

11. Germany

11.1 THE MAFIA AND ORGANIZED CRIME IN GERMANY

*by Jürgen Roth**

“What has happened in Italy is repeating itself all over the world, in Germany as well. The Mafia transforms economic power and influence into political power and influence.”

– Roberto Scarpinato, Attorney General in Palermo

1.

In the early hours of August 15, 2007, six men from the Italian region of Calabria leave the restaurant Da Bruno in Duisburg, where they have been celebrating the 18th birthday of a friend. Shortly after leaving the restaurant, they are gunned down in their car: At least 70 shots are fired. The job is finished off by a bullet to the head – nobody is to survive. One of those shot was 16 years old. And the motive for this bloodbath? A “faida,” as they say in Calabria, a vendetta between different clans from the Calabrian village of San Luca who otherwise cooperate harmoniously in the crime business. Whether victim, killer, or the party responsible for ordering the kill, all of them not only have family ties to, but also business relations with many men and women living in Germany who belong to the Calabrian Mafia, the ‘Ndrangheta. Politicians of all complexions hastily jumped on the bandwagon of indignation against the “evil” Mafia, which dared to show its presence so openly here. After the bloodbath, many asked what exactly the Mafia is. And does it really exist in Germany? Once again, talk was rife about the influence of organized crime in Germany, as if it had never – or only rudimentarily – existed here before.

When Wilfried Albishausen, a courageous and experienced criminalist and regional chairman of the Association of Germany’s Criminal Investigators (BDK) in North-Rhine Westphalia, pointed out the dangers of the Mafia in connection with the massacre on August 15, 2007, in Duisburg, he was heavily criticized by the Ministry of the Interior. When, one year later, he also spoke critically of serious errors made during the dragnet investigation following the August 15 murders, he

* Jürgen Roth is an author and journalist living in Germany.

made himself even more unpopular with the Ministry. During one event in which the Minister of the Interior at that time, Ingo Wolf (FDP), took part, Albishausen spent some time talking to Wolf's Secretary of State. Ingo Wolf joined them, greeted Albishausen, and then "asked the Secretary of State why he was talking to me, an enemy of the government."

Politicians' attempts to ignore the situation already jarred with police information received from Italy long before the Duisburg massacre. Luciano Violante, president of the Italian Anti-Mafia Commission, had already reported in 1993 what was said in a taped telephone conversation by a known Italian Mafioso a few hours after the fall of the Berlin Wall. "He ordered his relations in Germany to buy up everything in East Germany as soon as it came onto the market."¹ In December 1989, Mafia experts in Palermo and Naples already estimated that sums between \$100 and \$200 billion had been pumped as illegal funds via German front men into the east of the country.

At the end of 1990, the head of the criminal law department at the Italian Ministry of Justice, Liliana Ferraro, put the real investments and/or Italian Mafia and Camorra group funds that had gone into the East to be laundered at 70 billion deutschmarks in the former German Democratic Republic alone. Some projected figures by the German Federal Criminal Police Office (BKA) even go as far as estimates of over 170 billion. (Raith 1996, 43)

All of this was either repressed or put down as a figment of the Italian imagination.

The Attorney General in Palermo, Roberto Scarpinato, by comparison, describes the situation today as follows:

The real danger for Germany is not the presence and residence of several hundred criminals from various Mafia clans on its territory who come to public attention now and then in high profile murder cases. The real danger lies far more in the billions of euros with Mafia origins that have been invested in national economies, meaning that an increasing number of state sectors are being gradually and inconspicuously infiltrated.²

A representative of the 'Ndrangheta in Germany is located, for example, in Hesse and is mainly active in the restaurant and agricultural industries. He is responsible for the import and export of typical Calabrian products and supplies the restaurants in the areas that are "controlled" by the Frankfurt "locale." At the same time, he also has close ties to a Sicilian businessman in Frankfurt am Main. He has invested a great deal in Hesse using the money of the Calabrian, Milanese, and 'Ndrine of the Genoa locale. The companies in question include more than 10 real estate firms in and around Frankfurt am Main. A report drawn up by the Italian Carabinieri in Genoa stated:

1 | Luciano Violante, quoted in 1993 by the newspaper *Neue Züricher Zeitung*, 4.

2 | Lecture from December 5, 2007, specialist seminar by the BDK in Bensberg.

