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SOCIAL ECONOMY AS AN ANTIDOTE TO CRIMINAL ECONOMY

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Abstract

Social Economy as an Antidote to Criminal Economy. The paper aims to highlight a political tool for the economic and social revival of the Mezzogiorno of Italy that have not yet adequately developed: the enhancement of the role of the social economy in the reuse of the goods confiscated to criminal organisations. The essay, after a brief review of the economic importance of criminal phenomena and of its perverse structure, underlines the extraordinary innovation of the legislation on the confiscation and on the social re-use of goods belonged to criminal organisations. It also emphasizes the urgent need to proceed with more determination to organize legislative and administrative tools that encourage the involvement of social enterprises enlarging adequately the field of action and promoting their active involvement in areas with high presence of mafia, camorra and 'ndrangheta.

Keywords: social economy, growth, criminal organization

JEL: O10; K40; P48

1. Introduction

This paper intends to contribute a theoretical reflection to the line of action for the revival of the Mezzogiorno that is going progressively to plough through great difficulty in the debate on how Italy it pull through the decline: enhancing the role of social economy as an effective tool for the social re-use of confiscated goods from the mafia and as a set of institutions created by citizens able to make a unique contribution to the action to combat the organised crime. Social enterprises, in fact, with their ability to organize on a different basis the production of goods and services generate concrete processes of reconstruction and maintenance of the social cohesion that organised crime tends to destroy (Musella, 2008).

The economic dimension of organised crime has a huge consistency. Conscious of the difficulties to measure a phenomenon that generates illicit activities mixed with legal ones - it may be remembered that the turnover of organised crime in 2010 was estimated around 138 billion of euro, with a availability of liquidity of approximately 65 billion of euro and profits for approximately 105 billion euro¹.

These data are clear evidence that criminal organisations must be fought on their own economic plan, attacking the nerve centre of this terrible octopus extending its tentacles beyond the Mezzogiorno, not only in central and northern Italy, but also in Europe. Mafia, it must be said clearly, do not draw paths of economic growth at all effective, although perverse and morally unacceptable, but they also represent the burden of the economic development of an area. They act by exercising violence to achieve their illegal goals, dominating individuals, productive organisations and entire regions, triggering vicious mechanisms that lead from the criminal yoke imposed to the economic, civil and social impoverishment of people, communities and countries.

In what follows we will propose a description of the perverse workings of the criminal economy, and then present the social economy and its potentialities. Moreover we suggest the extension of the concept of social economy in such a way as to include all business initiatives that move explicitly in a logic of economic realities, alternatives to those proposed by the organised crime. In the brief conclusion, we outline the need for a renewed and strengthened commitment of policymakers on the face of social re-use of confiscated assets.

2. The “modus operandi” of criminal economy

The investigations and trials carried out in our country on the fight against organised crime have shown that criminal organisations aim to acquire, directly and indirectly, the management and / or the control of economic activities influencing the functioning². It therefore becomes crucial to understand in what way criminal organisations³ come into contact with 'legal' companies so as to identify the boundary between

¹ Data of Sos Impresa, report 2012.

² Parliamentary Commission of inquiry into the phenomenon of organised crime, mafia and similar. Report on the implementation of the legislation and practice application in the field of seizure, confiscation and destination of the goods of organised crime, 17-11-2007, p. 3.

³ To understand what is meant by criminal organisation is useful to reread article 1 of the law Rognoni-La Torre reaffirmed in article 416 bis of the Penal Code that makes it clear "The association is of mafia type when those who are part of utilizes the strength of the associative bond intimidation and the condition of subjection and conspiracy of silence to commit crimes, to acquire directly or indirectly, the management or control of economic activities, concessions, authorisations, contracts and services public or realise unjust profits or advantages for themselves or others or to prevent or hinder the free exercise of the

the two and be able to discern between lawful and unlawful conduct and properly evaluate the effectiveness of public policies strategies and instruments to combat them. It may be useful, in this respect, to deepen as the criminal enterprise evolves and organizes⁴ assuming specific conformations depending on the area in which it operates, the goal it pursues and the governance it uses.

Criminal enterprise per se as opposed to the legal one, is an organization that works with criminal method; it produces illegal goods and services and using the violence in a tangible or intangible way it dominates the territory. The typical output produced by the criminal organization, improperly defined company, are those arising from the activities of smuggling, protection rackets, wear, etc. that represent the characteristic crimes committed and through which it carries on the use of force and the domination of the territories.

