which created an entrepreneurial structure aimed at money laundering of the organization active in real estate, restaurants, as well as in the sale of luxury goods. More recently some activities (NORMANDIE 2 and DJERBA) have documented clan interests, respectively SCHIAVONE, with the creation of companies in that country, which includes the support of local criminals, aimed at the realization of illegal gambling and betting activities which also operate within the multimedia market.

In Germany registers the presence of a cell, belonging to the RINALDI clan, active in BARRA zone. Several members of this family, for many years residents in the town, handle some businesses in the catering sector. In addition, the presence of members of the disbanded group TORINO/SABATINO have been documented, operating in the area of Sanità di Naples, and LICCIARDI of Secondigliano present especially with persons (Maliari) who are engaged in management of stores and the sale of counterfeit goods.

In the context of some distinguished investigative efforts regarding the business interests of the Casalesi clan, active in Northern Italy, convergent acquisitions have emerged which highlight the dynamism, even outside national boundaries, with particular reference to Bulgaria, where the Casalesi formed financial holdings or company branches, operations being subject to a more favorable tax regime.

Financial projection abroad.

The Camorra, the ' Ndrangheta and Cosa Nostra, has exported its own criminal interests beyond national borders, capturing major operating areas especially in countries like Spain, Germany

and the Netherlands, the latter being considered the crossroads of international drug trafficking routes.

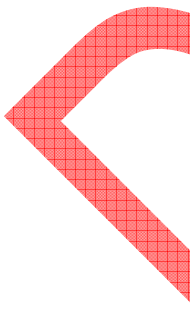
The requirements relating to the importation of narcotics in favor of membership associations, has led to a growing number of members of the OCG Camorra to settle abroad, combining the biggest opportunity to camouflage its dealings and with the ability to increase the network of relationships essential to the supply of drugs and to the redeployment of proceeds.

Spain has witnessed the arrests of prominent members of the Camorra, confirming how the Iberian Peninsula is a privileged location for fugitives. It has become the territory where Camorra has now chosen as a permanent residence.

Among these Raffaele AMATO, leader of the splinter group of the DI LAURO clan, previously arrested by the R.O.S. in 2005 in Barcelona, whose group is significantly bestowed the nickname of Spagnoli (the Spaniards). The investigation FIORDALISO confirms the current involvement of the AMATO clan and other associations of the area north of the provincial capital in Naples, importing large quantities of drugs from South America, exploiting links with a drug cartel in Colombia.

In Germany the more substantial Camorra clan is RINALDI (of San Giovanni a Teduccio, Italy), several members of which have been resident for years in the city of Hamburg, where they operate in the restaurant industry.

In the same locality and in Frankfurt we find the presence of affiliations to the clan LICCIARDI of Secondigliano, present for several years on German territory, especially through the so-called Magliari, an association dedicated to management of stores and the sale of counterfeit goods.



Camorra affiliates in Northern and Eastern Europe seem mostly related to recycling and laundering of illicit proceeds in commercial and real estate speculation, as well as tobacco smuggling and sex trade human trafficking. In this context, recent investigative activities (NORMANDIE 2 and DJERBA) have documented interest in Romania by the SCHIAVONE clan, engaged in the incorporation of companies in the field of online gaming and operative within a component of the DI LAURO clan which is dedicated to the importation of tobacco products destined for the Campania region market.

6.2.3 COSA NOSTRA

General framework

The Cosa Nostra OCG, favored by Italian migration to the North American continent, has historically taken on international dimensions. This has created openings in areas that, while not being able to ensure those conditions of subjection and a conspiracy of silence, known as omertà, of the place of origin, have made it possible to keep a low profile. This has, over time, allowed, Cosa Nostra to infiltrate local economic contexts and to reinvest the enormous entrepreneurial capital accumulated.

Outside Italy, in fact, Cosa Nostra is not usually dedicated to drug trafficking, strategically left to local organizations. Thanks to this modus operandi, the Sicilian Mafia avoids conflicts with other OCG and, at the same time, escapes the attention of foreign investigators.

