



# Appendix Foreign Studies

## **Appendix of the Dutch study**

Kruize, Peter, Paul Gruter & Teddy van Suchtelen (2020) ‘Criminele gebouwen’: De faciliterende rol van woningen en bedrijfsruimten bij ondermijnende criminaliteit in Nederland en vier EU-landen. WODC/Ateno.

## **Authors Appendix**

Jelle Janssens (Belgium)

Francesco Calderoni (Italy)

Petr Zeman (Czech Republic)

Peter Lindström & Ulf Sempert (Sweden)

## **Cover illustration**

Picture: Paul Gruter

## **ISBN / NUR**

978-94-91534-18-8 / 821

©2020 WODC, The Hague. Copyright reserved. No part of this publication may be reproduced and / or made public by means of print, photocopy, microfilm or in any other way without the prior written permission of the WODC. The use of figures and / or text as explanation or support for articles, books and theses is permitted, if the source is clearly stated.

# Content

<b>Request</b> .....	<b>5</b>
<b>Belgium</b> .....	<b>7</b>
1. Introduction .....	7
2. The Belgian real estate market .....	10
2.1 Overview of the market .....	10
2.2 Rent legislation in Belgium .....	11
3. Extent and nature of the criminal use of residential and business premises .....	13
3.1 The extent of the criminal use of residential and business premises .....	13
3.2 The nature of the criminal use of residential and business premises .....	13
4. Indicators .....	27
5. Legal instruments to prevent, limit or combat the criminal use of real estate .....	29
6. Experiences .....	31
References .....	33
<b>Italy.</b> .....	<b>39</b>
1. Introduction .....	39
2. Background .....	39
3. Exploitation of real estate for criminal purposes in Italy .....	40
3.1 Criminal use of real estate property in general .....	40
3.2 Mafia investments .....	41
3.3 Mafia infiltration in the legal economy and in legitimate businesses.....	42
3.4 Money-laundering .....	45
4. Indicators to identify criminal use of real estate in Italy .....	45
4.1 Indicators developed by research .....	46
4.2 Indicators adopted by institutions .....	47
5. Italian instruments to prevent, limit or combat the criminal use of residential and business premises.....	48
5.1 Preventive seizure and confiscation of assets .....	49
5.2 Administrative prevention of mafia infiltration in public procurement.....	50

6. The positive and negative experiences in combating the criminal use of residential and business premises.....	52
References .....	55
<b>Czech Republic.....</b>	<b>59</b>
1. Forms of criminal use of private homes and business-related buildings .....	59
1.1 Cultivation / manufacture of drugs .....	59
1.2 Money laundering .....	61
1.3 Storage of stolen goods from fraudulent international truck haulage.....	61
1.4 Environmental crime.....	62
2. Extent of the criminal use of private homes and business-related buildings .....	64
3. Indicators of the criminal use of private homes and business-related buildings.....	67
4. Instruments to prevent, limit or combat the criminal use of residential and business premises, and the use of these instruments.....	67
4.1 Penal law instruments .....	68
4.2 Administrative law instruments .....	70
4.3 Criminal liability of legal entities .....	72
4.4 Rights and duties of the real estate property’s lessor.....	72
5. The use of instruments to prevent, limit or combat the criminal use of residential and business premises .....	74
References .....	75
<b>Sweden .....</b>	<b>77</b>
1. Introduction .....	77
2. Previous knowledge in Sweden.....	78
3. Current legislation .....	79
4. Research site and data collection.....	81
5. Results .....	81
6. Summary and discussion.....	84
References .....	84
Appendix: Penalty tariff issued to property owner if they breach various regulations related to ‘organized’ crime .....	85

# Request

We (Ateno – research agency in Amsterdam –) are currently working on an explorative study about the criminal use of private homes and business-related buildings in the Netherlands.

The study is ordered by the Research and Documentation Centre of the Ministry of Justice and Security in the Netherlands. The main focus of the research is the situation in the Netherlands, but we also have been asked to include a quick review of the state of the art in four other European countries, namely: Belgium, Czechia, Italy and Sweden.

## *Introduction*

The interdependence of the upper and underworld and the misuse of legal provisions and structures for illegal activities are a problem for both the local government and private parties. The underworld seeks space for activities and money flows, the upper world offers (sometimes unintentionally) that space and opportunity structures and in this way facilitates malicious practices. One of the places where the underworld and the upperworld come into contact is with the use and acquisition of real estate (both residential and business premises). The real estate sector thus forms an important platform for (combating) organized crime.

With this study we try to find answers to the following six questions divided into three clusters:

A.1 What is the nature and extent of the criminal use of real estate in the Netherlands?

A.2 And which indicators can reliably indicate the criminal use of real estate?

B.1 To what extent do other European countries have to do with the criminal use of real estate?

B.2 And how is the phenomenon in those countries being combated?

C.1 What is the experience in combating the phenomenon in the other European countries?

C.2 And to what extent can the approach from those countries be applied within the Dutch context to strengthen the approach to criminal use of real estate?

## *Explanation / scope of the study*

The object of research, the criminal use of private homes and business-related buildings has many different manifestations.

For this study we distinguish between malicious exploitation of real estate on the one hand and malicious transactions with real estate on the other. We will not include the latter category in the study. In other words: it means that malicious transactions that involve money laundering constructions, devious ways of earning money (tax and mortgage fraud) and criminal methods of acquiring real estate (extortion and threats) are excluded from the study.

The distinctive criterion for inclusion is that (part of) the real estate - a space - should be used (almost) exclusively for facilitating criminal activity. For example, someone who grows marijuana in the attic can no longer use that space for anything else. The same applies to a farmer who rents out his barn to a 'suspicious type'.

The study includes the phenomenon of ghost occupation within our description of criminal property use. With ghost habitation, often luxury and furnished apartments are rented, but they are not permanently inhabited. The home is often used as a shelter (hiding place) or as storage for illegal goods. This usually involves drug-related activities.

Furthermore, and finally, we like to include shops / companies that apparently have no basis of existence and are suspected of being used for money laundering. These practices resemble with criminal use of real estate in a physical way as described and we would like to include these forms of money laundering in the study.

In summary, we define 'criminal use of real estate' as the activity by which real estate is withdrawn from the regular market (not used as intended) and is used for criminal activities as described above.

***What do we expect of the [country]-contributor?***

What we expect is an essay/paper of about 10-15 pages A4, written in the English and containing the four elements. We would, however, like to divide the realization of the paper into two phases.

**Phase I** to answer the following two questions:

- 1) In what ways are residential and business premises in [country] used for criminal purposes (as defined in our study)? And, if possible, an educated guess about the extent of these phenomena.
- 2) Do [country] authorities and/or private institutions have developed indicators to recognize criminal use of residential and business premises in [country]? And, if so, what are these indicators?

**Phase II**, if applicable, to the answer question 3 and 4. We explicitly put here the words 'if applicable', because we are not sure if there are relevant (legal) instruments in [country] to address criminal use of residential and business premises. After all, if there are no relevant instruments on this theme, it logically does not make sense to report on it.

- 3) Do [country] authorities and/or private institutions have developed (legal) instruments to prevent, limit or combat the criminal use of residential and business premises? Please describe these instruments and the legal framework within which these instruments are applied.

- 4) The positive and negative experiences in combating the criminal use of residential and business premises. And the advantages and disadvantages of using these various instruments.

# Belgium

**Prof. dr. Jelle Janssens**

University of Ghent

Institute for International Research on Criminal Policy

## 1. Introduction

This quick review is part of an explorative study about the criminal use of private homes and business-related buildings in the Netherlands. This study was commissioned by the Dutch Research and Documentation Centre of the Ministry of Justice and Security (WODC), contracted to Ateno, a research agency in Amsterdam and subcontracted to the Institute for International Research on Criminal Policy (IRCP) of Ghent University.

The problem definition relates to a fairly old, but recurrent element in the study of organized crime on the nexus between the legal and illegal economy and the under- and upper world (Anderson, 1995; Block & Chambliss, 1981; Reuter, 1985). As the Dutch Ministry of Justice (2008, p. 2) later would state: criminal organisations can use “*local legal economic and judicial infrastructure (including services provided by specific professional categories)*”, and “*economic sectors (such as the restaurant and catering sector, the transport sector, distribution nodes as ports and airports, the financial sector) to commit or camouflage criminal activities or invest criminal money*”. Even back in 1992, the Dutch government already voiced its concern about the nexus between the under and upper world (Prins, 2016) and this concern has not diminished. Equally alarmed, the Belgian government set out to examine the size and nature of organized crime and potential approached against the phenomenon around the same time (zie Coveliers & Desmedt, 1998). However, in academic and policy debates the nexus is increasingly being referred to as ‘subversive crime’ – a concept that has been recently introduced in Belgian discourses as well (Janssens & Colman, 2018).

The focus of this research is, as requested, on the use of both residential and corporate real estate by criminal organizations which is conceptualised as exploitation by criminal organizations and not as transactions with real estate. This means that means to criminally earn money through real estate through, for example, money laundering, different types of fraud such as bankruptcy or mortgage fraud and criminal methods to acquire real estate through extortion or threats are not included in this study. The only exception to these exclusion criteria are shops or companies that are allegedly or reportedly being used for money laundering.

In order to be included in the study a part of the building or premise should be used for facilitating criminal activities. This could be a part of a warehouse or barn being used to produce drugs or store illegally acquired chemicals. Houses or apartments that are not inhabited permanently (ghost occupations) are included in the study as well.

The research questions addressed in this study are the following:

- 1) In what ways are residential and business premises in Belgium used for criminal purposes? And, if possible, an educated guess about the extent of these phenomena.
- 2) Do Belgian authorities and/or private institutions have developed indicators to recognize criminal use of residential and business premises in Belgium? And, if so, what are these indicators?
- 3) Do Belgian authorities and/or private institutions have developed (legal) instruments to prevent, limit or combat the criminal use of residential and business premises?
- 4) What are the positive and negative experiences in combating the criminal use of residential and business premises? What are the advantages and disadvantages of using these various instruments?

In order to answer these research questions, a literature study was conducted using different types of documents: legislation, news articles, scholarly articles and government documents. Additionally, information was collected through online interviews with Belgian law enforcement experts and experts with administrative approaches to combatting organized crime and e-mail correspondence. Although none of the respondents wanted to remain anonymous and gave their consent to participate to the study. In some instances, information related to ongoing investigations was provided and the researcher was asked not to disclose that kind of information. Instead, it served as background information to help triangulate other data received from the respondents. The interviews were not recorded or transcribed, but interview notes were taken instead.

At first, the Central Directorate of the fight against serious and organized crime (DJSOC) of the Belgian Federal Police was contacted. During the conversation, the respondents made clear that no information on the criminal use of real estate by criminal organizations was being collected systematically. In other words, at the central level, no information could be provided either on the nature or the size of the problem. The respondents suggested to contact the deconcentrated judicial directorates of the Federal Police (FGP/PJF). Within the scope of this quick review, the Flemish deconcentrated judicial directorates were contacted with a view to expand the scope if no saturation occurred. All Flemish deconcentrated judicial directorates of the Federal Police provided input and were willing to contribute to the study. The following deconcentrated judicial directorates of the Federal Police participated to the study: FGP Limburg, FGP Vlaams Brabant, FGP Halle-Vilvoorde, FGP West-Vlaanderen and FGP Oost-Vlaanderen. Concerning the judicial deconcentrated directorate of the Federal Police in Antwerp, I was referred to the Kali-team, a special multi-disciplinary team that was established to combat cocaine trafficking and the criminal organizations involved in (the port of) Antwerp. They provided me with a study on synthetic drug labs. In other words, six out of the 14 deconcentrated judicial Federal Police directorates were included in this study.

Besides law enforcement experts, administrative authorities and the recently established ARIECs were contacted as well. An interview was conducted with the director of security of the city of Antwerp. The city has made a lot of efforts to try and prevent and tackle the infiltration of the illegal economy and so-called under world into the legal economy and upper world. The city has a vested interest in administrative approaches against organized crime and has a lot of experience with them as well. Two additional interviews were conducted with the ARIECs of Antwerp and Limburg.

These regional information and expertise centres were modelled after the Dutch RIEC's and recently established in Belgium.<sup>1</sup> Although many municipalities in Flanders have adopted administrative approaches and strengthened their regulations in order to prevent criminals of establishing companies or shops in the municipality, money laundering and facilitating criminal activities, there are differences in Belgium. In the Walloon region, administrative approaches against organized crime are not widely embedded in municipalities or police practices and policy. While in Flanders the support for administrative approaches against organized crime is larger, there are regional differences. The dynamics in Antwerp and Limburg are, in part due to the ARIEC's, higher and so-called flex actions<sup>2</sup> more widespread, which result in a more coherent picture of criminal infiltration in the legal economy and society.

**Table 1: Overview respondents**

<b>Organization</b>	<b>Date</b>	<b>Format of interview</b>
ARIEC Antwerpen	18 June 2020	Online interview – videocall
City of Antwerp	22 June 2020	Online interview – videocall
FGP Antwerpen	23 June 2020	Documentation and additional written information
ARIEC Limburg	1 July 2020	Online interview – videocall
FGP/PJF Limburg	3 July 2020	Written answers via e-mail
FGP/PJF Vlaams-Brabant	7 Juli 2020	Online interview – videocall
FGP/PJF Halle-Vilvoorde	24 July 2020	Online interview – videocall
FGP/PJF West-Vlaanderen	16 September 2020	Online interview – videocall + documentation
FGP/PJF Oost-Vlaanderen	24 September 2020	Online interview – videocall

The data, consisting of interview notes, mail correspondence, government documents and literature, were analysed with NVivo, a software programme designed for qualitative analysis. The data were coded along the research questions and topics that were addressed during the interviews. Based on the analysis of the research data and during the interviews it was clear that no new information was being provided as the study came to its conclusion. However, due to the limited scope of this study, the external validity is rather low as no local police forces were included and the majority of the respondents predominantly work in Flanders.