There are also different ways of operating a criminal enterprise that make it more difficult to identify. It is the criminal – legal type⁵ when the ownership of decisions, formally or informally, is under the control of the criminal, that using methods of government and capital accumulation based on the force, produces goods and services by exercising the lawful business activities through legal organization forms. In this type of illegal enterprise there is no distinction between the entrepreneur and the criminal, the two functions are held by the same person (or the same group of people).

There is another mode of action, defined of the type illegal - legal when the real owner is the criminal, and the productive resources used, in particular financial resources, belong to him, while operating in a legal manner is an entrepreneur "clean-honest", "figurehead" of the criminal. In this case, there is a relationship of "alliance" between the criminal and the person in charge of the business activity in which, one might say, the silent partner is the criminal, while the clear partner is the entrepreneur.

Finally, and this is the type of criminal enterprise that is more difficult to identify and combat, there is the legal-illegal form, also known as *"enterprise with mafia participation and that is the one that was born as a legitimate enterprise, then enters into a relationship of joint interest and partnership with the Mafia and its capital: it presents on the market as formally legitimate and acts according to market criteria, but possesses a DNA in which lurks the mafiosity for the simultaneous presence, in its structural setting, of interest, partner and legal and illegal capital"*⁶.

The enterprise "with mafia participation"⁷ is based on a form of partnership between employers and organised crime that fits the type of business conduct and which produces a reduction of the costs of the activities guaranteed by the "criminal branch of business"⁸. The enterprise "with mafia participation" would in this way be able to get the maximum benefit from activities and for these reasons it will wipe out any competitors from the market. The criminal organization, disguised in enterprise, distorts the market to take the role of the monopolist in the production of goods, provision of services, participation in tenders and contracts, etc. In other cases, the criminal enterprise may take the role of monopsony characterized by its exclusive presence as a buyer of goods and services that sells to the market with high profit margins. In this

vote or procure votes for themselves or others on the occasion of an election.

⁴ For a discussion on the distinction between a legal business and criminal enterprise and its possible forms, please refer to Fantò E. "L'impresa a partecipazione mafiosa: economia legale ed economia criminale", published by Dedalus, 1999.

⁵ See, the preface by Pier Luigi Vigna in Fantò E. (1999) p. 8.

⁶ Ibidem, Pier Luigi Vigna in Fantò E. (1999) p. 8

⁷ By the idiomatic expression "participation in a criminal enterprise" is meant all kinds of criminal organisations: Mafia, Camorra, 'Ndrangheta, etc.

⁸ Consider the total slaughter of the costs such as the illegal disposal of waste production thus avoiding the additional costs arising from compliance with the regulations in terms of environmental protection and health.

case the criminal enterprise enslaves legal enterprises subtracting their market shares, making them dependent and turning them into "affiliate". This creates a system of cooperation between crime and companies that would result in "the transition from conflict to coexistence (...) in the system of organic collaboration and the interpenetration of capital and 'skills' (...) between the Mafia and enterprise"⁹.

But there is more. Through the mode of "criminal participation" it gives a shape to partnership (including the business risk in addition to the one to be punished for the crimes realized) among entrepreneurs (legal) and criminals that allow the former to gain a competitive advantage (illegal) on the market damaging those entrepreneurs who operate legally. With the criminal organization it is guaranteed the advantaged access to economic activities through the use of "violence" exerted by the "criminal participate"¹⁰. In this mode, the entrepreneur and the organised crime creates a pseudo form of "legal economy" that apparently operates within the law, but instead, in fact, is the method for criminal organization to accumulate large amounts of capital. This organisational structure allows to achieve a sophisticated ability to adapt to the reality and to change and transform depending of the "business" to be pursued based on the construction of complex organisational models centred on a relational system that criminal organisations create with their own adepts, affiliates and conniving.

The collaboration with the "legal enterprises" allows criminal organisations to accumulate vast financial resources due to infiltration into the production tissue through acquisitions of stakes and highly sophisticated financial instruments. They operate more often *"as economic actors on the markets, distorting the workings through the use of the enormous economic and financial resources found through the management of multiple illicit activities - from drug trafficking to contraband, from buildings speculation to public procurement, from racket to usury - also carried out across national borders, and often in collaboration with foreign criminal groups"*¹¹.