It would be impossible for D to do his business if he did not have the solid support structure behind him that consists of people who know him and his criminal activities, and who are prepared to invest illegal funds with him and in the name of their clients. What is more, these people are also very familiar, not only with the legal situation in Germany, but with business and local politics in which they are integrated and/or involved and they earn enough to continue to investing with D.

After all, since the year 2000, more than 40 Italian citizens have been arrested in Germany who are members of a Mafia organization, and some of them even hold positions of importance. This arrest record may sound good on paper, but it has done nothing to impair the influence of the Mafia in Germany because, since September 11, 2001, politicians, the media, and law enforcement agencies have focused on the alleged danger posed by Islamic terrorism. It was a wondrous thing to see how financial and personnel resources suddenly began to flow, and every law that feigned to protect the citizens was rushed through parliament in the wake of 9/11. At the same time, the fight against the Mafia and organized crime was pitifully neglected, despite the fact that crime experts issued repeated warnings about the power and influence of criminal syndicates. Nobody wanted to hear this, neither in Germany, nor in Austria, Switzerland, or even Italy.

However, the criminal market is not only controlled by Italian Mafia groups, but also the Albanian Mafia, the Turkish Mafia, the Chinese Triads and, in particular, the outlaw motorcycle gangs Hell's Angels and Bandidos. Throughout Germany, Italian organized crime occupied third place in 2009 behind German organized crime and organized crime of Turkish origin. In the capital city, Berlin, Italian organized crime only occupied 13th place in 2009 behind the German, Turkish, Lebanese, Vietnamese, Polish, Commonwealth of Independent States, Lithuanian, and West African groups of organized criminals. However, apart from a few regional exceptions, in Germany no historically developed, socio-cultural basis yet exists like the one that bolsters Italian organized crime in Italy.

2.

Organized crime in Germany today is characterized by these generally accepted features:

- Major significance of individual crimes and/or crimes in their entirety.
- There are at least three people involved.
- The crimes are executed according to a plan: The crime is committed in cooperation and the tasks are divided up among the group involved, and this cooperation is for an extended or unlimited period.
- Mainly commercial or businesslike structures are apparent and these are marked by an extreme pursuit of profit and power.
- Violence or other means of intimidation are usual practice.

- Influence on politicians, the media, the public administration, the judiciary, and the economy is an essential feature of organized crime.
- Terrorist crimes, however, are explicitly excluded.

This understanding of organized crime not only affects discussions about crime-fighting policies in Germany, but is also fundamental for the BKA when drawing up corresponding reports about the situation. The three components (business structure, violence, exercise of influence) are not linked to one another cumulatively, but are rather alternatives. What remains unclear, however, is what role these three aspects play proportionally with respect to the crimes committed by a group. At the same time, there has been criticism that the term “organized crime” often refers to things other than the professional form of crime characterized by elaborate criminal tactics and techniques. The breadth of the definition has also been the focus of criticism, and many experts dealing with organized crime feel that one particularly problematic factor is that nearly all elements in the definition require interpretation. Criticism is aimed at various main components.

On the one hand, the difference between the purported dangers of organized crime and the “generous” definition is criticized, as this does not provide us with a definition that allows organized crime to be clearly differentiated from other forms of crime (multiple perpetrator/gang crime), nor does it serve the principle of proportionality in criminal proceedings. Apart from that, the lack of proof that a special danger exists for which law enforcement agencies need to gain approval to take substantial measures has been criticized.

One of the most important points of criticism refers to the insufficient differentiation between organized crime and other phenomena that are apparent in traditional business activities, with the only difference being that the former is characterized by the fact that criminal acts are committed. With the exception of “committing illegal acts,” the catalog of criteria actually refers to activities that are a part of normal legal business.

Other points of criticism are: a failure to reconcile the vague definition given with criminological findings or with the significance of organized crime in terms of national security; the failure of the definition to provide an effective tool with respect to the quality of the intended means to fight organized crime consistently; the lack of a differentiation between it and other forms of “multi-perpetrator crime”; the insufficient definition of those elements of crime that are prerequisite to justify interventions; the fact that the new dimensions of the quality of organized crime have been neglected and there is a focus only on the quantitative increase compared to previous criminal activities. This means that society does not have any useful indicators concerning the new quality of the threat facing it. By too readily defining crimes as organized crime and due to the inflationary use of this term, the result is a trivialization of the actual and real danger. This is ultimately down to the lack of an empirical foundation and precision when defining organized crime as a “terminus technicus.”