Before discussing the results of the study, this paper will first provide an overview of the real estate market in Belgium and the relevant legislation. Afterwards, the results of the study will be presented along the lines of the research questions and the topics that these entail. First, the extent and nature

---

<sup>1</sup> ARIEC stands for Arrondissementeel Informatie- en Expertise Centrum. Two ARIECs were established in the provinces of Antwerp and Limburg in 2018. Another ARIEC was established in Namen (Namur) a year later.

<sup>2</sup> These are actions taken by multidisciplinary teams consisting of, amongst others, local police, ARIEC, social inspection services, the fire brigade, tax authorities to disrupt (or in the best case, stop) criminal activities at the local level.

of the criminal use of residential and business premises in Belgium will be analysed. Second, the way in which the criminal use of real estate is being recognized or detected will be discussed. As there are no consolidated indicators formally in place to contribute to an early detection, this part will describe the practices that are being used by the police and administrative authorities. The third part of the study focuses on the legal instruments that are being used to prevent, limit or combat the criminal use of real estate. Finally, the experiences of the respondents concerning combating the criminal use of residential and business premises will be explored.

## **2. The Belgian real estate market**

### **2.1 Overview of the market**

On the first of January 2019, there were 4,552,745 buildings in Belgium. Between 1995 and 2019, there was an increase of 14%. In that same period of time, the number of residences has increased with 24.4% to 5,514,939 (Statbel, 2019). While the increase of buildings is quite similar in the Walloon and Flemish Region (14.4% - 14.9%), the increase of residences is slightly higher in Flanders (24.3%-26.1%). In Brussels, the increase of buildings was very low (1%), but the number of residences has risen with 16.4 points. These growth differences have also an impact on the age of the buildings whereas the ones in Brussels are older compared to the Flemish and Walloon Region (Ibid.) In the beginning of 2019, there were 3.215.454 residences in the Flemish Region, 1.719.866 residences in the Walloon Region and 579.619 residence in the Brussels-Capital Region (Statistiek Vlaanderen, 2019). The median price for a Belgian house in closed or semi-detached buildings was €188.000 in the first three months of 2020. People paid a median price of € 289.000 for a house in an open construction (Statbel, 2020b). There are, once again regional differences. With a median price of €150.000 for houses in semi-open or closed buildings and €250.000 for houses in open buildings, the Walloon Region is the cheapest region in Belgium. In contrast, the Brussels-Capital Region is the most expensive region for all types of housing. Houses in closed or semi-detached buildings amount to €420.500 and the ones in open spaces cost €800.000. The Flemish Region is situated in between with houses in closed or semi-open construction of €225.000 and in open construction €340.000 (Statbel, 2020b).

While statistics on housing are readily available at government websites, information on corporate buildings and business premises are well hidden. What is known, is that there are 1.025.344 companies in Belgium that have registered for VAT (Statbel, 2020a). There are, however, tools made available by the Flemish government to help entrepreneurs find a proper location for their business. A distinction is made between locations that are available for rent or locations where new buildings can be developed, existing buildings can be modernized or expanded. In each Flemish province fiches have been developed of the main business centres mentioning the services that are being offered and the availability of offices and warehouses (Agentschap innoveren en ondernemen,

2020). A similar initiative in the Walloon region was not found. There are, however, private initiatives.

**2.2 Rent legislation in Belgium**

In Belgium competences related to the real estate rental market, have been transferred to the regional levels. Legislation concerning renting business premises are still a part of the federal legislation. There are a number of articles in the Belgian criminal code that are relevant as well concerning the criminal use of real estate. In Belgium, the rent legislation is covered by the Flemish House Renting Decree (Vlaamse Overheid, 2018), the Walloon House Renting Decree (Service Public de Wallonie, 2018), and the Brussels Renting Code (Brussels Hoofdstedelijk Gewest, 2003). These different laws stipulate the rights and obligations for both the renter and the owner of the building.

Relevant obligations (and omissions) on the part of the owner:

**Table 2: Obligations of owner**

<b>Stipulation</b>	<b>Article Flemish Decree</b>	<b>Article Walloon Decree</b>	<b>Article Brussels Code</b>
The owner is obliged to ensure a peaceful use of the property and cannot enter the premise at will. There are, however, a number of exceptions. The most relevant for this study is to check as to whether or not the property is being taken care of by the renter. Even then, the owner should contact the renter and schedule a date and time. This would leave the renter with sufficient time to clear out his or her belongings.	14	7 §3	N/A
Costs related to the use of the property are for the renter. Invoices and bills are thus directly being sent to the renter and not to the owner, which turns it impossible to check high or increased energy costs, for example.	36	24 §1	223
It is the owner who registers the renting contract. A respondent mentioned that it would be better if the renter would have to register the contract as the middle man is excluded.	11	53	227

Art. 67 criminal code: those who provide the means to commit a crime or felony (and are aware of it) are considered to be complicit to the crime. In other words, if the owner detects criminal activities in his or her property and does not notify the authorities, he or she is considered to be complicit. The awareness, is something owners use as counterstrategy to avoid prosecution. According to the respondents, all too often owners of properties such as ware houses and houses dodge the bullet of prosecution by claiming that they did not know what the renter was up to. Once thousands of euros are being paid in cash or through cash transactions, the police find it very doubtful that the owner is not a bit sceptical. In their investigations, the police have found that Dutch criminals seeking a

location for a cannabis plantation, for example, are very explicit in their intentions of what they are going to do in the property.

Relevant rights of the renter:

**Table 3: Obligations renter**

<b>Stipulation</b>	<b>Article Flemish Decree</b>	<b>Article Walloon Decree</b>	<b>Article Brussels Code</b>
In the rental agreement, the name, state register number, address of the renter is included as well as decisions about the costs and other liabilities. In theory, the owner could recover the costs made to restore the damage of a cannabis plantation from the renter. In practice, straw men are used who either disappear or turn out to be insolvent.	8	6, no state register number	218, no state register number
The renter is responsible to repair all damages that have been inflicted by an improper use of the property. That is, using the property for reasons that do not match the purpose of the property.	26	16	223
The renter must allow emergency reparations in and to the property, regardless of any inconveniences these reparations generate. This could disrupt drug or other criminal operations and increases chances of detection.	27	21 – if these reparations cannot be postponed to the end of the contract	221, one month notice no-
If the renter does not properly take care of the property, the rent agreement can be dissolved.	28	11	237
The renter is liable for fire and water damage.	29	17	N/A
The renter is liable for damage inflicted by his roommates or sub-renters. In other words, when a third person is running a plantation, the renter (often a straw man) is still liable.	30	N/A	230
Transferring the rental agreement can only be done with the prior and written consent of the owner. This might make it more difficult to sub-rent or involve a third party. This is also relevant with regard to article 67 of the criminal code.	31	47	230
The owner can ask for a deposit and use it when damage is identified at the end of the renting agreement. This is a small assurance for renter, but the damage inflicted by cannabis plantations tend to cost far more than the deposit is covering.	37	62	248

If the owner dissolves the renting agreement, the renter needs to continue paying the rent as long as a new renter has been found. 40 N/A N/A

The rules concerning commercial leases are found in the Civil Code (Belgisch Staatsblad, 1951). Relevant articles here are article 7 that stipulates that the renter can modify or renovate the building if the costs do not amount to three years of rent. The renter needs to have the explicit consent of the owner. Sub-renters need to inform the renter and the owner. Both have accesses to the premise to monitor the work that is being done. Article ten stipulates that sub-letting is only allowed when it is connected to a commercial company is.

### **3. Extent and nature of the criminal use of residential and business premises**

#### **3.1 The extent of the criminal use of residential and business premises**

As already mentioned in the introduction, statistics nor data are being kept at a central level concerning the criminal use of real estate. As a result, the central services of the Belgian Federal Police referred to the deconcentrated Judicial Federal Police directorates. The respondents of the six FGP/PJFs that were included in this study could not provide statistics either, but they could provide a descriptive analysis. This analysis was based on the information their specialists have collected for this study from the cases they have been and are currently working on. Neither the two ARIECs nor the city of Antwerp could provide statistics and had to rely on their experiences with past and current cases as well. During the data collection and interviews, it was clear that often reference was made to cases that were known by both the police, ARIEC and the city.

The fact that no data is being collected and analyzed structurally could be explained by the lack of capacity within the law enforcement agencies, the ARIECs and the city. The fact that budget cuts have seriously limited the operational and analytical capacity of the Federal Police is well-known (Belga, 2017; Bové & Schoofs, 2017; Brice De Ruyver, 2018; JVH, 2019). The so-called optimization of the Federal Police that was introduced by the government in 2014, did not result in a greater availability of staff, which was envisaged by the government (Vast Comité van toezicht op de politiediensten, 2020) and the number of strategic analysts within the central Judicial Directorate of the Federal Police is limited (Raad van de Europese Unie, 2020).

#### **3.2 The nature of the criminal use of residential and business premises**

##### *3.2.1 General findings*

In general, there are two ways in which real estate can be used by criminal organisations:

1. As an accommodation or shelter to facilitate or hide criminal activities. By serving as safe houses or accommodations for victims of human trafficking and smuggling or criminals; as criminal operational

bases; as hiding places for illegal profits and materials; as production facilities for synthetic drugs and cannabis; as a front for different types of fraud or money laundering.

2. As an investment. According to an Antwerp public prosecutor, 40 percent of the criminal revenues are being invested in real estate.<sup>3</sup> Although not within the scope of this study, criminal money is being laundered by buying property domestically or abroad. Investing in real estate could also serve to expand the 'production' facilities. Human traffickers, for example, purchase houses to accommodate more victims of sexual and labour exploitation (S. Raets & J. Janssens, 2019; S. Raets & J. Janssens, 2019).

There is a wide variety of real estate that can be used by criminals: private houses, Bed and Breakfasts, holiday houses, hotels, warehouses, houseboats, holiday resorts, buildings on camping sites, and business premises. One of the findings of this study, is that certain criminal activities tend to exploit certain types of real estate. Moreover, spread geographically, different types of real estate seems to be used, but this could be related to the nature of criminal activities that are predominantly present in the different districts under this study. The vicinity of France, for example, has an impact on the types of and the manner in which real estate is being used. In other words, based on the geographical spreading of the respondents and their organizations, different types of crime (in extent and nature) can be identified. But this could also be explained by differences in policing priorities. Criminal investigations in Belgium are either being led by the Public Prosecutor's Office or an investigative judge. Policing priorities are set together with the Public Prosecutor's Office (at the local level, the mayor is included) and this could be reflected in the nature of investigations and hence in the nature of the findings. Moreover, local policing practices also directly contribute to the nature of the picture: if local police forces do not monitor companies or warehouses, a different picture will arise. In a similar vein, cities and municipalities that adopt administrative approaches against organized crime and have structurally invested in an administrative coordinator have more and different information about what is going on at the local level.

The criminal phenomena mentioned by the respondents in which real estate was used by criminal organizations to facilitate or camouflage their activities, was quite similar in the different judicial districts. The three main criminal phenomena mentioned by the respondents were trafficking of human beings for sexual and labour exploitation, human smuggling and drug trafficking and production. The presence of club houses of Outlaw Motorcycle Gangs (OMCGs) were also mentioned in all districts. Violent extremism and radicalization was included in Antwerp. Financial and economic crime was mentioned in Vlaams Brabant. Theft and fencing was mentioned in Limburg, Halle-Vilvoorde, and Antwerp. Counterfeiting and (illegal) gambling was also found to be connected to the use of real estate in Antwerp. It is important to mention that the frequency with which the phenomena are being mentioned by the respondents do not reflect the manifestation of these phenomena in the field. In other words, if counterfeiting is mentioned by only one respondent in a certain district, this does not mean that this phenomenon is absent in other districts. As stated above, this study has limitations as regards the selection of respondents. The local police forces (185 in

---

<sup>3</sup> Interview with ARIEC Limburg and FGP/PJF Limburg.

Belgium), for example, were excluded from the study. The focus here is on description, not on providing statistics as these are not available in Belgium.

### *3.2.2 Drug trafficking and production*

Houses, warehouses and business premises are being mentioned by all respondents as attractive targets for drug traffickers and producers. The nature of the real estate can vary from farm buildings, villa's, stables, rental houses to company buildings. In an interview, a respondent also mentioned that storage facilities such as the ones provided by Shurgard are also frequent being used by criminal organisations to store drug producing materials and are also used for fencing stolen goods.

According to a respondent of FGP West-Flanders, if the real estate is owned, it is not officially owned by the organisation, but by the strawmen. The criminal organisation rents the building from the strawman. These strawmen are not merely family members, but also vulnerable people: people who are being picked up by a criminal organisation seeking to earn some money. Sometimes these persons, acting as strawmen, receive budget support or are subject to debt mediation organized by the local public centres for societal welfare (OCMWs).

There is also a variation based on the type of drug that is being produced: cannabis can be produced in an attic of a house, which is less convenient for the production of synthetic drugs as increased ventilation is necessary due to the use of chemicals.

### **Cannabis plantations**

The cultivation of cannabis in Belgium is said to be increasing annually. The increase is not the result of an increase in cultivation for personal use, but to an increasing involvement of criminal organizations (Van Damme, Vanhove, Tytgat, & Cuypers, 2017). According to a report developed by the Belgian Federal Judicial Police, people of Dutch and Moroccan decent are actively involved in the drug trade in Belgium. Dutch criminals would be involved in the production of synthetic drugs and cannabis cultivation in Belgium, whereas Moroccan criminals are rather engaged in import and export of cannabis (Federale Politie, 2019). According to the respondent of FGP Halle-Vilvoorde, Albanian criminal organizations are, however, on the rise. This is corroborated by the respondents of Antwerp. They enter Belgium under a false identity and are looking to rent detached houses.