The mechanisms of accumulation and the use of financial resources and of the illegally accumulated wealth in the economy modify the free activities of private citizens, altering the operating conditions, as well as affecting the social and economic solidarity founded on the conduct of legal productive activities. With the criminal method of accumulation of resources that makes use of as well as the "association in enterprise partnership", the imposition of the yoke of violence exercised through traditional clan activities (racket, usury, etc., etc.) exerts a dual function: on the one hand it shows the ability of organisations to produce wealth that is used to show the ability of economic power of criminal organisations to fund the recycling business with highly sophisticated techniques and, on the other hand, the function of recruitment, namely the ability to recruit new members through which "transmit" rules and models¹².

In fact, they act through the creation of social networks and enslave territories replacing the State in the function of job placement, safety production and protection (Mennella 2009, Mosca and Villani 2010).

But the criminal organisations not only depleting the area of physical capital, they convert to their own goals, creating social capital, in this way, a further perverse effect on the local economy: by subtracting trust in the relationship between citizens and civil institutions (Zamagni 1993), mafias feed a vicious circle

⁹ See Fantò E. (1999).

¹⁰ Many are the operations of law enforcement and of the Justice that have highlighted the ability of criminal organisations to create real holding company in the field of economic activity. The "Clan of Casalesi" is the most active in the use of sophisticated techniques of infiltration in the economy that have gone beyond the national boundaries.

¹¹ Ibid, p. 6.

¹² Parliamentary Investigation Commission, cited above, p. 22-24.

where the outcome is a reduction in the space of freedom in conducting business activities that irreversibly affect the legal productive activities (Masciandaro 2000) and the economic impoverishment and social areas (Mosca and Villani 2013) .

The deepening of the ways in which criminal organisations operate has allowed to intervene with greater effectiveness in the overall conduct to protect the economy and the right to the free business, proposing legal institutions oriented to steal definitively the availability of organised crime of assets accumulated by the illegal loots, ensuring they come back in the availability of the heirs in case of the death of the accountable person¹³.

However, the tools and strategies to combat mafia are not always able to cope with the techniques by which they hide and reinvest the wealth illicitly obtained. But this is a topic too broad to be adequately treated in this paper (Sciarrone 2011, Mosca M. and S. Villani 2010). We would, however, try to explore a different theme: to combat criminal organisations it needs to use more determination in the use of combating tools that can really steal from the mafia the sap they feed to weave social networks and they use for illegal purposes. It is necessary, in other words, as will be explained in the next section, to adopt, support and encourage all productive initiatives, often based on the widespread solidarity between individuals and the willingness to give life to social institutions pursuing the aim of redemption of the people and territories, that have a unique ability (today we must, however, speak only of "potentiality") to make the final break among criminal assets and its abuse and put it back into the legal circle productive and human resources for too long withheld to their natural destiny.

3. Social economy. Features and significance

The term social economy is used with different meanings in the scientific (from a while) and in the socio-political debate (from longer time) and it is opportune therefore to try to circumscribe the meaning with which it is used in this paper to indicate its potential ability to represent an antidote to the criminal economy.

It is social that productive activity, distribution and consumption of goods and services that aims at enhancing the social relationships between people belonging to a certain community (Borzaga and Fazzi 2011). The word social, then, first of all, indicates the finalization of activities that are qualified as economic - implying therefore the transformation of inputs into outputs or the exchange of goods and services - something different from the profit (from the self-interest of those who conduct them). In this sense it is correct to point out that the social economy includes among its nonprofit initiatives, that is, initiatives created by private institutions that have adopted statutes and regulations preventing (or severely limiting) the distribution of profits or, in any case, private benefits. It is not enough, however, the non-profit tendency to qualify an economic activity as a "social", the same criminal economy, we might say, is a clear demonstration of what we have now affirmed: its business of which we have discussed in the previous section its "economic" nature, it is not aimed at achieve the profit in the technical sense , but the extension of an absolute dominion over people and things of a territory¹⁴.

¹³ Avoiding further that in the case where there was the death of the proposed - that takes nothing away from the unlawful mode of formation of the well - is determined the return of such goods in the circuit of the illegal economy. Parliamentary Commission of Inquiry , cited above, p. 24.