Critics maintain that these deficits make it considerably more difficult to identify functioning organized criminal structures, meaning that specific findings are often not made until the end of an investigation, instead of at the beginning.

3.

In addition to the Italian Mafia, the Hell's Angels and Bandidos, and/or the Albanian criminal clans in particular – all of which have certain structural differences – are the most powerful forces in organized crime in Germany. Take the Hell's Angels, for example. Crime experts know of cases where entire villages let themselves be financially supported by the motorbike gang. And in some towns and cities, they know that the Hell's Angels have replaced the Albanian pimps who used to dominate the red light districts there, and that they control entire districts, dividing up both the regions and the fields of crime. In those districts and areas where the motorbike gangs are active, there is apparent calm. Ulf Küch, the regional chairman of the BDK in Lower Saxony, thinks it is “a scandal that Germany was more or less divided up between the two motorbike gangs, Hell's Angels and Bandidos, in a lawyer's office in Hanover in May 2010, while the whole scene was filmed by television cameras and broadcast to the public at large.” He went on to say that criminal motorbike gangs are increasingly joining forces with Italian Mafia clans. There are similar links between the Albanian criminal organizations that are highly active here, especially in northern Germany. In January 2000, they even assisted in setting up a political party, the so-called Partei Rechtsstaatliche Offensive (Law and Order Offensive Party). In Hamburg's city parliament elections on September 23, 2001, the party even managed to win 19.4 percent of the votes, played a role in the governing coalition, and gained seats in Hamburg's Senate, while party chairman Roland Schill was appointed Hamburg Senator of the Interior. The governing party, the CDU, which formed a coalition with Schill's party in Hamburg at that time, had nothing against this unholy alliance. Police investigations were suddenly stopped. The coalition no longer exists and the Law and Order Offensive Party has also disbanded. However, this was not because the majority party, the CDU, no longer wanted to share its position in government with a criminal outcast that maintained close ties to the Albanian crime clan, but because Minister of the Interior Roland Schill tried to blackmail the CDU boss with his homosexuality.

And today, one insider from the criminal scene told me:

In the middle of a residential area where the Kurds have their drug nests, there was a disco that was regularly frequented by guests who arrived in black limousines as well as East Europeans and Yugoslavs. And then, after 20 years of stabbings and drug dealings, it was finally closed down. The neighborhood was happy. And now, an East European man who wasn't even able to pay the rent on his first business six months ago has been granted the concession to the disco for €500,000. He's a barman, we've known him for 20 years. We burst out laughing when we heard about the €500,000. He's only a front man and soon nice young Italians will be arriving in their big cars from Palermo to sell wine. Nobody says

a word. How come the local authorities approve the concession? Nothing happens in the local authorities without the compliance of those in political circles.

How do the Albanian criminal clans differ from other organized criminal groups? They are not built up in a pyramid structure like the traditional Mafia-like groups, but are organized around strong family ties or clan structures (patriarchal social groups). They are mainly family clans, although there are also city, district, and regional clans. In the past, they have been compared with so-called clustered hierarchies – on the one hand, due to their specific characteristics, and, on the other, because of their characteristic flexibility resulting from their family/clan connections. According to information from Europol, they can nowadays be seen as “goal-oriented groups,” that is, as individual criminal groups/clans that do not act in an isolated manner but pursue common goals and criminal intentions and have access to jointly available resources. These individual groups are controlled – or at least coordinated – from joint centers of power that are usually located in their home country or somewhere abroad. Some clans are well structured, while others are loose and inconstant groups. In network structures, the hierarchy between the linked cells is not always apparent. What is more, the great number of contacts between the people involved and the cooperation between the different criminal families/clans blur any clear view of the structure and the composition of the Albanian Mafia. Within a cell, agreements are reached to make sure that tasks are reallocated if normal operations are interrupted (for example, because of arrests). The different cells consist of a limited number of members, each of whom is responsible for his own tasks. However, there are larger groups of about 50 members that, in turn, can be divided between different countries.

Because of the different ways in which the criminal organizations operating in Germany have developed and are developing, it seems strange that, despite evidence to the contrary, both politicians and the press doggedly maintain that organized crime is a “*quantité négligeable*.”