Warehouses are popular for cannabis plantations, but houses, villa's and commercial premises are also being used (Smet, De Ruyver, & Colman, 2013). In Wielsbeke, West-Flanders, a cannabis plantation was even found in the shaft of bridge spanning over the river De Leie (Struyve, 2020). According to the Antwerp respondents, terraced houses are also being used. Search engines as immoweb, zimmo, 2dehands.be are commonly used to select the building and contact the owner (FGP West-Vlaanderen, 2018). The owner is offered a higher rental price than originally requested. Straw men are commonly used to register the rent agreement on their names and in some cases are responsible for the cultivation or go live in the rented building. Real estate agencies are a suitable partner for criminals because they can help find suitable buildings (Smet et al., 2013).

Examples of cannabis plantations can be found throughout Belgium. In a warehouse and former dance school in Grâce-Hollogne, Liège, 1,4 tons of cannabis were found on a business center. The warehouse was surrounded by large containers to shield the plantation from the outside world. It was found thanks to a tip from an energy company in Liège that had registered large volumes of energy consumption. As refrigerators and beds were found, the assumption is that the cultivators lived in the warehouse (Belga, 2019). In a former equestrian centre in Stekene, East-Flanders, a cannabis plantation was found for the second time in four year. The owner, had already been convicted to community service of 120 hours the first time (Foubert, 2019). In a warehouse in Sint-Gillis-Waas, East-Flanders, a cannabis plantation was found (Foubert, 2020).

Because of the low social control, the city too, is a popular place for to start a cannabis plantation. Criminals look for houses, garages and empty commercial premises and rent them under a false identity. In the beginning rent is being paid upfront for a couple of months. Afterwards no payments are being done. When the owner pays a visit to the building, the renter has already disappeared and has left a complete devastation (Van der Aa, 2016). According to ARIEC Limburg, there are cases where cannabis plantations have been found at camping sites and holiday houses.

The level of organization could be deducted by the level of security of a plantation. Research in 2013 has found that security of plantations is rather limited and would be focused on the exterior environment to avoid being caught in the act. The exterior protection is, however, also directed at preventing theft by other criminals. Active protection of a building, by organizing physical security, is also being done. Measures to avoid being caught include LED lights in combination with heat generator (Smet et al., 2013).

Based on police information, light can be shed on the way Dutch criminals operate to find a good location to either install a cannabis plantation or a synthetic drug lab. As mentioned earlier, very often real estate agencies are being used to contact persons who wish to rent out their premises. Other ways are online searchers or direct contacts. The criminals do not tend to hide their true motives. During a police investigation it was revealed that once a person agreed to rent them a warehouse, Dutch criminals promised the person technical assistance and money to set up a cannabis plantation. The first harvest is theirs, but the ensuing harvest is for the landlord. Bulgarian and Turkish organizations would rent buildings on a more larger scale and structural for the installation of cannabis plantations and to accommodate illegal migrants. According to a respondent, the function of grow shops are not always well-known within the police as facilitator to acquire materials to develop cannabis plantations.

### **Drug dealing in houses and other buildings**

As early in the 1990S, Belgium was confronted with so-called ‘dealpanden’: buildings bought or rented in Belgian cities by predominantly Dutch people with Moroccan roots who sold drugs to customers coming from the North of France, so-called drug tourists. It was a phenomenon that originated in The Netherlands, but shifted to Belgium due to stricter regulations at the retail level. It

started in Antwerp and moved closer to the French border in Gent and in Mons. Belgium was attractive because French ‘customers’ did not need to travel that far and the Dutch dealers avoided crossing the French border where punishments on dealing are tougher (B De Ruyver, 2006). According to respondents of FGP/PJF West- and FGP/PJF East-Flanders, dealpanden still exist in their respective districts.

It has been reported by the respondent of FGP/PJF West-Flanders, that drug dealers also use Airbnb’s to organize shuttle runs between The Netherlands and Kortrijk (West-Flanders). Some Albanian and Moroccan organisations also invest in real estate abroad (in Spain, for example) through family members of strawmen in order to create a stop-off on the way to other countries.

### **Synthetic drugs**

According to respondents, synthetic drugs labs are frequently established in warehouses, farms, cottages, barns and company buildings. In 2013, two tons of MDMA was found behind a fake wall in a barn in West-Flanders. Traces of speed and methamphetamine were found as well. The ‘cook’ was a Romanian national who collaborated with thirteen others. In the same year, an XTC-lab was found in a residential area in Limburg hidden behind bales of straw in a pigsty (Schoofs, 2014). The variety of buildings used by drug producers in Belgium is mirrored in news articles of the past year. In Diksmuide, in West-Flanders, a synthetic drug lab was found in the cellar of a pub that was a touristic hotspot. Around 200kg amphetamine oil was produced that would later be used to produce speed (Boterman, 2020). In Maaseik, Limburg, a synthetic drug lab was found in an abandoned villa (PPN & MMD, 2020). In Bilzen, Limburg, a methamphetamine lab was found after an explosion in the lab which caused a fire in a business centre (MMM, 2019). In Reninge, West-Flanders, an old synthetic drugs lab was found in the stables of a remote farm and in stables of another farm in Vlamertinge, West-Flanders another one. The old lab was used to facilitate human smuggling to the United Kingdom (Houwen, 2019). In Tongeren, Limburg, a drug lab was found in a former rendezvous hotel (PPN & DIRO, 2020). In a cottage in Lanaken, Limburg, a heroin lab was found (Vandebroek, 2020). In Aarschot, Flemish Brabant, a synthetic drug lab was found in a garage box with manufacturing products, pills and cash stored in another garage box (MMV, 2020). In Ghent, East-Flanders, a synthetic drug lab was found in a ware house (Belga, 2020b). In 2019, in a pigsty in Wuustwezel, Antwerp, Belgium’s first crystal meth lab was found (RR, 2020). In 2016, in a residential neighbourhood in Genk, Limburg, there was an explosion in the a MDMA drug lab in a house. Manufacturing products were found in other houses in Genk and Bilzen (Limburg) (Deferm, 2020). Finally, the biggest synthetic drug lab detected in Belgium to date, is the one in Lendeledede, West-Flanders. Once again, in a pigsty, materials for the production of 2,000 kg amphetamines was found. It was in a remote barn, that had a basement with an extractor system (MMM & JWJ, 2020; Sabbe & Lescrauwaert, 2020). According to the respondent of FGP West-Flanders, the fact that the pigsty already had an extraction system was probably one of the main advantages: no construction works are needed. This is a brief and incomplete description of media reports of the past year which serves to demonstrate the variety of buildings in which drugs are being produced, and – more importantly – the fact in every district in Flanders, synthetic drug labs have been found.

There are, however, some commonalities: in the majority of the cases, there is a Dutch connection and most buildings are remote and being rented by the criminal organisations. Dutch organizations would be rather opportunistic in finding a good location according to the respondent of FGP/PJF Flemish Brabant. They are looking for financially vulnerable people. This has been confirmed by the FGP/PJF West-Flanders (FGP West-Vlaanderen, 2018) and the study made by a student of Ghent University on behalf of FGP/PJF Antwerp (Cousaert, 2019).

In that study, it was found that drug labs were very often installed in farms close to the border with The Netherlands. Of course, as the study focused on the district of Antwerp, the vicinity to The Netherlands does not come as a surprise. Contract workers who are active on different farms, can facilitate finding a good location for a drug lab. As they work for different farmers, they learn to know who is facing financial difficulties and who is not (Cousaert, 2019).

In order to reduce the risks of detection, the production process of the synthetic drugs is often being spread geographically. In case of the drug lab hidden behind bales of straw in a pigsty, the raw material to produce MDMA, PMK, was being synthesized in a warehouse behind a house in Vilvoorde (close to Brussels). It was later on processed in Virelles (Hainaut) and stored in Herstal (Liège) in a warehouse (Schoofs, 2014).

During the interviews, a certain theoretical point of saturation was reached regarding the types of buildings and modus operandi used in the production of synthetic drugs. However, new information was provided by the respondent of FGP/PJF West-Flanders concerning counter measures been taken by criminal organisations to avoid detection. In order to avoid the ANPR-camera's,<sup>4</sup> holiday or vacation houses are being rented in the proximity of the warehouse where the lab has been installed. These are being rented in cash for a short period of time (three days, for example). A similar strategy has been applied at the Belgian coast: in winter time a house with a garage is rented to install a lab. The scale is limited and so is the period of time spent there.

### **Cocaine trafficking**

A criminal phenomenon that has received a lot of policy and media attention, is cocaine trafficking through the ports of Antwerp and Rotterdam. There many criminal sub-activities that facilitate the cocaine trafficking such as corruption, hacking, violence, grenade attacks, abductions and of course money laundering. Once containers containing the drug arrive at the port, the drugs are being retrieved either in the port of Antwerp or at another location. Initially, warehouses in the vicinity of the port of Antwerp were (and still are) being used by drug traffickers, but considering the focus of different law enforcement agencies, containers are also transported to warehouses in other regions in Belgium where the drugs is then retrieved. In January 2020, house searches in Genk, Limburg, and a raid in a warehouse in Bornem, Antwerp, besides 203 kg cocaine, Kalashnikovs, a grenade

---

<sup>4</sup> Automatic Number Plate Recognition Camera's

launcher, a pistol and a detonator were found. Seven of the suspects have the Dutch nationality, two other suspects are Belgian (HLN, 2020). In Ranst too, Antwerp, 444 kg cocaine was found in a warehouse (Patrick Lefelon, 2019). Further away in Aalbeke, West-Flanders, on a distribution centre of a legal company, Van Marcke, a truck was found carrying 1,200 kg cocaine. The container had been collected from the port of Antwerp and driven to Aalbeke near Kortrijk (Belga, 2020a). Afterwards, the drugs would be retrieved at night according to a respondent of FGP/PJF West-Flanders.

But there is more to it than that. A case was described by a respondent in which multiple houses and buildings were involved. It is a case of cocaine trafficking by an Albanian criminal organization that had used around 12 buildings ranging from houses to businesses. Companies in bad papers were bought through straw men who then acted as managers of the companies. Materials and vehicles were registered on the company names. The houses ranged from terraced houses, over former strip clubs to luxury apartments and even the cellar of a house under construction was being used. Albanians who had come to Belgium illegally, were used to protect these buildings. The case is interesting as it shows how real estate can be used in cocaine trafficking.

Cocaine was transported from Brazil to Antwerp and once collected in Antwerp, transported to Brussels. The Albanian organization then washed the cocaine with acetone which was purchased from a paint shop in Molenbeek by the company they had acquired which was registered in Zaventem. The acetone was then stored in a garage box in Jette and left untouched for over two months. Nobody visited the garage box during that period of time. The Albanian criminal organization rented five of these garage boxes at the same location and the entrance to the garage boxes was monitored by a camera.

Once the acetone was needed, they collected it from the garage box and transported it to a villa in Zaventem that had been abandoned year earlier. Neighbours had not noticed that the villa was occupied once again (Dierickx & Verheulpen, 2020). The villa was turned into a cocaine lab and a cocaine press was found. An estimated 35 kg cocaine could be produced a day. In four other buildings connected to the criminal organization, the police found 770 kg cocaine, €600,000 cash, 1,210 litres acetone and six pistols (Dierickx & Verheulpen, 2020).

There was a network of buildings that were rented by the Albanian organization. Expensive villa's and flats (in the European neighbourhood in Brussels, for example) that were rented under false identities. Rent was paid in cash, upfront for a year. On one occasion, €17,000 was paid to the owner of a building in cash. Once they receive an invitation of the local police to formally register their residence, they disappear even after two months without ever asking the owner to refund their advanced payment.

The police had found that a lot of phone calls were being made to real estate offices and agents to find locations for their illegal activities. The cover they used was that of an expat who, together with

his girlfriend, needed to find a house for the both of them. The girlfriend always accompanied the man on his trips to the real estate agencies. That's how the villa in Zaventem had been found. Cars were being bought using fake identities and number plates were being registered on the names of straw men who received remuneration. In case they are fined, the number plates are being dumped.

Concerning the use of warehouses, it was reported by respondents that often multiple companies are making use of the warehouse, among which legal companies, which makes it harder to detect irregularities. Considering the fact that a suitable location is crucial, it has been reported by one respondent that rivalry related to control over a certain territory (turf war) is a reality among criminal organisations.

### **The illicit tobacco trade**

In an old company building in Lanaken, Limburg, millions of cigarettes have been found. The police connects the finding of the illegal cigarettes to criminal organizations operating in the border region between Belgium, Germany and the Netherlands (MMM & JWL, 2020).

### *3.2.3 Human trafficking and smuggling*

#### **Human smuggling**

Concerning smuggling of human beings, safe houses are predominantly being mentioned by the respondents. Safe houses are found throughout the country. As of 2015, a lot of attention was being paid to the so-called 'transmigration': undocumented economic migrants who want to travel to the United Kingdom illegally and request asylum, but reside in Belgium in the meantime (Redactie, 2018b). Initially 'transmigrants' were concentrated in Brussel and at the coast, but are now more spread throughout the country according to respondents. Restaurants are also being used to accommodate people and that is also the case for human trafficking. FGP/PJF Flemish-Brabant relates their experience with transmigration: migrants take the train from Brussels North (indeed a hotspot for 'transmigrants') to Leuven. From there, their journey takes them to a parking in Heverlee on foot. There they are being accommodated by either smuggling networks in slums or taken by humanitarian movements to squatted properties.

According to the Antwerp respondents, there are also tiny systems operating in the city that consist of one slumlord who owns five to ten properties and is using these properties to facilitate illegal employment. People then arrive in one property where they are received by the organization and are then sent to other properties to either work or live. This could either be part of a smuggling operation or human trafficking for labour exploitation.

Hotels are being used as well to facilitate human smuggling according to the respondent of FGP/PJF East-Flanders. There are basically two services that are being offered by smugglers: an insured, high end transport to another country or an not-insured option. The first option costs around 10,000 euros

and implies a commitment to results, the second option costs around 1,500 euro but after a few attempts the ‘client’ is being dumped at a parking lot by the smugglers. In the high end version, Formule 1 hotels would be used according to the respondent. Although this hotel chain that belonged to the French Accor has been largely taken over by Ibis Hotels, there is still one left in Gent. The one in the transport zone of the port of Zeebrugge closed in 2010 (TLB, 2020). The reception is not staffed on a permanent basis. Customers can use the self-service. The price formula is based on the room instead of calculating the price per person (which makes it more interesting for groups). The hotels are also often located near highways (TLB, 2020).