¹⁴ It is precisely this analogy to make it dangerously vulnerable to the social economy and the people who inhabit the mafia

It is, therefore, necessary to proceed further to find the characteristics of the social economy.

A first point that should be emphasized, especially in light of the current legislation (in particular the law on social cooperatives - 381/1991, delegated legislation 118/2005 and legislative decree 155/2006 on social enterprise), is the following: the social nature of an economic initiative (in this case of an enterprise) is identified primarily through the type of good and service produced¹⁵. From the reading of the article 1 of the Law 381/91 - which recognized in our legal system a productive entity dedicated to achieving goods and services for which, already since the '70s, had manifested a lack of interest of the state and market to produce a sufficient quantity and quality dignified¹⁶ - we have that social cooperatives can operate exclusively in the field of the "management of health and educational services".

With the law on social enterprise there has been the expansion of the areas in which the organisations that acquire the status of social enterprise they can operate and the article 2 of the legislative decree 155/2006 identifies at least 11 production areas for which goods and services are considered of "social utility":

- a) social assistance, in accordance with the Law of 8 November 2000, no. 328 laying down the law framework for the implementation of the integrated system of interventions and social services;
- b) health care, for the provision of benefits under the decree of the President of the Council of Ministers, 29 November 2001 containing the 'Definition of the essential levels of assistance', as amended, published in the ordinary supplement to Official Gazette no. 33, 8 February 2002;
- c) social and health care, according to the decree of the President of the Council of Ministers, 14 February 2001 on 'Policy and coordination in the field of socio-medical', published in the Official Gazette no. 129 of 6 June 2001;
- d) education, education and training, according to the Law of 28 March 2003, n. 53, delegating the Government to define the general standards of education and levels of performances in the field of education and vocational training;
- e) protection of the environment and of the ecosystem, under the law of 15 December 2004, n. 308, delegating the Government for the reorganization, coordination and integration of the environmental legislation and measures to be applied directly, with the exception of activities, usually pursued, the collection and recycling of urban waste, special and dangerous waste;
- f) promotion of cultural heritage, as stressed by the Code of the cultural and landscape of the legislative heritage decree of 22 January 2004 n. 42;
- g) social tourism, as stressed by the article 7, Section 10 of the Law of 29 March 2001, n. 135, concerning the reform of the national tourism legislation;
- h) university and post -graduate education;
- i) research and provision of cultural services;
- j) l) extra-curricular training, aimed at the prevention of school dropout and success in education and training;
- k) instrumental services to social enterprises, produced by enterprises composed by more than seventy percent of organisations engaged in social enterprise.

infiltration.

¹⁵ We do not consider at the moment the social cooperatives of type B and the theme of the re-employment of disadvantaged people. We will treat this aspect later.

¹⁶ Consider the problem of asymmetric information, incompleteness of contracts, in all cases of moral hazard which make it impossible a market or unattractive for the for-profit organisations and for the state to produce these goods and services (Musella, D'Acunto, 2000)

Approximately around the half of the period that elapses between the law on social cooperation and the social enterprise it was attended the legislative decree on the so called ONLUS (460/1997) who had already extended the scope to carry out socially useful initiatives.

The Italian legislature has, therefore, aimed to describe the social economy on the basis of consideration of "what is produced." It is a choice that has the undoubted merit to characterize the social reality as everything in the production of services has the specific objective of increasing, in some way, the social relationships between people and among communities.

However, the gradual expansion of the space of the social economy signals a problem: drawing the boundaries of the social initiatives on the basis of "what produces" may cause a constriction of the social initiatives within limits that, in certain contexts and situations, they may be harmful or counterproductive. In the areas most flogged by organised crime, to give an example that directly relates to our topic, any economic initiative that wants to move to full respect the law can not be considered to be social: it would never come into being if the potential contractor, individual or collective, is limited to a mere economic calculation of costs and revenues; if someone decides to tackle this challenge is because he wants to revive a territory, rebuild social ties not polluted by the dynamics of violent oppression or, at least, he does not resign to emigrate to create a business following the pure rational economic calculation.