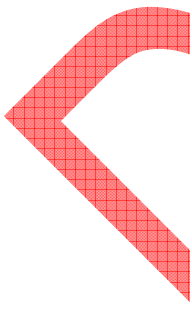
Unlike what occurs for the ' Ndrangheta and the ethnic criminals, the colonization of Cosa Nostra was not through the in loco settlement of organic structures, but by sending people who constitute a point of reference and link to the entire Mafia organization.

On the purely operational plan, the Mafia organization proceeds with the clearance in the new territories of subsidiaries, including through the creation of joint ventures with existing business groups. In each instance the illicit accumulated capital is able to alter the local economical fabric.

A special bond exists between the Sicilian Mafia and the North American La Cosa Nostra OCG, with special reference to the five families of New York and the so-called sixth Canadian family, the RIZZUTO.

The investigative activity NUOVO MANDAMENTO of the Carabinieri has documented the renewed dialogue between affiliated Cosa Nostra in Palermo and the exponents of La Cosa Nostra of New York (USA).

The shared interests of Italian-Canadian Mafia organization with the Sicilian Cosa Nostra were highlighted by the BROOKLYN investigation carried out by Operating Centre D.I.A 11.02.2005. Rome, Italy with an **O.C.C. in prison against five suspects** for Mafia association and illicit tender bidding for the selection of the General Contractor for the construction of the bridge over the Straits of Messina. The investigative activity has identified a trans-national group, headed by the aforementioned Vito RIZZUTO, with ramifications in several States, active



in major capital investment activities.

Most recent investigations (see ELITE – case No. 7791/13 r. mod. D.D.A Palermo) have updated the links with the Canadian component of the Cosa Nostra, while the recently concluded investigation by the Carabinieri Force in the direction of the Lombardy region, with particular reference to coagulated components around the known family of FIDANZATI (cf. PIANA 09 INQUIRY p.p. 23074/09 D.D.A general register of Milan) indicated the involvement in the importation of drugs from South America through the port of Gioia Tauro (RC) Italy.

Financial projection abroad.

The Cosa Nostra has always had ambitions outside its own regional arena, in areas that may provide useful operational spaces and the infiltration of the economical and entrepreneurial contexts so as to reinvest its large accumulated capital.

Outside Sicily, contrary to what occurs for the ' Ndrangheta, the colonization of Cosa Nostra is not done through the settlement of organic structures, but by sending individuals who can serve as a reference point for the entire Mafia organization, cultivating the OCG interest in the area.

Utilizing strategic operational techniques the Cosa Nostra proceeds with the dislocation throughout the new territory of controlled subsidiaries, including by means of the creation of joint ventures with pre-existing business groups; illegal proceeds are thus not only laundered, but generate even more profit.

Foreign investigations show that the OCG prefers territorial contexts such as the U.S.A and Canada, where links with the local Mafia are historically consolidated.

Persistent connections between Canadian and Sicilian Cosa Nostra were most recently confirmed by the outcome of the operation 12 ELITE documenting the North American Mafia joint interests with the Italian Mafia family of Bagheria, allowing insight into recent homicides committed in Montreal, in the context of internal instability regarding Italian-Canadian Mafia organization related to RIZZUTO.

A targeted intelligence activity which took place between 2003 to 2004 (investigation CHASING GHOSTS), acquired information on Vincenzo Vito RANDAZZO, nephew of the well noted Gaetano BADALAMENTI,

who, on behalf of the Mafia family in Cinisi (PA Italy), laundered income from an international drug traffic from South America in association with his cousins Vito and Leonardo BADALAMENTI, sons of the deceased Boss.

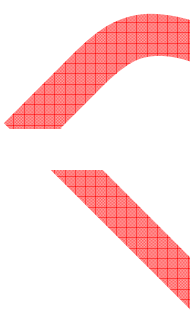
The investigation named CENTOPASSI-MIXER traced transnational activities aimed at the trading of counterfeit State Bonds of Venezuela, promoted by Leonardo BADALAMENTI, with the complicity of numerous individuals including some Venezuelan officials.