### **Human trafficking for sexual exploitation**

The majority of the human trafficking cases in Belgium deal with the ones oriented towards sexual exploitation (S. Raets & J. Janssens, 2019). Victims of human trafficking for sexual exploitation are, according to the respondents, working in bars and private prostitution. In Belgian legislation, a distinction is made between forced and voluntary sex work (Belgisch Staatsblad, 2003). Voluntary prostitution is condoned in Belgium (Belgisch Staatsblad, 2005), although pimping is not (Belgisch Staatsblad, 1948). In Gent, East-Flanders, sex workers are officially registered as waitresses and the bars are considered to be part of the catering industry. The bars are, however, also being used to commit illegal activities such as drug trafficking, for example (Boels, Verhage, Jorissen, Prins, & Jaspers, 2016). But also victims of human trafficking end up in these bars. They pay the rent for the ‘window’ and the rent for their accommodation either in the bar or in small houses or flats where multiple women are living. Rental contracts are often developed by brokers who are part of human trafficking networks (S. Raets & J. Janssens, 2019). Similar to providing locations for drug production facilities, questions can be raised concerning the owner of the building who is renting a flat or a house in which multiple women of East-European, South-American or African origin are living. Recent research suggests that due to the impact of the Internet, sexual exploitation is increasingly moving away from the typical red light districts to more private buildings (S. Raets & J. Janssens, 2019). This is being corroborated by the respondents in Antwerp, East-Flanders, Limburg and Flemish-Brabant. ARIEC Limburg, for example, mentions to have had cases in which Airbnb was being used to facilitate forced prostitution. FGP/PJF Flemish Brabant came across Airbnb’s that were being used for sex and drug parties by a Romanian criminal organization.

Antwerp was confronted with an increase of massage parlours a couple of years ago that, amongst others, employed undocumented people. Considering the wide variations of treatments customers received, including ‘happy endings’, there was also a connection to human trafficking for sexual exploitation. The city of Antwerp developed a specific operating license and after filtering out the licensed professionals such as physiotherapists, 70 non-professional massage parlours remained. After one year and a half, merely 11 of them are still operating in the city (Bernaerts, 2018). However, the ones that have not been licensed have moved out of Antwerp and started in other cities or have transitioned into beauty and nail salons (Ibid, ARIEC Limburg).

Teen pimps reportedly use hotels as their operating basis for sexual exploitation. In Antwerp, the mayor has closed a number of hotels as they did not formally register their customers and hence facilitated the sexual exploitation of minors. Videos showed how a minor girl went from room to room (JaTi, 2019; P. Lefelon, 2018). Although the staff and receptionists claim to have not been aware of what was going on, the Antwerp respondents find that hard to believe. The problem is that the mayor can only order a temporary shutdown to safeguard public order (Belgisch Staatsblad, 1988, art. 135quinuies; JaTi, 2019). In order to raise awareness among hotel staff and customers, flyers have been made and an information campaign has been set up.

### **Labour exploitation**

According to ARIEC Limburg, vacation houses near the border with The Netherlands are increasingly being used by organizations that ‘supply’ labour for Dutch companies. Dutch companies would use the services of dodgy employment offices abroad through sub-contracting. As Dutch companies are legally obliged to provide accommodation for foreign workers and is being inspected with regard to the quality of the accommodation (Rijksoverheid, 2020), this is not the case in Belgium. An example is given by the respondent based on a case ARIEC was working on. In a very short period of time, around a hundred caravans were planter in Lommel, Limburg. Each caravan contained 6 employees, including employees of Bol.com. They paid 200 euros per matrass per week and were recruited on a weekly basis. Foreign employees are housed in slums, company buildings, vacation houses, on camping sites and in villa’s. In 2015, seven foreign seasonal workers were found in the basement of a villa in Genk, Limburg (Rommers, 2015). In total, there were 15 Bulgarian seasonal workers, among which one pregnant woman and two minors who paid 250 euros per matrass in a basement without lighting or ventilation. They were transported by vans from the Walloon region to the villa by brokers who had retained the passports of three of the seasonal workers. The seasonal worker were ordered to be paid out in cash and the brokers immediately retained a part of ‘their’ share (De Boye, 2017).

Often companies turn up in human trafficking cases. These are active in the transport sector, the cleaning industry or construction sector. These range from Portuguese and Brazilian to Bulgarian and Romanian companies that make use of strawmen to facilitate the employment of workers and potential victims of human trafficking. People need are then accommodated on the business premises, sleep in the trucks or in the company building. It is, however, not always clear if these are cases of white collar crime or human trafficking.

As of 2020, large construction works have been initiated in Antwerp to improve the mobility around the city with the so-called ‘Oosterweelverbinding’. These construction works are expected to attract around 1,500 foreign workers (Van de Perre, 2020), but the respondent of Antwerp thinks that figure will be doubled. Interestingly, the services of the City of Antwerp and the local police now see a new dynamic on the real estate market. Known slumlords are buying increasingly more buildings. One has managed to purchase 3 apartments in one week time. Dutch interim employment offices to facilitate temporary work are now setting up businesses in the city and will need to facilitate housing

as well. As foreign workers very often need to pay large amounts of money for their accommodation (see above), housing is more profitable than labour itself.

While human traffickers sexually exploit victims in massage parlours, a similar phenomenon has been identified with regard to labour exploitation. Dozens of young Vietnamese migrants had to pay of their debts to human trafficking organizations for their trip to Europe, by working in nail polishing salons (Islamaj, 2019).

#### *3.2.4 OMCGs*

Outlaw Motorcycle Gangs are being organized through meetings in club houses. It is also the place where gatherings and parties are being organized. Meetings with other club member or charters are also arranged in club houses, which reduces the need to communicate by other means (and become more vulnerable for interception). Although newspaper articles about house searchers in club houses of the Hells Angels in Lanaken and Gent, for example, report on the police finding grenade launchers, fire arms, police uniforms, drugs, knives, tasers, pepper spray and ammunition (Mariotti, 2018), it seems that criminal activities are banned as much as possible in these club houses (Rabau, De Middeleer, & De Ruyver, 2017). Nevertheless, considering the facilitating role these club houses play in criminal activities, these are an important instrument for OMCGs. Moreover, they are of a great symbolic value as revenge by competing OMCGs is very often exacted against the club houses (destruction, fire bombs and even drive-by shootings) (Blokland & David, 2016).

In the districts of Antwerp and Limburg, the ARIECs have created a generic operating license for club houses in order to curb or at least disrupt criminal activities that are being planned there. As a reaction, OMCGs move towards private homes instead of cafés and pubs. Or, according to ARIEC Antwerp, the café is shut down and turned into a private house where no-one actually lives. Cafés and pubs are also being bought by OMCGs, often by using strawmen. The ARIECs do not have access to the land register, which makes it more difficult to detect these contra-measures. Meetings are also organized on private property in temporary constructions: tents or party tents. Also holiday resorts would be targeted.

#### *3.2.5 Violent extremism and radicalisation*

After the terrorist attacks in Paris in 2015, links were found to Molenbeek, Brussels. The federal government, together with the Brussels Capital Region and the municipalities in Brussels, developed a so-called 'Kanaalplan' that combined police, judicial and administrative actions to combat terrorism, drugs and weapons trafficking, the illegal economy, and forgery (Bervoet, 2019). Joint inspections by police and inspection services and home inspections have found more than 100 non-for-profit organisations connected to radicalism, violent extremism, drugs and weapons trafficking, more than 40 underground mosques and different forms of illegal economy in houses (Bervoet, 2019). The connection to non-for-profit organisations and radicalisation and violent extremism is also being recognised by the respondents. The organizations rent houses, or premises

on business centres for Islamic schooling and meetings. In the backrooms of snack bars, clubs, non-for-profit organizations jihadist meetings and prayers are being organised.

### *3.2.6 Financial and economic crime*

The connection between buildings and financial and economic crime is well-known. Examples of the Kanaalplan where numerous illegal activities were found in houses and business-premises are plentiful. The same is being seen in Antwerp and Limburg.

Ever since the significant increase of cocaine trafficking in the port of Antwerp, the federal and local police, the city of Antwerp and different inspection services have started looking into the injection of illegal money into the legal economy. Although money laundering is not a part of the scope of this study, the sheer amount of business being used to launder coke money in Antwerp, justifies a brief discussion. It is important to mention that this is not limited to Antwerp. Similar phenomena are found in Limburg, but also in other provinces of Belgium. The fact that a lot of information is known about Antwerp and Limburg is partly due to the fact that administrative approaches against organized crime have now long been integrated in administrative policies and an active enforcement policy has been implemented. This has not resulted in a better picture of the nexus between the legal and illegal economy, but also in more administrative, police and inspection actions. The results of these activities are being reported in the media and the examples of the use of companies as fronts for money laundering are plentiful.

Cash-heavy sectors such as the hotel and catering industry, barbershops, supermarkets, car washes, massage parlors (the latter two also frequently connected to human trafficking), bridal shops, cell phone repair shops, car rental companies and driving schools are reported to be vulnerable for criminal exploitation. According to the respondents of Antwerp and author's interviews during previous research, in some parts of the city there is a concentration of shops and commercial business with very little customers and a low price setting. Considering the quite heavy rent these entrepreneurs need to pay, it is strange how they have been able to survive. An example, of these dodgy businesses, are the so-called 'fish mongers', who have been convicted to prison sentences up to 8 years for drug trafficking and money laundering. Enormous amounts of fresh fish were being sold at very low prices. The family had assembled 1.6 million euros, but could not explain the origins of the money (P. Lefelon, 2020).

Some respondents have referred to a number of shops and commercial activities as criminal pop-ups: they are being established and seem to completely neglect all regulations. Once administrative and government authorities start controlling them, they disappear. It does not take very long to start up a new business elsewhere. Strawmen are being used when operating licenses are required. There is also a clear connection to the Netherlands. Facilitators, such as accountants and lawyers, tend to turn a blind eye to the volume of cash they receive for their services.

In September 2018, it was reported that around 25% of the 110.000 companies that have been registered in Brussels, did not submit their annual accounts on time. More specifically, 33,000 companies did not submit their annual accounts in a period of three years. As these dormant or ‘ghost’ companies could serve as a cover for tax fraud, swindling, drug trafficking and the financing of terrorism, the Brussels Public Prosecutor’s Office decided to screen these companies. Together with the tax and economic inspectorates, the national social security office and the Brussels chambers of commerce a platform was created to either regularize or scrap these companies from the registrar (Bové, 2018). According to the National Bank of Belgium, 113,000 companies did not submit their annual accounts in 2017 (Ibid). An overarching picture of the problem might, however, been missing. In 2018, Graydon, a trade information office, looked into the activities of Belgian companies and found that of the then 1.5 million registered companies, around 350.000 of them or 23% are so-called ghost companies. These companies did not timely submit their annual accounts or did not receive any invoices. Together with other parameters, a sample was taken of 2.500 companies and 95% of them did not show any sign of activities (Persoone, 2018). While in some districts initiatives are being taken to structurally control companies, this is not the case in every province or districts. It has been reported by respondents that in some districts local police forces, backed by the public prosecutor’s, right-out refuse to systematically control companies.

In March 2020, a pilot project was initiated in the city of Antwerp in cooperation with the police, the public prosecutor’s office, the city and Graydon. Based on the data Graydon has of companies, typical and atypical company behavior is being identified. Afterwards, a score is being given to the irregularities in the company behavior that is found which would enable law enforcement agencies to focus on these companies that are being used or being exploited by criminal organizations more efficiently (Verstuyft, 2020; BJS, 2020).

The use of companies as a cover for illegal activities ranging from financial and economic to organized crime has been reported by all respondents. FGP/PJF Flemish-Brabant referred to a case where a Dutch national buys companies in financial difficulties. With these companies he orders goods and services without ever paying for them. Once detected, the companies go bankrupt and the perpetrator disappears. There is also a suspicion that these companies are being used in a service model: crime as a service. Criminal organizations use the services of a so-called white collar criminal for a limited amount of time. The ‘rented’ companies are then being used as covers to facilitate crime. Telephone shops, telephone repair shops and similar commercial activities are, according to the Antwerp respondents, facilitators of organized crime. Although SIM-cards are no longer allowed to be sold anonymously, in Antwerp three phone shops were shut down in 2018 because they did not register the identity of their customers. Customer had registered their names as “James Bond” or “Mickey Mouse” and were allowed to purchase SIM cards. Lycamobile, a British Telecom provider is notoriously lacks when it comes to registration (Redactie, 2018a).

### *3.2.7 Theft and fencing*

In the first half of the 2000s, Belgium was confronted with itinerant, mobile crime groups. Criminal organizations predominantly originating from Eastern Europe, stayed at rental houses in big cities such as Antwerp, Charleroi, Brussels or Liège and raided private or business properties. According to the FGP/PJF Limburg, often one renter provided accommodation to his or her fellow countrymen. In Antwerp, the respondents have found that members of itinerant crime groups often stay in low-budget hotels and youth hostels and private residences. A number of cafés and non-for-profit organizations also serve as meeting places for itinerant crime groups. They arrive from Germany by train in Antwerp and are received in one of these locations.

According to the FGP/PJF Limburg, criminals operating stolen vehicles tend to drive the vehicles directly abroad. The cars, however, used by criminal organisations for armed robberies are stolen prior to the robbery and stored in rented garage boxes. In a case of stolen Range Rovers, the FGP/PJF Halle Vilvoorde noticed that the criminals were using holiday houses in Limburg during the off-season periods.