At a podium discussion organized by the BDK, Senior Chief of Police Jörg Ziercke, president of the German Federal Criminal Police Office, vehemently denied that the Mafia even existed in Germany. “Are district administrators and members of parliament bought in Germany like they are in southern Italy?” he asked. “No, we do not have Italian-like structures, which is why we do not have a Mafia in Germany.” And Alexander Alvaro, member of the Federal Executive of the FDP (Liberals) and specialist for matters of law and national security in the European Parliament, backed him up as follows: “In the economy in particular, we do not have Mafia-like structures.”³ And at the press conference of the German Federal Criminal Police Office on August 27, 2008, in Berlin – which dealt with

3 | Podium discussion “At a loss before the wall of silence – How those in politics and law enforcement prevent an effective fight against the Mafia,” special conference of the BDK, Munich, June 4, 2008.

developments taking place in serious and organized crime – BKA President Jörg Ziercke once again underscored the statement that there are no cases in Germany in which criminal groups have corrupted or control large parts of the public administration or in which entire local councils or police authorities in a town or city had been arrested because of Mafia associations. This, he continued, is why the position of Italian organized crime in Germany cannot be compared with the situation in Italy.⁴ A plausible explanation for such statements, which differ fundamentally from the general findings, has not been given.

4.

It is therefore high time to take a realistic look at the Mafia and organized crime in its setup today, to look at what exactly it is, and to establish how and whether it is being fought against. With figures for the German shadow economy set at more than €500 billion in total, the Financial Action Task Force estimates that €43 to €57 billion (at least) is generated from criminal activities in Germany every year (cf. Fiedler 2010, 14). The OECD puts profits from organized crime in Germany at €50 billion annually. As financial investigations and asset recovery measures that are only possible to a limited extent in Germany, it is possible to regularly secure half a percent of these profits. However, extortion, fraud, robbery, bribery, balance sheet and investment fraud; politicians, trade union bosses and bureaucrats who can be bought; nepotism and political horse-trading – all of which are typical for the Italian Mafia and transnationally organized crime – are just as present in the German-speaking countries as they are in southern Europe. “Germany,” says Klaus Jansen, national chairman of the Association of Germany’s Criminal Investigators,

has nowadays become a region where organized crime is both inconspicuous and flourishing, carrying out its activities largely undisturbed. What we see are phenomena such as money laundering, typically disguised as real estate transactions, investments in the restaurant and hotel industries, corruption, economic subsidy fraud, and the shadow economy, things that we have always tended to associate with Italy alone. (Jansen 2008, 4)

It is patently obvious that tax fraud, the misallocation of capital as tax avoidance, abuses of tax law by legal companies to the detriment of the general public, and corrupt practices in companies that operate internationally have led to a structural and functional overlap with organized crime. Some estimates put the annual damage caused by organized white collar crime in Germany at well beyond €100 billion. Not exactly helping the situation is the fact that the various federal states in Germany no longer even have special offices dealing with organized crime. And in other areas, resources have been cut massively because of the current general financial situation. In Saxony-Anhalt, crime experts say, “Offices are starting

4 | Press release by the BKA, August 27, 2008.

to be renamed: No longer ‘organized crime,’ but ‘general and serious crime.’ In the criminal police departments, it is now referred to as ‘gang crime.’ Changing names is only the start.”

One leading criminalist from Mecklenburg-Western Pomerania has said,

When you only have a certain pool of personnel, you can’t fight biker gang crime and Mafia crime at the same time. Hardly any light is being shed on organized crime structures in the area of white collar crime. Identity theft, for example, is a phenomenon of organized crime that is not being dealt with.

In Lower Saxony, one chief superintendent said,

Certain things are no longer doable. The problem is not that we in the police force are doing nothing, the problem is a political one. You can do your best, but still fail when those pulling the strings are doing so from abroad. You might be the best police officer in the world – you still won’t manage to sort out the situation. Our police system can do nothing about it.

Money laundering plays a special role. The Financial Action Task Force confirmed that, in 2010, Germany was especially vulnerable to money laundering, among other things. Germany is a particularly attractive country for money laundering, because it has enormous importance in its role as a financial center and because of its economy. The EU’s 3rd Money Laundering Directive was only recently implemented in German national law, and supervisory authorities in the federal states and/or the municipalities often do not know how to detect money laundering and practically carry out their investigations as a kind of secondary activity. However, the question of money laundering is sometimes ignored for the sake of gaining new customers, even in large German banks. One typical example, for instance, is the case where the Board of Management of a large German bank could not even be prevented by the bank’s compliance department⁵ from accepting a dubious national of Uzbekistan as a customer. This “Uzbek,” a well-known oligarch from Russia, was a money launderer and banker in the 1990s in the Russian criminal organization Solnzevskaja, and it has been proved that he still maintains close contact with the leading representatives of the so-called Russian Mafia. The corresponding evidence of this was presented to the Board by the bank’s compliance department. However, their attempts were futile. The bank employee responsible for Russia, a former Stasi officer, had put in a good word for the “Uzbek.” It did not matter how strongly the compliance department protested. This is also why the bank employee responsible for dealing with money laundering at another large