In Venezuela there is also a branch of family from Santa Ninfa (TP) Italy, which recently emerged through the logistical support provided to some fugitives of the affiliated families of Campobello di Mazara (TP) and Ribera (AG) in Italy. However, in Venezuela, most of the proceeds of drug trafficking had been reinvested, CUNTRERA-CARUANA, already the subject of the operation ZAMA of ROS.

In the Republic of South Africa has recorded the presence of Vito Roberto PALAZZOLO, Head of the family of Cinisi (PA), active in the trade of precious stones between the Republic of South Africa, Angola and Switzerland. Real estate and assets partly reinvested in Sicily, can all be traced back to PALAZZOLO...

6.2.4 ORGANIZED CRIME - PUGLIA

General framework



Organized Crime in the Puglia region, albeit more restrained compared to other Italian Mafia type organizations, has shown interest in the European and international market, where they can extend their illegal trafficking, particularly in the field of drug trafficking and smuggling of tobacco products, as well as to provide shelter to fugitives.

The lucrative field of drug trafficking has prompted major exponents of some Puglia OCG partnerships to enter into relations with individuals placed in foreign criminal contexts, to the point of being able to establish, over time, their contacts along the most important supply routes of South America, Spain and the Netherlands and Albania.

Numerous investigations conducted by those L.E.Agencies and involving Salento and Baresi criminal partnerships have highlighted how the aid of persons and/or honored members of the clan escape justice, in certain countries in Europe and South America, is the result of strategic choices relating to the need to ensure the criminal organization of reference

functional links to drug trafficking.

Financial projection abroad.

International projections of OC Puglia are predominantly functional activities regarding drug trafficking and smuggling of tobacco products, as well as the support of fugitives by its affiliates. In particular, drug trafficking has prompted prominent exponents of different OCG of Puglia to establish relations with criminal groups of various nationalities so as to progressively establish contacts along the main supply routes North and South of Europe.

Moreover, several investigations have ascertained how the choice, by prominent members of the clan of Puglia, of sending fugitives to some European countries and South America was determined by the need to ensure criminal organizations of reference and functional links to drug trafficking.

Links in the Netherlands and in Spain have documented individuals of relevance of the PAIGE in Bari, Italy.

With regard to OCG activity in the regions of Eastern Europe, vast drug trafficking organizations have been identified, predominately composed of Albanian citizens, for which the Apulian ports are of growing importance thanks to the privileged relationship established with the Apulian criminal gangs.

6.3 THE INTERESTS OF MAFIA TYPE ORGANIZED CRIME IN ENVIRONMENTAL CRIME. FEEDBACK TO TRANSNATIONALITY

During discussion on this subject, the tendency of Mafia-type Organized Crime towards internationalization has become blatantly clear.

In this framework, using the definition of Environmental Crime, not as a criminal *per se* but as a matrix of criminal interest which is economically palatable, it appears legitimate to question the possible involvement of OCG in this specific sector.

This type of analysis shows once again that Environmental Crime is not a crime unto itself, but to confirm that its versatility makes it so criminally changeable as to be considered an asymmetric and unpredictable threat.

To understand how the danger of criminal interest by Mafia organizations is not only a potential threat, let us cite the recent case of investigative inquiry RIFUTI SPA coordinated by the DDA of Reggio

Calabria, led by ROS Carabinieri and concluded on July 22, 2014.

As already reported in 5.1.4 para, in 2006, the existence of a cross-party agreement between OCG LIBRI and CONDELLO was ascertained, finalized in the allocation of considerable economic benefits to be derived from the fraudulent management of landfills in the region of Calabria.