In Antwerp, gold shops are being used to fence goods obtained through burglaries and robberies, according to the respondents of Antwerp. The money collected through the fencing operation would then be used as start-up capital to invest in cocaine trafficking. The concentration of certain electronic shops in Antwerp, the low prices and the limited supplies available in the shops, make Antwerp investigators believe that these are also facilitators for fencing. The products and goods available in these shops are mostly transported from The Netherlands which makes it difficult to assess as to whether or not these are stolen goods.

### *3.2.8 Illegal gambling*

In Antwerp, there are two gambling companies that have largely divided the territory amongst themselves. These companies are, according to the respondents, connected to cafés and newspaper shops through their gambling machines. When controlled, the operator of the café or newspaper shop cannot produce the necessary documents or does not speak Dutch. Within a short period of time, a representative of one of the gambling companies shows up with all the necessary paper work. Soft police information suggests that strawmen are being recruited by these companies. They receive 20,000 euros to decorate the place and receive remuneration for the work they do. An inspection of a newspaper shop revealed that not only there were gambling machines in the shop, but that the newspapers, magazines and periodicals were outdated without exception. The newspapers and magazines are bought second hand or collected and used as a front. These newspaper shops are also betting offices which would contribute to around 50% of their annual revenues.

An investigation is ongoing into the Gaming Commission, the organization in charge of controlling and regulating the gambling industry in Belgium. Several high-ranking public servants of the Gaming Commission would have received gifts from the gaming industry (WLE, 2020).

## 4. Indicators

Although no official indicators for the criminal use of private homes and business-related premises have been officially adopted, there are a good number of indicators that have been developed based on the field experience of the respondents and are being used as well. Many respondents referred to the drug production hotline that has been developed and implemented in Limburg as a best practice.<sup>5</sup> An information campaign accompanied the hotline that provided indicators to citizens. The same happened in the port of Antwerp, but limited to staff working in the port.<sup>6</sup> The indicators of the hotline in Antwerp are included in the compilation below as the ones of Antwerp are not directly related to the criminal use of real estate.

### **Synthetic drug labs**

Mentioned in the communication of the public prosecutor's office of Limburg (Openbaar Ministerie, 2019):

- Strange chemical odour;
- White fog around buildings;
- Closed windows (blinds, MDF) or curtains that never open;
- Additional extraction pipes in the roof;
- Not clear whether a building is inhabited or not;
- Activity with vans or trailer in close proximity of the building at night, often with foreign number plates;
- Suddenly dead or discoloured plants;

Dumping sites (Ibid.):

- Barrels, water bottles, ... in unusual places;
- Strange chemical odour, brown liquid or white mist;
- Abandoned vans or trailers without number plates or with foreign number plates;
- An oil-induced discolouration on water (streams, canals, ...);
- Delivery vans, often without or with foreign number plates, travelling at unusual hours in forests or remote areas;
- Suddenly dead or discoloured plants;

According to a study conducted by a student of Ghent University (Cousaert, 2019):

- Most drug labs are located in farms that are poorly maintained and often have one access road;
- The absence of a tractor in a farm;
- Fertilizer or manure supply is being shut down;

---

<sup>5</sup> <https://www.anoniemdrugsmeldpuntlimburg.be/> or by telephone: 0800/20877. Citizens can report anonymously.

<sup>6</sup> <https://www.onzehavendrugsvrij.be/> or by telephone: 03 236 62 25.

- Decrease of number of animals (according to the study, livestock farmers are predominantly being targeted);
- An increase in expenditures, while the revenues remain the same;
- Caravans and warehouses present at the farm;
- As financially vulnerable farmers are being targeted: business-related indicators such as
  - Liquidity, capital, solvability and rentability.

Additional indicators mentioned by the respondents (that could also apply for cannabis plantations):

- Private houses or business-related premises that have been for rent for a long time;
- Renting prices are far more than they normally would be (indicator for real estate agencies);
- Origin of renter (indicator for real estate agencies);
- Cash payments (indicator for real estate agencies);
- Farmers who quit their activities.
- Belgian citizens with real estate property abroad.

### **Cannabis plantations**

- Fenced of building;
- Energy consumption (similar for synthetic drug lab), but energy companies are not obliged to report;

### **Human trafficking for sexual and labour exploitation**

- Poor facilities and poorly maintained building;
- Or the complete opposite (massage parlours and beauty salons);
- Multiple registrations on the same address;
- A high turn-over of registrations at a certain address;
- Locks on the outside of the door;
- Pricelists for groceries attached to a door, building wall, window.
- People who do not own a key to the building;
- Multiple camera's facing the street;
- Fumigated windows;
- Poorly maintained gardens;
- An increase of trash around the building;
- Garbage around an empty building;
- A janitor who blocks people from entering a building or a guard dog;
- A remarkable number of women of East-European or African origin in the building;
- A remarkable number of cars stopping by for a short period of time on unusual times;
- The building is invisible on google maps;
- Caravan near a car wash;
- A second had car with a matrass in the back of the car wash.

## Clubhouse OMCGs

- Camera's facing the street.

## 5. Legal instruments to prevent, limit or combat the criminal use of real estate

In the first place, the local authorities are responsible for detecting the use of property by criminal organizations. To this end, they can use various sources such as urban and municipal advisory councils (these councils also reflect on what is going on in the population and lower the threshold to report a particular case). Control services are also an important link: the fire brigade can report to the police after checks on habitability and fire safety, as well as persons responsible for housing control. For example, a finding of illegal housing could be a possible indicator of trafficking in human beings. In this respect, it is worth mentioning that the city of Antwerp is using a barrier model against human trafficking. Subsequently, the mayor may also, on his own initiative, request a housing inspection in order to detect defects on the inside of a house and take the necessary measures. Data on empty buildings are also kept by the mayor and his services. This is interesting information as vacant houses, sheds and stables are popular with criminal organizations for the production and storage of illegal goods and resources. Finally, private partners can be called upon to identify rogue practices, real estate companies being a prime example of this. However, they are not legally obliged to report irregularities. Utility companies, such as energy suppliers and network operators could also report irregular readings. They too, are not legally obliged to do so. Since 2016, however, utilities and distribution operators have been obliged to report their consumption and address details at least once a year to the Kruispuntbank Sociale Zekerheid (Social Security Crossroads Bank). This is only compulsory for consumption by a private individual that deviates at least 80% downwards or upwards from the average (B. De Ruyver, Kazadi Tshikala, Vander Beken, Janssens, & Vereecke, 2016). This raises the question of whether annual data transmission is sufficient, as some drug operations are flexible and can successfully close their business within one year.

In contrast to the neighboring countries, financial institutions have long played a signal role in the fight against money laundering in Belgium. Suspicious transactions are reported to the Financial Information Processing Unit (this unit consists of judicial and financial experts and a senior federal police officer). In 2011 CTIF-CFI's disclosures consisted for 19,2% of disclosures from financial institutions, more than half of which came from exchange offices (Bankieren voor de samenleving). De Middeleer also points out the importance of cooperation with the real estate sector as it is possible to keep track of whether certain persons regularly ask whether a certain property is for rent. Postal and courier companies should also be wary of the import, export and transit of illegal goods (De Middeleer et al., 2018).

In Belgium, there a number of legal instruments that can be used to limit or combat the criminal use of real estate:

1. **De Nieuwe Gemeentewet** (New law on municipalities) (Belgisch Staatsblad, 1988):
  - Art. 119 and 119bis: the municipal councils can enact municipal regulations that can be enforced by administrative sanctions.
  - Art. 121: Official regulations on prostitution can be revoked by the municipal councils.
  - Art. 134ter: when a company, institution or organisation does not abide by operating licences in its exploitation, the mayor can decide to temporarily close or temporarily revoke the license.
  - Art. 134quater: if public order is in danger in the environment of a publicly accessible establishment, the mayor can close that establishment for a period of time that is decided by the mayor.
  - Art. 134quinquies: if there are serious indications that human trafficking is taken place in an establishment, the mayor can close that establishment for a period of time that is decided by the mayor after consultation with the judicial authorities.
  - Art. 134sexies: in case individual or collective behaviour threatens public order or include repeated breaches of the municipal regulations, the mayor can impose a ban against individuals to access (the surroundings of ) a certain establishment or a location during one months, renewable twice.

Based on the articles of the Nieuwe Gemeentewet, the city of Antwerp, for example, has developed the following specific regulations:

- **Night shops, phone shops, movie centers, betting officers, sex shops showing porn, non-for-profit organisations connected to clubs and shishabars** all need to have an exploitation or operating license (fire safety, hygiene, and a background check). Phone shops, night shops and shisha bars additionally require an establishment permit (for example, a minimum distance of 200m between similar shops). For each of these sectors, specific regulations have been developed.
- **Handcarwashes:** establishment permits. No similar carwash within a 500m range, in case 9 or more cars will be stationed, an environmental license is needed and elements of internal order are required. A background check is also conducted.
- **Massage parlors:** establishment permit: no similar business within a 250 m range. Fire safety, hygiene are checked as well as administrative information with social inspection, and other inspection services. A background check is conducted. There are additional requirements regarding opening hours, access for health care workers and labour contracts.

The following regulations are included in the police codex:

- **Second hand shops** need to register the nature of the goods provided, brand and type, number of goods, description of the goods with a digital picture, the complete serial number, the purchasing price and the identity of the person of whom the goods have been bought (a copy of the identity card).
- **Window prostitution in a concentrated area:** sex workers need to submit an agenda of her/his activities, stipulations about the access to areas outside the concentrated area, minimum norms regarding safety, hygiene and maintenance. Fire safety controls and background check are included as well.
- **Begging** is not allowed in certain areas of the city, the entrances and parking lots of warehouses and in publicly accessible establishments. The police can take the revenues when begging happens in group,

if there are serious indications the beggar is part of a network, the beggar behaves aggressively, known by the police, is not staying legally in Belgium and if the beggar uses petition lists.

- **Goldshops** can request a quality label. This has been established between the city of Antwerp and the Antwerp World Diamond Centre. In order to receive that label, the gold shop is required to register the jewellery, have CCTV installed and hire people who pass a background check.

2. **Law on administrative sanctions** (Belgisch Staatsblad, 2013):

- Art. 2§1: The municipal council can enact administrative sanction on breaches of municipal regulations.
- Art. 4§1: The municipal council can enact the following sanctions:
  - 2° administrative suspension of a license
  - 3° the administrative revocation of a license
  - 4° the temporary or definitive closure of an establishment

3. **Law on drugs** (Belgisch Staatsblad, 1921):

- Art. 9bis: in case there are serious indications that drugs are being sold, delivered or that drug use is being facilitated in a private, but publicly accessible establishment, the mayor can close that establishment for a period of time that is decided by the mayor after consultation with the judicial authorities.

4. **Law on the prevention of fire and explosions** (Belgisch Staatsblad, 1979):

- Art.5,3: the mayor, the members of the fire brigade and the ones conducting the inspection can access constructions and constructions sites in order to monitor fire safety regulations. The access is limited to locations that are not open to the public unless, there are serious indications that the public safety is being endangered or if they have received permission by the owner or renter.
- Art.11: the mayor can temporary close an establishment that does not fulfill the requirements concerning safety measures prescribed by this law.
- Art. 12: the mayor can actively track potential breaches.

5. **Spirits Licensing Act** (Belgisch Staatsblad, 1983):

- Art. 2 stipulates the requirement to have a license in order to start or manage a pub. This license is being given by the municipal authorities.

6. **Gaming and betting law** (Belgisch Staatsblad, 1999):

- Art. 31: in order to receive a license, the applicant is required to provide a concession agreement (type A) or a covenant between the establishment and the municipality.

## 6. Experiences

While legal instruments are available to prevent or combat the criminal use of real estate, respondents indicate that there are number of issues that need to be solved:

- The closures that can be ordered by the mayor are very often temporary. Even when the closures would be definitive, respondents see how criminal entrepreneurs start up a new business, be it through a straw-man or not, very soon afterwards. The administrative procedures that municipalities need to follow take a long time and demand a lot of capacity. The burdening work load, the limited capacity and the ease to establish new businesses elsewhere in short period of time, results in what could be described as Sisyphus labor. It takes one month to regularize a shop and the cases are piling up. The Dutch practice of security bottlenecks or the authority to designate a certain area as vulnerable could be part of the solution, but is not possible in Belgium to date. The idea behind it is that in that area a licensing framework is being put in place in which entrepreneurs need to demonstrate that they are operating a legal business. The roles are hence being reversed: not the municipality needs to demonstrate that something is going on, but the entrepreneur needs to demonstrate that everything is legal.
- It is not always easy to demonstrate that something illegal or dangerous is going on (art.9bis law on drugs and 134quinquies new municipal law).
- According to the respondents, it would be a good idea to set a expiration date on licenses (for example spirit licenses).
- There is still no overarching legal framework in Belgium that facilitates the exchange between administrative authorities and judicial authorities. Moreover, information about assets of individuals is still not accessible even for the police. In other words, the exchange of information is sub-optimal.
- Flex actions, joint operations between the police, municipalities, fire brigade, inspectorate services are well evaluated by the respondents of ARIEC. Fire safety regulations would be the most appropriate instrument to act swiftly and decisively according to the respondents.
- Municipalities that invest in administrative enforcement and approaches against organized crime report how a displacement effect is being created as the surrounding municipalities have not yet developed an administrative enforcement capability structurally.
- Real estate agencies appear to be (unwilling) facilitators, but have no legal obligation to report irregularities.
- Utility companies could contribute to detection of the criminal use of real estate, but are very limited in their reporting duties.
- According to the respondents, the confiscation and forfeiture of buildings used in criminal activities are very scarce. The same applies to the question as to whether or not the owner of a building is complicit. Respondents request that owners of buildings would be prosecuted as well. Receiving 17,000 euros up front must at least invite some questions.
- One respondent also suggested to let the renter register the rental agreement instead of the owner and to cooperate with car/van rental services.
- Criminal procedures take a tremendous amount of time. It could take years before criminals or accomplices experience negative consequences of their behavior.
- It is virtually impossible to check whether or not someone owns property abroad. This opens opportunities for social fraud, benefits fraud and other criminal activities. There is no cooperation from Turkey or Morocco on this matter.