5 | The term “compliance” was coined in the United States at the end of the 1980s. Companies undertake, in the form of a self-obligation, to set up a system that ensures that all employees comply with the legal frameworks. It affects corruption, insider trading, and money laundering in particular.

bank said that, after working in this area for more than 10 years, he was no longer able to say who was actually the bigger danger for the democratic constitutional state, the *capo* from Moscow, Reggio Calabria, and Palermo or the bank chairman of the board and investment bankers who give such people the chance to carry out their business worldwide in the full knowledge of who they are dealing with. As such, it is no wonder that “some companies have become strongholds of criminal activities in which the typical patterns of organized crime characterize the day-to-day business practices” (Hetzer 2008).

5.

We must bear in mind that the Mafia system has been – and still is able to – spread wherever specific interests override the common welfare, thus giving rise to murky political environments, where social injustices prevent people from enjoying decent lifestyles and where citizen participation in the political decision-making processes at all levels is either impossible or rests on very shaky foundations. This is something that links – in a highly differentiated way in terms of quality and quantity – the political systems of Russia, Italy, and many European states, including Germany and Austria. Mafia organizations can carry out their activities to a greater or lesser degree depending on the individual situation.

It is perhaps no longer possible today to establish to what extent and at what time there are overlaps between (still) legal companies and organized crime. However, it is already clearly apparent that the financing needs of political parties, the power interests of politicians, and the profit orientation of companies are coming ever closer together in an ominous manner. Corruption has already developed to become the most seductive and most dangerous guiding principle in modern times. This allows organized crime in particular to do away with conventional types of armed violence, which they no longer necessarily need to achieve their ends. Not only does money corrupt, it also silently paves the way for certain people to follow.

It has been clear for a long time that both the Italian Mafia and other large criminal organizations are systems of uncontrolled power. “Mafia” is synonymous with a pathological abuse of power. Organized crime is a feature of structurally weak societies and has spread in various forms into all political systems. We might console ourselves with the notion that intact political systems with a functioning legal system, parliamentary opposition, and freedom of the press might be effective defense mechanisms against criminal infiltration. “But how great and how sustainable would this consolation be, if we were forced to see that organized crime has already established itself in some communities as an economic form and as a ‘political’ principle?” asks Wolfgang Hetzer, former consultant to the director of the European Anti-Fraud Office (OLAF), Franz-Hermann Brunner. How should we react then, if organized crime has actually only “radicalized” the economic principle? And, is organized crime not merely the quintessence of the capitalist principle, and thus reflects the corrupt link between economic and po-

litical power and criminal forces? The more the democratically legitimated state is hindered from executing its protective function by powerful individual interests, and state institutions are privatized and/or constricted by a shortage of funds and personnel, the weaker this protective function is for the individual. In this way, the state leaves itself wide open to infiltration by organized crime or those political systems (Fascist or authoritarian) that are very similar to the Mafia. A civil society collapses when the citizens lose faith in state institutions.

Organized crime and the Mafia today are internationally operating criminal groups that have managed – from their regional locations – to combine economic power with the highest degree of criminal energy. They threaten to become part of our political system and our society. Infiltration through merging is the strategic alignment of organized crime, because, without a corresponding political and society-based Mafia-like biotope, organized crime could not exist or expand as rapidly as it has in the past years in Germany. In connection with tax dodges by German millionaires and the attitude of Switzerland's banks, SPD Chairman Sigmar Gabriel has already accused Swiss banks of being involved in organized crime.⁶ The symbiosis between respectable German – or, in this case, Swiss – top bankers and highly criminal but financially well-off individuals sheds light on the typical face of organized crime today. However, it is precisely here that no punitive standards under law and therefore no investigative approaches exist. And yet this is exactly – both in Germany and worldwide – where the most dangerous form of organized crime is heading. Nevertheless, this remains a taboo subject, also when analyzing the extent of the danger posed by organized crime today and in the future – at the global level.

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