In this context, a Mafia entrepreneur, considered a leading clan exponent, used his company to set up several plants for the disposal of solid waste in Calabria. The entrepreneur was able to meet the technical requirements demanded by the tender through the corporate union with a Venetian entrepreneur, who had experience and qualifications in that specific area.

In particular, the two individuals in question, created companies seemingly with the purpose of reclamation works, environmental protection and waste disposal and recovery of waste. They had created an entrepreneurial tool through which they received, through the systematic recourse to traditional Mafia intimidation methods, several contracts to manage landfills in the province of Reggio Calabria.

The investigation ended with:

- the issuance of fourteen precautionary measures. The same entrepreneur was subsequently convicted by the Court of Appeal, to the penalty of 10 years imprisonment for Mafia association and other crimes;
- the seizure of the companies.

A follow-up of the investigation became necessary when, after the sentences were imposed, a process of reorganization of the criminal partnership developed through the reacquisition of enterprises which were subject to legal constraints and/or, which had been removed from the management availability of the OCG, a group which in the meantime had reorganized and evolved through:

- 
- a defined and tested structural and functional organization;
 - an criminal business strategy capable of penetrating Public Administration to obtain contracts of particular OC interest;
 - the force of intimidation and control of the territory.

When the terms of seizure expired, the organization took the path of criminal reconstruction through the reacquisition of the company, which became, once again, the instrument of the OCG to continue to infiltrate the rewarding environmental sector.

Although in the initial phase of the investigation, the entrepreneur was already in jail, it was apparent

that he was issuing precise guidelines to close relatives, or through his trusted legal advisers, on how to manage the business and on how to reorganize the business circuit.

The phases of reconstruction were thus developed:

- inclusion of figureheads and the appointment of new technical contacts in society;
- economic consolidation of the enterprise;
- identification of a new team of employees, laborers and drivers, hired or confirmed in accordance with the directives of the Boss;
- progressive depletion of tangible and intangible company assets due to the so called cold Nolo procedure for the benefit of companies operating once more: all with the complicity of the judicial administrator.

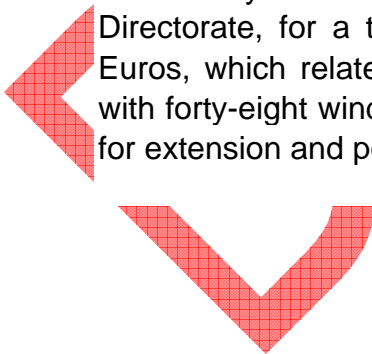
Investigations have shown:

- as how the company administrators constantly resorted to over-invoicing relating to new contracts awarded to provide illicit funding for the clan;
- illicit interventions concerning the award tenders for the reclamation and the subsequent reopening of dumps, obtained with the compliance of P.A. figures and Mafia leaders.

Results were the seizure five companies by the Magistrates Court of Reggio Calabria, and the arrest of fourteen people, two of whom, the Mafia entrepreneur and his wife, located and arrested in the town of Villefranche Sur Mer, near Nice, France.

Another excellent investigative activity that must necessarily be included in this evaluation, is the operation called WIND FARM conducted in July 2012, by the Guardia di Finanza law enforcement agency.

The activity led to the seizure of assets, warrant issued by the District Anti-mafia Directorate, for a total value of approximately three hundred and fifty million Euros, which related to, the wind farm called "Wind farm Isola Capo Rizzuto" with forty-eight wind turbines and considered to be among the largest in Europe for extension and power supplied.