In other words, while there is a responsibility at the local level to detect, prevent and combat the criminal use of real estate, the capabilities with the local authorities and the police are quite limited.

One of the basic elements in enforcement is sharing information and that is currently being hampered by different legislation, regulations and cultures. Moreover, administrative approaches against organized crime are still not well-known in Belgium. There is no common ground in the Walloon region to adopt these practices and there are serious differences among municipalities and cities in Flanders too.

## References

- Agentschap innoveren en ondernemen. (2020). Bedrijfshuisvesting. Op zoek naar een geschikte bedrijfslocatie? . Retrieved from <https://www.vlaio.be/nl/begeleiding-advies/bedrijfshuisvesting/op-zoek-naar-een-geschikte-bedrijfslocatie/businesscenters>
- Anderson, A. (1995). Organised crime, mafia and governments. In G. Fiorentini & S. Peltzamen (Eds.), *The economics of organised crime* (pp. 33-54). Cambridge: Cambridge University Press.
- Bankieren voor de samenleving. Wat doen banken in de strijd tegen fraude? Retrieved from <http://www.bankierenvoordesamenleving.be/wat-doen-banken-de-strijd-tegen-fraude>
- Belga. (2017, 1 maart). Politiebonden dreigen met staking: "Regering wil einde van federale politie". *De Morgen*. Retrieved from <https://www.demorgen.be/binnenland/politiebonden-dreigen-met-staking-regering-wil-einde-van-federale-politie-b363f14e/>
- Belga. (2019, 23 augustus). Ruim 1,4 ton cannabis ontdekt in Grâce-Hollogne. *De Standaard*. Retrieved from [https://www.standaard.be/cnt/dmf20190823\\_04572256](https://www.standaard.be/cnt/dmf20190823_04572256)
- Belga. (2020a, 12 August). 1.200 kilo cocaine ontdekt in vrachtwagen, drie mannen voortvluchtig. *De Standaard*. Retrieved from [https://www.standaard.be/cnt/dmf20200812\\_96882700](https://www.standaard.be/cnt/dmf20200812_96882700)
- Belga. (2020b, 23 May 2020). Politie rolt drugslab op in Brugse Poort. *De Morgen*.
- Belgisch Staatsblad. (1921). *Wet van 24 februari 1921 betreffende het verhandelen van giftstoffen, slaapmiddelen en verdovende middelen, psychotrope stoffen, ontsmettingsstoffen en antiseptica en van de stoffen die kunnen gebruikt worden voor de illegale vervaardiging van verdovende middelen en psychotrope stoffen*. Brussels: Belgisch Staatsblad, 6 March 1921
- Belgisch Staatsblad. (1948). *Wet 21 augustus 1948 tot afschaffing van de officiële reglementering van de prostitutie*. Brussels: Belgisch Staatsblad, 13 September
- Belgisch Staatsblad. (1951). *BURGERLIJK WETBOEK. - BOEK III - TITEL VIII - HOOFDSTUK II, Afdeling 2bis : Regels betreffende de handelshuur in het bijzonder*. Brussel: Belgisch Staatsblad, 10 May 1951
- Belgisch Staatsblad. (1979). *Wet van 30 juli 1979 betreffende de preventie van brand en ontploffing en betreffende de verplichte verzekering van de burgerrechtelijke aansprakelijkheid in dergelijke gevallen*. Brussels: Belgisch Staatsblad, 20 September 1979
- Belgisch Staatsblad. (1983). *Wet van 28 december 1983 betreffende de vergunning voor het verstrekken van sterke drank*. Brussels: Belgisch Staatsblad, 30 December 1983
- Belgisch Staatsblad. (1988). *Nieuwe gemeentewet*. Brussel: Belgisch Staatsblad, 3 September 1988
- Belgisch Staatsblad. (1999). *Wet van 7 mei 1999 op de kansspelen, de weddenschappen, de kansspelinrichtingen en de bescherming van de spelers*. Brussels: Belgisch Staatsblad, 30 December 1999
- Belgisch Staatsblad. (2003). *Wet 5 augustus 2003 betreffende ernstige schendingen van het internationaal humanitair recht*. Brussel: Belgisch Staatsblad, 7 August 2003

- Belgisch Staatsblad. (2005). *Wet 10 augustus 2005 tot wijziging van diverse bepalingen met het oog op de versterking van de strijd tegen mensenhandel en mensensmokkel en tegen de praktijken van huisjesmelkers*. Brussels: Belgisch Staatsblad, 2 September 2005.
- Belgisch Staatsblad. (2013). *Wet van 24 juni 2013 betreffende de gemeentelijke administratieve sancties*. Brussels: Belgisch Staatsblad, 1 July 2013
- Bernaerts, N. (2018, 13 June). Nog 11 van 70 massagesalons open. *Het Laatste Nieuws*. Retrieved from <https://www.hln.be/in-de-buurt/antwerpen/nog-11-van-70-massagesalons-open~adb71812/>
- Bervoet, D. (2019, 2 January). Kanaalplan voor straatboefjes nodig. Retrieved from <https://www.tijd.be/politiek-economie/belgie/brussel/kanaalplan-voor-straatboefjes-nodig/10083756.html>
- Block, A. A., & Chambliss, W. J. (1981). *Organizing Crime*. New York: Elsevier North-Holland.
- Blokland, A., & David, J. (2016). Outlawbikers voor de rechter: een analyse van rechterlijke uitspraken in de periode 1999-2015. *Tijdschrift voor Criminologie*, 58(3), 42-64.
- Boels, D. U., Verhage, A. e. R. E., Jorissen, A. e., Prins, R. e., & Jaspers, J. e. (2016). Prostitutie en georganiseerde criminaliteit? De aanpak van wantoestanden binnen de sector. (2016) *CAHIERS POLITIESTUDIES*. Retrieved from <http://lib.ugent.be/catalog/pug01:7245521>
- Boterman, B. (2020, 10 March). Celstraffen tot 4 jaar gevorderd voor drugslab in kelder van café Dodengang. Cafébaas: “Halfbroer heeft me erin geluisd”. *HLN*. Retrieved from <https://www.hln.be/in-de-buurt/diksmuide/celstraffen-tot-4-jaar-gevorderd-voor-drugslab-in-kelder-van-cafe-dodengang-cafebaas-halfbroer-heeft-me-erin-geluisd~aa0d08d6/>
- Bové, L. (2018, 12 September). Gerecht houdt klopjacht op tienduizenden spookbedrijven. *De Tijd*. Retrieved from <https://www.tijd.be/politiek-economie/belgie/algemeen/gerecht-houdt-klopjacht-op-tienduizenden-spookbedrijven/10048432.html>
- Bové, L., & Schoofs, N. (2017, 21 maart). Politie-topvrouw: ‘We hebben al genoeg hervormd’. *De Tijd*. Retrieved from <https://www.tijd.be/politiek-economie/belgie-federaal/Politie-topvrouw-We-hebben-al-genoeg-hervormd/9874978>
- Brussels Hoofdstedelijk Gewest. (2003). *Ordonnantie van 17 juli 2003 houdende de Brusselse Huisvestingscode*. Brussel: Belgisch Staatsblad, 18 July 2003
- Cousaert, E. (2019). *Federale Gerechtelijke Politie Antwerpen: Stageopdracht*. UGent. Gent.
- Coveliers, H., & Desmedt, C. (1998). *Parlementaire commissie van onderzoek naar de georganiseerde criminaliteit in België. Eindverslag uitgebracht door de heren Coveliers en Desmedt*. Brussel: Belgische Senaat, Zitting 1998-1999, 8 december 1998, 1-326
- De Boye, A. (2017). *Alert besturen met bestuurlijke handhaving*. Brussels: Besafe, PowerPoint presentation, 11 May 2017, PIVO Retrieved from [https://www.besafe.be/sites/default/files/2018-05/presentatie\\_annemie\\_de\\_boy\\_e\\_studiedag\\_pivo\\_11052017.pdf](https://www.besafe.be/sites/default/files/2018-05/presentatie_annemie_de_boy_e_studiedag_pivo_11052017.pdf)
- De Middelmeer, F., Van Nimwegen, S., Ceulen, R., Gerbrands, S., Roevens, E., Spapens, T., . . . De Ruyver, B. (2018). Illegale drugsmarkten in België en Nederland: Communicerende vaten?
- De Ruyver, B. (2006). Drugs in de Lage Landen: De Belgische kant van het verhaal. *Justitiële verkenningen*, 4(1), 9.
- De Ruyver, B. (2018). De ideale schaalgrootte: De opstap naar een optimale politionele dienstverlening. In L. Gunther Moor, T. Van den Broeck, E. Devroe, & A. Verhage (Eds.), *Dienstverlening door de politie* (Vol. 46, pp. 77-92). Oud-Turnhout/'s-Hertogenbosch: Gompel&Svacina.
- De Ruyver, B., Kazadi, T., Vander Beken, T., Janssens, J., & Els, V. (2016). Bestuurlijke handhaving van georganiseerde misdaadfenomenen: een leidraad.

- De Ruyver, B., Kazadi Tshikala, T., Vander Beken, T., Janssens, J., & Vereecke, E. (2016). *Bestuurlijke handhaving van georganiseerde misdaadfenomenen: een leidraad*. Gent: UGent, IRCP.
- Deferm, S. (2020, 12 June 2020). Ontploft drugslab in woonwijk leidt tot “hallucinante ontdekking”. *Het Nieuwsblad*.
- Dierickx, R., & Verheulpen, S. (2020, 11 March). Politie rolt uiterst professionele drugsbende in Zaventem en Brussel op: cocaïne met straatwaarde van 40 miljoen euro verstoopt achter valse wanden. *Het Laatste Nieuws*. Retrieved from <https://www.hln.be/in-de-buurt/zaventem/politie-rolt-uiterst-professionele-drugsbende-in-zaventem-en-brussel-op-cocaine-met-straatwaarde-van-40-miljoen-euro-verstoopt-achter-valse-wanden~a8ada4c0/>
- Federale Politie. (2019). *Georganiseerde criminaliteit in België. Cijfers 2016-2017*. Brussel: Federale Gerechtelijke Politie, Algemene directie gerechtelijke politie, RIO DGJ-2019/4270
- FGP West-Vlaanderen. (2018). *Onderzoek: Loodsen te West-Vlaanderen inzake cannabisplantages*. Brugge: FGP West-Vlaanderen, Afdeling Drugs, PowerPoint
- Foubert, B. (2019, 31 December). Al voor tweede keer cannabisplantage ontdekt in Pitzenburghoeve, deze keer na een brand. *Het Nieuwsblad*.
- Foubert, B. (2020, 24 July). 900 cannabisplanten in professioneel drugslab, politie pakt Nederlander op. *Het Nieuwsblad*.
- HLN. (2020, 17/01/2020). Politie vindt 200 kilo coke én wapenarsenaal bij inval in loods in Bornem: 12 verdachten in de cel. *HLN*. Retrieved from <https://www.hln.be/in-de-buurt/antwerpen/politie-vindt-200-kilo-coke-en-wapenarsenaal-bij-inval-in-loods-in-bornem-12-verdachten-in-de-cel~a664a492/>
- Houwen, J. (2019, 13 December). Drugslabo's ontdekt in stallen van West-Vlaamse boerderijen, politie treft ook illegalen aan. *Het Nieuwsblad*. Retrieved from [https://www.nieuwsblad.be/cnt/dmf20191213\\_04766216](https://www.nieuwsblad.be/cnt/dmf20191213_04766216)
- Islamaj, D. (2019, 2 July). De echte prijs van goedkope nagels: steeds meer moderne slavernij en uitbuiting in Belgische nagelsalons. *VRT NWS*. Retrieved from <https://www.vrt.be/vrtnws/nl/2019/07/01/steeds-meer-moderne-slavernij-en-uitbuiting-in-belgische-nagelsa/>
- Janssens, J., & Colman, C. (2018). Het hobbelige parcours van bestuurlijke handhaving van georganiseerde criminaliteit en informatie-uitwisseling in België : al puzzelend naar een sluitend model. *Panopticon*, 4(39), 360–372.
- JaTi. (2019, 1 February). Opnieuw Antwerps hotel gesloten na ‘sterke vermoedens tienerprostitutie’. *De Standaard*. Retrieved from [https://www.standaard.be/cnt/dmf20190201\\_04146742](https://www.standaard.be/cnt/dmf20190201_04146742)
- JVH. (2019, 16 juli). Personeelstekort bij federale politie nog groter dan ten tijde van aanslagen in Brussel. *Het Nieuwsblad*. Retrieved from [https://www.nieuwsblad.be/cnt/dmf20190716\\_04512780](https://www.nieuwsblad.be/cnt/dmf20190716_04512780)
- Lefelon, P. (2018, 14 December). De Wever sluit hotel waar tienerpooiers thuis zijn. *Het Laatste Nieuws*. Retrieved from <https://www.hln.be/in-de-buurt/antwerpen/de-wever-sluit-hotel-waar-tienerpooiers-thuis-zijn~a9007824/>
- Lefelon, P. (2019, 18/12/2019). Pokerspeler waagt gok met uithaling van 444kg cocaïne. *HLN*. Retrieved from <https://www.hln.be/in-de-buurt/antwerpen/pokerspeler-waagt-gok-met-uithaling-van-444-kg-cocaine~a2d0f3a0/>
- Lefelon, P. (2020, 19 March). Tot 8 jaar cel voor drugshandel en witwassen: ‘Visboeren’ met loft in Hilton krijgen strengere straffen dan geëist. *Het Laatste Nieuws*. Retrieved from <https://www.hln.be/in-de-buurt/antwerpen/tot-8-jaar-cel-voor-drugshandel-en-witwassen-visboeren-met-loft-in-hilton-krijgen-strengere-straffen-dan-geest~a98f5fbd/>