For a more convincing reconstruction of the social economy, then, it should be integrated the discourse on "what is produced" with a focus on "how it is produced" and "where it is produced". The "how it is produced" is, in some way, already considered in our legislation where it is expected that the qualification of social co-operative and social enterprise can be acquired also by business enterprises that have as one of its aims and in its social structure disadvantaged persons (article 1, letter b of Law 381/91 and article 2, paragraph 2 of law 155/2006). In fact, it would consist to extend the concept of disadvantage and consider that just being a young resident in a local context is a drawback, a *décalage*, in which public policies recognize a burden. On this line we seem to move the same Regulation EC 800/2008, which defines in article 2, paragraph 18) the 'disadvantaged worker' anyone who falls into one of the following categories:

18. 'disadvantaged worker' means any person who:

- a) has not been in regular paid employment for the previous 6 months; or
- b) has not attained an upper secondary educational or vocational qualification (ISCED 3); or
- c) is over the age of 50 years; or
- d) lives as a single adult with one or more dependents; or
- e) works in a sector or profession in a Member State where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or
- f) is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;

And the same Regulation, at the paragraph 19 considers as 'severely disadvantaged worker' any person who has been unemployed for 24 months or more and at the paragraph 20 the 'disabled worker' as any person:

- recognised as disabled under national law; or
- having a recognised limitation which results from physical, mental or psychological impairment.

On the other hand, we should also consider that in the context of desertification of agricultural and industrial activities, and even more so in the territories in which the traditional economic activities are in the hands of organised crime, imagining that the social economy should confine its action only to the aforesaid areas also in the wider "lists" (as the one imposed by the legislative decree 155/2006), means to guiltily weaken the impetus for changes and the legality which are derived from the not selfish motivation and from organisations using this "sap" for producing.

It becomes clear at this point that are social those enterprises that produce goods and services with a social purpose, including all the activities that aim to improve the civil and social rights of a community. Social enterprise and the economy that it generates are characterized, therefore, in this renewed sense of the concept, to have in his first mission the desire to contribute to the transformation of a territory subtracting the usurpation carried out by criminal organisations. And, on the other hand, the role they have taken in recent years in order to reuse the immense social wealth confiscated to criminal organisations¹⁷ shows that they are particular productive actors that prefixing to the profit the release of the yoke imposed by the crime to a territory, they are able to generate self-sustainable paths for social entrepreneurship from an economic standpoint that have a significant impact in the process of re-appropriation and conversion of the social capital used by the mafias.

4. A brief conclusion

Antidotes, as it is well known, are substances that are able to counteract a poison. The social economy, if properly understood, can be an antidote against poisons that the gangs have injected into the social and political economic tissue of the Mezzogiorno. A poison that is spreading with alarming rapidity in all the national territory and abroad.

To render the antidote active it is necessary, however, that it is injected a proper quantity: for this reason it should be thought policies interventions that are able to feed the availability of civil society organisations to take the responsibility of the problems of the territory. When we say policy interventions, we think of tax incentives to promote the legal economy in some areas, possible "free zones", to initiatives regarding the credit, to a reform of the institutions that manage the confiscated assets and all those measures that make

¹⁷ Law 109/1996 that has preceded the law on social enterprise, has been a pioneer in recognising among the privileged dealers of confiscated property from organised crime the organisations of the third sector (social cooperatives and associations). Unfortunately, the legislative decree no. 159/2011 (the so-called antimafia code) that reaffirms the central role of productive organisations of the third sector does not explicitly reserve a privileged role in the management of criminal assets to social enterprise. A fragile point that this can and should be bridged through an ad hoc measure, although as evidenced by Baldascino and Mosca (2012), the involvement of the social enterprise may already occurs in the context of the rental and sale of confiscated companies where the National Agency for the administration and management of seized and confiscated goods from organised crime (ANBSC) possesses broad discretion in identifying the cessionary and the lessee and when there are "reasons of necessity or convenience". See on this point the dictation of Article 48 paragraph 11.

possible the solidarity of becoming economic reality. At the same time we think that it can immediately adopt incentive structures of social enterprise through systems of reward for those participating in local development projects centred on the re-use of confiscated assets promoted by Regional, National and European Institutions.

An appropriate incentive system of social enterprises can contribute to fight against organised crime by weakening the social consensus that criminal organisations anyway have, in order to break the vicious circle which goes to strengthen the social and cultural impoverishment of a development model supported by the crime. The promotion of initiatives that encourage pro-social activities can promote the accumulation of the "pure" social capital that can affect the set of individuals choices encouraging them to prefer legal activities to illegal activities.

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