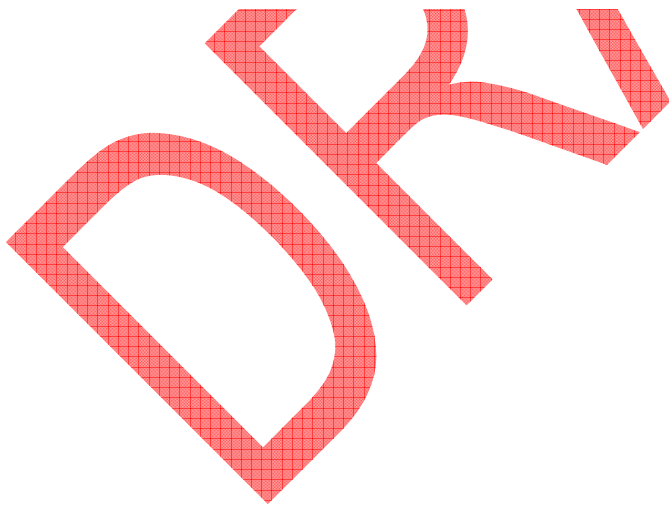
The seizure arose from an investigative activity focused on the verification of the interference of the ' Ndrangheta in the entire economic and financial operation concerning the construction of the wind farm.

This activity, characterized by the involvement of numerous foreign judicial authorities, made it possible to acquire a number of elements, from which it emerged that an executive of the municipality of Isola Capo Rizzuto (attributed to the clan Arena di Isola Capo Rizzuto) was representative and occult clan business manager, utilizing various figureheads who, through a complex system of fictitious and real exchanges in ownership of shares and of economic activities of the company which owned the wind farm, acted on behalf of the clan.

Only after the media outcry sparked by events relating to the creation of the Park, the Mafia entrepreneur determined to hide all traces of clan connections leading to a series of changes in corporate structures by creating additional corporate screens abroad (Republic of San Marino, Germany, Switzerland).

Thus preventive measures of seizure affecting the whole business (financial assets including real estate and other) owner of the wind farm, as well as shares abroad, were put into place.

As a result of the operation, the German authorities and the Republic of San Marino initiated autonomous investigative activities. In particular, the German Prosecutor had searches carried out in several offices and homes for checks relating to the financing of around two hundred and twenty million Euros granted by a German credit Institute for the construction of the seized wind farm.



7 ACTION DAY

As to the above, it is fair to say that Environmental Crime, and, specifically the illicit trafficking in waste, is an area covered by the European concept of Organized Crime and such with the Italian experience. The same can be said of what has been described as Enterprise Crime, which is surely connected with the associative nature of the aforementioned crimes.

It is important to specify that Environmental Crime is not a standalone crime, but rather a broad area of criminal interest which entices due to vast economic opportunities, and does not exclude the interest of Mafia OC with its ability to internationalize criminal dynamics.

Therefore, Environmental Crime now represents an insidious threat as it:

- needs to be known and understood;
- must be adequately restrained with appropriate means and resources.

With this in mind, a European Action week called WASTE TRAFFIKING was proposed and accepted by **LEWP**. It consists in a Joint Police Operation, led by Carabinieri Environmental Protection Unit, supported and launched by **FP ITOC** in cooperation with ENVICRIMENET, and to be carried out in compliance with national legislation, on the week 24-28.11.2014 with the aim of:

- take a picture of the movement of waste within the EU;
- ask all participating Member States to pose the question of who, how and why waste is trafficked through its territory;
- check and compare the different operational Law Enforcement methods.

It foresees three phases:

- a preparatory mapping of sites of interest for all Member States concerned;
- an operational week in which random checks on sites and/or input/output waste movements from/to those sites coming from third countries (both EU and non-EU) with:
 - Identification of transporters and identification of the transport companies;
 - Acquisition of documentation of interest to law enforcement agencies (forms, packing slips and analytical certifications);
 - Acquisition of a sample of the delivered waste;



- a later stage which provides:
 - Any inquiries on the conveyor, the transportation company and the waste manufacturer;
 - Chemical analysis for waste sample collected previously.

The analysis of collected data has led to the following results.

DRAFT

7.1 ACTION DAY: DATA ANALYSIS

DRAFT

8 CONCLUSIONS AND SUGGESTIONS

In conclusion, Environmental Crime represents a huge area of criminal interest which involves multidisciplinary aspects ranging from the handling of wastes, management of related tenders, execution of large public works and the involvement of Public Administration.