- Mariotti, M. (2018, 07/03/2018). 12 arrestaties, groot wapenarsenaal waaronder raketlanceerder gevonden bij inval in clubhuizen Hells Angels *HLN*. Retrieved from [https://www.hln.be/nieuws/binnenland/12-arrestaties-groot-wapenarsenaal-waaronder-raketlanceerder-gevonden-bij-inval-in-clubhuizen-hells-angels~aac4bc81/?referer=https%3A%2F%2Fwww.google.be%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3D%26esrc%3Ds%26source%3Dnewssearch%26cd%3D3%26ved%3D0ahUKEwjSw4DH7M7nAhWDQEEAHYbtBboQvIgBCDMwAg%26url%3Dhttps%253A%252F%252Fwww.hln.be%252Fnieuws%252Fbinnenland%252F12-arrestaties-groot-wapenarsenaal-waaronder-raketlanceerder-gevonden-bij-inval-in-clubhuizen-hells-angels%252F%26usg%3DAOvVaw1MpgPOxvdHq\\_DXp5labsgL](https://www.hln.be/nieuws/binnenland/12-arrestaties-groot-wapenarsenaal-waaronder-raketlanceerder-gevonden-bij-inval-in-clubhuizen-hells-angels~aac4bc81/?referer=https%3A%2F%2Fwww.google.be%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3D%26esrc%3Ds%26source%3Dnewssearch%26cd%3D3%26ved%3D0ahUKEwjSw4DH7M7nAhWDQEEAHYbtBboQvIgBCDMwAg%26url%3Dhttps%253A%252F%252Fwww.hln.be%252Fnieuws%252Fbinnenland%252F12-arrestaties-groot-wapenarsenaal-waaronder-raketlanceerder-gevonden-bij-inval-in-clubhuizen-hells-angels%252F%26usg%3DAOvVaw1MpgPOxvdHq_DXp5labsgL)
- Ministerie van Justitie. (2008). *Programma Bestuurlijke Aanpak Georganiseerde Criminaliteit*. Den Haag: Ministerie van Justitie Retrieved from <https://www.burgemeesters.nl/files/File/Crisisbeheersing/docs/20080218.pdf>
- MMM. (2019, 6 December). Brand in bedrijvencomplex in Bilzen bleek productieplaats voor crystal meth. *Het Laatste Nieuws*, p. 15.
- MMM, & JWL. (2020, 20 January). Politie valt binnen in pand: miljoenen sigaretten in beslag genomen. *Het Laatste Nieuws*. Retrieved from <https://www.hln.be/in-de-buurt/lanaken/politie-valt-binnen-in-pand-miljoenen-sigaretten-in-beslag-genomen~ad863fbb/?referer=https%3A%2F%2Fwww.google.be%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3D%26esrc%3Ds%26source%3Dnewssearch%26cd%3D2%26ved%3D0ahUKEwighLWFzcvnAhVPfMAKHRTFB5EQqQIIMCgAMAE%26url%3Dhttps%253A%252F%252Fwww.hln.be%252Fin-de-buurt%252Flanaken%252Fpolitie-valt-binnen-in-pand-miljoenen-sigaretten-in-beslag-genomen%252F%26usg%3DAOvVaw0NQeHgYdhl45Bk9mr9Ndhw>
- MMV. (2020, 17 April). Politie ontdekt kleinschalig drugslab in garagebox. *Het Nieuwsblad*.
- Openbaar Ministerie. (2019). *Anoniem drugsmeldpunt Limburg*. Hasselt: Openbaar Ministerie, 17 April Retrieved from <https://www.om-mp.be/nl/slidesnews/anoniem-drugsmeldpunt-limburg>
- Persoone, S. (2018). 23 procent van de Belgische ondernemingen zijn spookbedrijven. Retrieved from <https://graydon.be/blog/23-procent-van-de-belgische-ondernemingen-zijn-spookbedrijven>
- PPN, & DIRO. (2020, 23 February). Politie ontdekt groot drugslab in vroeger rendez-voushotel. *Het Belang van Limburg*. Retrieved from [https://www.hbvl.be/cnt/dmf20200223\\_04861760/politie-ontdekt-groot-drugslab-in-vroeger-rendez-voushotel](https://www.hbvl.be/cnt/dmf20200223_04861760/politie-ontdekt-groot-drugslab-in-vroeger-rendez-voushotel)
- PPN, & MMD. (2020, 20 February). Synthetisch drugslab in villa. *Het Belang van Limburg*. Retrieved from [https://www.hbvl.be/cnt/dmf20200219\\_04856012/synthetisch-drugslab-in-villa-ondergebracht](https://www.hbvl.be/cnt/dmf20200219_04856012/synthetisch-drugslab-in-villa-ondergebracht)
- Prins, R. (2016). De bestuurlijke aanpak van georganiseerde criminaliteit in Nederland: Hoe het lokale bestuur een partner werd in de gezamenlijke strijd tegen georganiseerde criminaliteit. *Cahiers Politiestudies*, 39, 151-165.
- Raad van de Europese Unie. (2020). *Evaluatieverslag van de derde ronde van wederzijdse evaluaties met betrekking tot "de uitwisseling van informatie en inlichtingen tussen Europol en de lidstaten en tussen de lidstaten onderling". Verslag over België*. Brussel: Raad van de Europese Unie, 4 februari, 8665/1/04 REV 1DCL1, Crimorg 32. Declassified.
- Rabau, K., De Middeleer, F. c., & De Ruyver, B. p. (2017). Criminele motorbendes : bestuurlijke handhaving en criminele motorbendes : een lokaal en internationaal verhaal. In: 2017.



- TLB. (2020, 2 December). Formule 1-hotel in Zeebrugge dicht. *Het Nieuwsblad*. Retrieved from <https://www.nieuwsblad.be/cnt/rp334o4d>
- Van Damme, P., Vanhove, W., Tytgat, J., & Cuypers, E. (2017). HILCAN.
- Van de Perre, P. (2020, 22 April). “Nu een vliegende start nemen met werken Oosterweel is de enige optie om enorme vertragingen te vermijden”. *Het Nieuwsblad*. Retrieved from [https://www.nieuwsblad.be/cnt/dmf20200422\\_04930721](https://www.nieuwsblad.be/cnt/dmf20200422_04930721)
- Van der Aa, J. (2016, 20/04/2016). Criminele bendes huren leegstaande panden in Antwerpen om cannabis te telen. *Gazet van Antwerpen*. Retrieved from [https://www.gva.be/cnt/dmf20160419\\_02247399/criminele-bendes-huren-leegstaande-panden-in-antwerpen-om-cannabis-te-telen](https://www.gva.be/cnt/dmf20160419_02247399/criminele-bendes-huren-leegstaande-panden-in-antwerpen-om-cannabis-te-telen)
- Vandebroek, N. (2020, 29 February). Iraniërs en Luikenaar in cel voor druglabs. *Het Belang van Limburg*.
- Vast Comité van toezicht op de politiediensten. (2020). *Toezichtsonderzoek tot analyse van de wijze waarop de coördinatie van de gerechtelijke opdrachten door de federale politie op gedeconcentreerd niveau wordt verzekerd sinds de optimalisatie van de federale politie en van de impact daarvan op de uitvoering van deze opdrachten zowel op federaal als op lokaal niveau*. Brussel: Vast Comité van toezicht op de politiediensten
- Vlaamse Overheid. (2018). *Decreet van 9 november 2018 houdende bepalingen betreffende de huur van voor bewoning bestemde goederen of delen ervan*. Brussel: Belgisch Staatsblad, 7 December 2018
- WLE. (2020, 22 February). Onderzoek naar corruptie bij Kansspel-commissie. *De Standaard*. Retrieved from [https://www.standaard.be/cnt/dmf20200222\\_04861095](https://www.standaard.be/cnt/dmf20200222_04861095)

# Italy

## Francesco Calderoni

Professor of Criminology, Università Cattolica del Sacro Cuore, Milan

[francesco.calderoni@unicatt.it](mailto:francesco.calderoni@unicatt.it)

## 1. Introduction

This paper provides a quick review of the criminal use of private homes and business-related buildings in Italy, as a contribution to Bureau Ateneo for a comparative project commissioned by the Research and Documentation Centre of the Ministry of Justice and Security in the Netherlands. *This paper addresses phase I and phase II of the analysis*, which comprise the following questions (from the invitation letter):

- 1) In what ways are residential and business premises in Italy used for criminal purposes (as defined in our study)? And, if possible, an educated guess about the extent of these phenomena.
- 2) Do Italian authorities and/or private institutions have developed indicators to recognize criminal use of residential and business premises in Italy? And, if so, what are these indicators?
- 3) Do Italian authorities and/or private institutions have developed (legal) instruments to prevent, limit or combat the criminal use of residential and business premises? Please describe these instruments and the legal framework within which these instruments are applied.
- 4) The positive and negative experiences in combating the criminal use of residential and business premises. And the advantages and disadvantages of using these various instruments.

As required by the letter, the paper focuses on malicious *exploitation* of real estate, excluding malicious *transactions* with real estate (e.g. property acquired via threats or extortion, or property acquired through mortgage frauds). The distinctive criterion for inclusion is that a private or commercial real estate property “should be used (almost) exclusively for facilitating criminal activity” (e.g. drug production, money laundering) and not used as originally intended.

## 2. Background

The criminal use of private homes and business-related buildings is an under researched topic in criminology and criminal law. This is most likely due to the fact that the criminal use of real estate

is not a crime *per se* in any country and, in fact, may fall within different offences and illicit behaviors. The traditional focus of research is on violent and volume crimes with a clear author-victim dynamic. Much less is known about complex crimes, often connected with illicit markets, corruption, and money-laundering. These are often referred to as victimless crimes as there is no clear victim and most interactions are voluntary (e.g. a drug purchase, a bribe). For this reasons, victimless crimes are often hard to analyze, as the voluntary interactions makes it hard for the crimes to be discovered and reported.

To the best of my knowledge, there are no studies on the criminal use of real estate property as such in Italy. Nevertheless, there is no doubt that private or business-related buildings are exploited for criminal purposes in general. The simplest forms may comprise, for example, apartments in social housing blocks occupied (which is already a crime) and used by drug dealers as storage or selling points, or the running of a brothel (which is a crime in Italy). These relatively simple forms of criminal use of real estate property are rarely analyzed by researchers and very rarely reported by the media. Furthermore, more complex forms of criminal exploitation of real estate property overlaps with the analysis of different topics and criminal activities. One of these topics is the investments of organized crime groups - and especially the mafias. A second topic is the infiltration of the mafias in the legal economy and in legitimate businesses. The third relevant topic is money-laundering in general.

### **3. Exploitation of real estate for criminal purposes in Italy**

#### **3.1 Criminal use of real estate property in general**

Real estate properties in Italy are certainly exploited for criminal purposes just as in any other countries of the world. However, there is no systematic information on these conducts and on its extent, as they normally fall within different criminal law violations and are thus part of different crimes.

The letter of invitation mentions a few specific conducts, and namely the indoor growth of marijuana and the ghost occupation. Given the lack of available studies and official data<sup>7</sup>, I have conducted an open source search looking in search engines and the archives of some of the most popular national newspapers and news agencies (Repubblica.it, Corriere.it, Ansa.it) about possible cases published since 1 January 2020.

---

<sup>7</sup> The *Direzione Centrale per i Servizi Antidroga* (Central Directorate for Antidrug Services) is a unit within the Italian Ministry of Interior but comprising personnel from all the main police forces. It issues an annual report in Italian with information on the illicit drug trade in Italy. The report, however, is mostly focused on the custom and criminal justice actions against drug trafficking. It provides information on the number of operations, reported people, type of charges, seized quantities. It does not include information on raided houses or premises.

Regarding the cultivation of marijuana, the results of the search in the newspapers and news agency archive yielded a few dozen cases.<sup>8</sup> Indoor cultivation was mostly conducted in small quantities (15-50 plants) within one room or part of a room or a cave (ANSA.it 2020c; 2020b; Repubblica.it 2020b). In few occasions the quantities were larger, with different rooms dedicated to it (ANSA.it 2020e). Other news reported about marijuana grown in the property garden, open-air or inside greenhouses (Repubblica.it 2020a). According to the news, the indoor or garden cultivations were uncovered due to neighbors reports, sightings and similar investigative indications. It looks, however, that the largest cultivations in the country are open-air fields most often located in the southern regions, where the climate actually allows for the free growth of the plants. For example, several recent police operations uncovered plantations of between 1,000 and 2,000 plants (ANSA.it 2020a; 2020d).

Regarding ghost occupation, there was no match with the search, despite the use of different keywords.<sup>9</sup> Most matches regarded frauds to tourists who rented houses/apartments online and were never given access to them.

### 3.2 Mafia investments

Investments of organized crime are “any possession and/or acquisition of any type of asset in the legal economy [...] by individuals belonging to a criminal group, acting on its behalf and/or involved in one of the criminal activities ...” (Savona and Riccardi 2015, 26). To perform investments, including in the real estate, criminal groups must generate revenues and make profits.

A study conducted by Transcrime for the Italian Ministry of Interior estimated the retail level revenues from nine criminal sectors frequently associated with the mafias in Italy (sexual exploitation of women, illicit firearms trafficking, drug trafficking, counterfeiting of goods, illicit cigarette trade, illicit gambling, illicit waste disposal, loan sharking, and extortion racketeering) (Transcrime 2013a). Overall, the illicit revenues amounted to €22.8 bn, with the largest revenues coming from extortion racketeering (21.5%), loan sharking (18.9%), counterfeiting (13.5%), and drug trafficking (13.5%). Only a share of these revenues can be attributed to the mafias, generating an estimated annual revenue ranging between €8.4 bn and €13 bn (between 0.6% and 0.9% of the Italian GDP) (Calderoni 2014).