Criminal interests are expedient through the use of systematic and organized structures which find their natural setting within the framework of corporate structures; for this reason, we use the definition of Enterprise Crime that, in Italy, has made it possible unearth crime covered by the European concept of Organized Crime, also referred to as Enterprise Crime, possible through the introduction of Art. 260. T.U.A.

As has been repeatedly demonstrated, Environmental Crime does not have a single criminal matrix, and it is essential to understand that, only thanks to the Italian legal innovations developed by specialized Law Enforcement, it has been possible to unravel the vastness, transversal aspect and asymmetry of the OC phenomena.

The actual threat posed by Environmental Crime is not necessarily conducive to a face or identity, but, changes depending on the criminal interests involved. It is within this kaleidoscope of complex and multi-faceted criminal interests that Organized Crime finds its *raison d'être*.

Moreover, in terms of organized crime, the interest of Mafia Organized Crime with its ability to internationalize their criminal dynamics cannot be excluded.

On this specific point, in fact, the infiltration of Mafia Organized Crime in the environmental sector or, as we have seen with renewable energies, takes the form of a threat that is not just potential.

If Environmental Crime is generally the threat of serious harm to the environment and to the public health of a country, given the total lack of compliance with laws and regulations, in the case of infiltration of Mafia-type organizations, the consequences can be further aggravated due to:

- the *cheap pollution* resulting from illegal competition from companies offering services of mock-waste disposal and recycling at a lower price;



- the strategic advantage of OC operating in a gray area consisting of entrepreneurs, accountants, bankers, politicians and administrators, and which is able to establish a cross-border network of relationships and investments that can:
- see the multiplication of illicit profit.
- conceal and simplify money laundering operations through the control of key areas of interest in national energy policies, such as the handling of wastes and alternative energies.

Such an intricate web needs to be dealt with through a similar area of investigation specialized in nature.

The threat posed by Environmental Crime, already inherently complex in its mutations, calls for a more refined and consolidated perspective on the **diversification of criminal activity**.

Therefore, we attest Environmental Crime now represents a tangible threat and it:

- needs to be known and understood;
- must be adequately challenged with appropriate means and resources;
- must be adequately supported by a comprehensive interstate regulatory system.

The results of this piece of work, along with the results of the JPO “Waste Trafficking”, may be intended as an ENVICRIMENET’s proposal to EU for the creation of a new priority of the policy cycle that aims to tackle the illicit waste trafficking and - more widely – the Environmental Crime in a more proper way and with a comprehensive European and transnational approach.

Environmental Crime can no longer be considered an emerging threat, therefore the first step to be taken is assessing the insertion in the SOCTA as a current serious threat among the OCGs’ criminal interests.

Such a step would make it possible to develop the appropriate contrast lines in terms of:

- alignment of regulations starting from the fundamental review of the European definition of Organized Crime;
- standardization of definitions;
- information exchange, between member states by creating training sessions between the various police forces involved;
- coordination of investigative and judicial activities, with the recognition of the specificity of the Environmental Police Operator.

The alignment of European definition of Organized Crime to the Italian model is fundamental to the regulatory adjustment of investigative means that, with Italian experience, have enabled recognition of a threat which would have otherwise remained insidiously submerged.

While acknowledging deep differences in legal systems, steps must be taken insofar as the awareness necessary for effective Law Enforcement regarding

Environmental Crime, so as to avoid rendering nugatory the efforts carried out internally by each individual Member State.

Therefore, it seems necessary to point out – during the next COSI meeting that the threat of environmental crime can no longer be considered emerging but serious and current so that it could be considered to include environmental crime as a priority in the first revision of the policy cycle.

This would allow - through the EMPACT, a dedicated Europol AWF network ENVICRIMENET and the collaboration with the FP ITOC - to face the issue in a synergistic way.

With the initial phase clarified, the consequent actions of training and operational adaptation may be shared and implemented more simply.

ENVICRIMENET and ITOC

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