The above-mentioned mafia revenues need to be compared with the costs of running the criminal activities to determine the profits available for investment. While there is nearly no evidence about the actual costs incurred by criminal groups, Transcrime conducted some exploratory analyses of the raw costs (excluding the salaries or profits for the offenders, the costs due to law enforcement action, and eventual costs of laundering the illicit profits), determining that gross profits ranged between 55% and 90% of the revenues. Another exploratory analysis, assuming that the costs of the mafias are similar to those incurred by businesses operating in similar legal sectors, suggested that

---

<sup>8</sup> The search query included “marijuana” AND “casa” AND “coltivazione” and several similar combinations.

<sup>9</sup> The query searched for (“casa” OR “appartamento”) AND “fantasma” and different plural combinations.

the operational margins of the mafias range between €840 mn and €1.4 bn (compared to the revenues in the range €8.4-13 bn) (Transcrime 2013a). A study on the heroin market across seven European countries (including Italy) attempted a more comprehensive assessment and estimated that the net margin to be at around 17% of the revenues for the retail and middle market and at 29% for the wholesale level (Giommoni 2015). Despite the methodological difficulties in conducting these estimates, the result indicate that the mafias dispose of substantial annual revenues and profits, although much less than some figures popularized by the media and some stakeholders (Calderoni 2014). These financial resources are likely available for consumption and investments.

With the only study on the investments of the mafias, Transcrime showed that 52.3% of the assets seized or confiscated to the mafias from 1982 to 2011 (n=19991) are real estate properties, and 8.7% are enterprises. Among real estate properties, houses and apartments accounted for 42.4%, land accounts for 25.6%. A study investigated the factors affecting the spatial distribution of the confiscated real estate properties across Italian municipalities (Dugato, Favarin, and Giommoni 2015). The results showed a statistically significant association between an index of mafia presence and confiscated properties. Also, the average real estate values showed a significant correlation with confiscated properties, only when the models included also the mafia presence index. These findings showed that the investment strategies are mainly driven by proximity, and the need to control the properties (Kruisbergen, Kleemans, and Kouwenberg 2015). Overall, studies on the investments of the mafias in Italy show that real estate properties (both houses and enterprises) make up a significant share of the investments of the mafias.

This is in line with the traditional preferences of Italian of real estate investments and with the low entry barriers to the real estate market compared to alternative investments.

Notwithstanding the results from the studies reviewed above, there are no clear estimates of the size of the mafia-related real estate investments. To date, Italy has seized or confiscated more than 18 thousand real estate properties.<sup>10</sup> Nevertheless, it is impossible to establish how many of these properties were destined for the personal use of offenders (home, second home, etc.), how many were acquired for investment purposes, and how many were exploited for the commission of criminal activities.

### **3.3 Mafia infiltration in the legal economy and in legitimate businesses**

One of the most salient features of the mafias is their close connection with the political and economic dimensions of the broader society. These brought several scholars to emphasize their complexity, multidimensionality and multifunctionality (Paoli 2003; Varese 2010; Catino 2019). The mafias are thus not only and exclusively engaged in the production, trafficking and supply of illicit goods and services, but may simultaneously participate in illegal and legal ventures, adapting and

---

<sup>10</sup> Figure available on the website of the Italian National Agency for seized and confiscated assets <https://www.benisequestraticonfiscati.it/>.

or reacting to the specific social, political, cultural and environmental characteristics of the surrounding territory and society. The activities of the mafias in the political sphere and in the legal economy are often referred to as the infiltration of the mafias. Some scholars suggested that the infiltration in the legal economy resulted from the accumulation of wealth and finances from illicit activities and due to the need to diversify the investments, or from the specific competitive advantages that the mafias could enjoy compared to normal firms (e.g. access to capital at no cost, compression of workers' rights, and discouragement of competitors through intimidation and threats) (Arlacchi 1988; Catanzaro 1992). More accurate reconstructions, however, acknowledge that the process of infiltration in politics and the economy has always distinguished the mafias, even before the establishment of large illicit markets, and has often run in parallel to their engagement in illicit trades (Lupo 2011; Ciconte 2008; Santino 2006; Paoli 2002). Given the scope of the present paper, the infiltration in the legal economy is the most relevant aspect, as it may overlap with the exploitation of real estate property for criminal purposes.

The overlap between the concepts is, however, complex. The bulk of the studies on the mafia infiltration focuses on the concept of *impresa mafiosa* (mafia enterprise or mafia firm). This notion is inspired by American scholars arguing that the main function of organized crime was the provision of illicit goods and services, and that, consequently, organized crime can be analyzed as an illicit enterprise (Smith 1975; Block [1980] 1983; Reuter 1983). Italian scholars have adapted this framework to the legal economy and have often analyzed the mafia group itself as an enterprise, the organization and functioning of enterprises owned or associated to mafia members, and their impact on specific markets or on the economy in general (Arlacchi 1988; Catanzaro 1988; Gambetta 1993; Fantò 1999). More recent studies have expanded these analysis at the international level, focusing on organized crime infiltration of legal businesses, defined as “any case in which a natural person belonging to a criminal organization or acting on its behalf, or an already infiltrated legal person, invests financial and/or human resources to participate in the decision-making process of a legitimate business” (Savona and Berlusconi 2015, 19; Savona, Riccardi, and Berlusconi 2016; Savona and Riccardi 2018).

The mafias may infiltrate the legal economy and legal businesses for multiple reasons. Infiltration may occur (Savona and Berlusconi 2015; Berlusconi 2016; Riccardi, Soriani, and Giampietri 2016):

- To launder illicit proceeds
- To make profit through legal activities
- To defraud
- To support or conceal illegal activities
- To gain or consolidate social consensus and social status
- To monitor and control the activities in a given territory

The above drivers may simultaneously or separately apply to a specific market, sector, or enterprise depending on the geographical, social, economic and cultural conditions. Also the specific characteristics and preferences of individual offenders and criminal groups may influence these drivers.

In recent years, several studies have analyzed mafia infiltration in illicit businesses. Several works examined seized and confiscated enterprises, showing that nearly half of them were in the construction, retail and wholesale trade, hotel and restaurants sectors (Transcrime 2013a; Riccardi 2014). These sectors are traditionally associated with mafia infiltration due to the low entry barriers, contacts with policy makers and politicians, high cash use, low investments and technological requirements. However, the high number of confiscated enterprises may also be due to the large size of these sectors. When standardized by the number of active enterprises by economic sector, the mining and quarrying sector showed the highest rate of confiscated/active enterprises. This is likely due to its strategic importance in the cement cycle and thus to the possibility to control the construction sector in general and public works in particular (Riccardi, Soriani, and Giampietri 2016). The infiltration methods vary across time and sectors. Initially, it was not rare to see the suspects or offenders among the shareholders, beneficial owners or directors of the enterprises. Subsequently, these positions were attributed to relatives or acquaintances with no criminal records, and more recently there is an increasing use of strawmen (Riccardi 2018).

Mafia infiltration in legal businesses can often lead to the exploitation of business-related real estate property for criminal purposes. However, there is significant variation in these patterns. The different drivers of infiltration do not necessarily imply that the property is entirely used for criminal purposes. For example, offenders may infiltrate a company to gain social status, to be legally awarded public contracts, or just to engage in legal economic activity. Conversely, some businesses may be infiltrated primarily to support criminal activities. For example, transport or import-export businesses are infiltrated as a screen to protect illicit traffics, as shown by several seized/confiscated enterprises. Restaurant and bars can easily allow to launder illicit proceeds. It is difficult, however, to assess whether these enterprises were “(almost) exclusively used for facilitating criminal activity” as requested by the invitation letter as this would require a case-by-case analysis so far unavailable. Similarly, bars and restaurants used for money laundering are also likely to have catered the public at least to deflect some suspicions.

Notwithstanding the growing research on infiltration in legal businesses, there is no reliable estimation of its extent of the infiltration. To date there has been no attempt to estimate the frequencies of infiltrate businesses across the more than 5 mn enterprises in Italy or at a regional or provincial level. Existing research has often analyzed seized and infiltrated companies, whose number since 1982 amounts to several hundred (Transcrime 2013a; Riccardi 2014). To date, the Italian National Agency for seized and confiscated assets reports that more than 2,800 enterprises have been confiscated since 1982. Additional studies relied on open sources analysis, collecting references to about 1,500 cases of infiltration (Savona and Riccardi 2015; 2018). Furthermore, very limited information is available on the different types and forms of infiltration. One study attempted to classify a sample of 643 mafia enterprises across three categories (Fabrizi, Malaspina, and Parbonetti 2017): support enterprises (24% of the sample), whose existence is justified to the function of supporting criminal activities. They have lower revenues, negative balance sheets, and high costs for services. Shell

enterprises (25% of the sample) have positive turnover, but the revenues are closely correlated to the costs (correlation 99.8%) and revenues are highly volatile, thus generating no profits. This pattern of accounting suggests that the enterprises are used to launder illicit money from illicit activities. Star companies (unclear share of the sample) are characterized by high revenues and profits. The authors argue that besides their profitability, these enterprises may also have the function to provide social and economic status to the mafia members and to give access to business contacts within the local economy and local politics.

### 3.4 Money-laundering

Another field that may overlap with the criminal use of real estate is money-laundering. Also in this case, however, the overlap is complex. Money-laundering basically consist in the process of obscuring the origin of illicitly gained money and there are multiple ways to perform these operations. Consequently, even basic forms of investments may qualify as money laundering in most jurisdictions (Levi 2015; Riccardi 2018). Furthermore, organized crime infiltration into the legal economy and in legal businesses offers criminal groups one option to launder illegal funds, although infiltration could occur due to other drivers not related to money-laundering.<sup>11</sup> However, also other offenders may launder money through legitimate firms and/or real estate.

Real estate property can be used in several ways to launder money (Schneider 2004; Johannes Teichmann 2018; Unger and Ferwerda 2011). The letter of intent seemed to exclude the mere purchase of real estate property as a money laundering technique (by excluding “malicious transactions that involve money laundering construction...”), but included the use of shops/companies “that apparently have no basis of existence and are suspected of being used for money laundering”. As the discussion of the results of previous section on infiltration emphasized, however, there are a variety of situations in which enterprises are exploited by criminals. Indications of money laundering are not associated merely with companies with no apparent reason to exist (e.g. negative revenues/profits). In fact, these firms are likely exploited to support criminal activities, but not necessarily to launder money (classified as “support” enterprises by Fabrizi and colleagues (2017)). Conversely, enterprises more likely to be exploited to launder money do report revenues, but at the same time their costs are very close to the amount of revenues. These patterns may indicate that the declared revenues are fake invoices for illicit money and that the costs are a strategy to clean the money and pay offenders, partners, suppliers.

## 4. Indicators to identify criminal use of real estate in Italy

---

<sup>11</sup> Note, however, that the infiltration does not always require the use of financial resources (e.g. infiltration through threat or extortion) and that money laundering is just one of the possible drivers of the infiltration as discussed in the previous subsection.

Due to the reasons exposed above, there are currently no specific indicators to identify criminal use of real estate in Italy. Nevertheless, several research efforts have proposed indicators of mafia infiltration in legitimate businesses and money-laundering have been conducted. Adoption of these indicators by public authorities and private institutions, however, is still rare and limited to specific areas where the legislation imposes the assessment of risks. At present, these areas are: a) the anti-mafia infiltration checks imposed by the Italian legislation upon contracting authorities to award of public procurement contracts and public concessions, b) anti-money laundering requirements imposed by the EU directives upon several private institutions and professions, and c) anti-corruption assessments imposed by the Italian legislation upon public administrations. Given the partial overlap with the criminal use of real estate, these indicators and will be summarily presented.

#### 4.1 Indicators developed by research

Project Organised Crime Portfolio attempted to identify the *risks of organized crime investments* across several European countries (Savona and Riccardi 2015). In particular, the study identified the following general patterns (Riccardi, Soriani, and Standridge 2015):

- Areas that attract organized crime investments may have a strong presence of organized crime groups; be in border regions, comprise large urban areas, be tourist or coastal areas.
- Business sectors most vulnerable to organized crime investments comprise bars and restaurants; construction; wholesale and retail trade; transportation; real estate activities; and hotels.

Regarding the *risk of infiltration in specific business sectors*, a study for the Autonomous Province of Trento established a double model of risk based at the geographical and business sector level (Calderoni 2013). The risk at the geographical level included indicators of the share of small enterprises, number of bankruptcies, enterprise turnover, economic crimes, organized crimes, wealth and size of the enterprises. The risk at the sector level comprises indicators of the static and dynamics of the enterprises in the sector, and economic crimes in the sector.

Project Ariel further expanded the analysis of organized crime infiltration in legitimate businesses across different European countries (Savona and Berlusconi 2015). After reviewing past research in this field, the project proposes a risk assessment model relying on four main dimensions

- Territory: includes indicators of past evidence of infiltration, presence of organized crime groups, large urban areas, high level of infrastructures, high shadow economy and high corruption.
- Business sectors: comprising indicators of past evidence of organized crime infiltration, low levels of competition, openness to foreign investments, and technology, small average company size, low barriers to entry and weak regulation.
- Ownership: including the prevalence of limited companies, shareholders' characteristics, corporate shareholders, complex corporate structures, frequent change of company details.
- Financial management of legal businesses: low levels of financial debts, high levels of current assets, low revenues and profitability.

These indicators were empirically verified through specific analyses on confiscated enterprises in Italy (Villányi 2018).

## 4.2 Indicators adopted by institutions

As already mentioned, there are three criminal justice policy areas where Italy has introduced various types of risk assessment: anti-mafia measures against mafia infiltration in public procurement and concessions; anti-money laundering; and anti-corruption. The functioning of the anti-money-laundering regime and the anti-corruption regime, however, is only marginally overlapping with the criminal use of real estate property. For the anti-money-laundering regime, the main indicators and obligations are imposed on the financial institutions and they normally check money transfers, transactions and suspicious operations. In fact, more recent requirement imposed controls also upon public notaries but only a small share of suspicious transactions reports is coming from these professionals. It is likely that most of these reports would suggest possible purchase of real estate with illicit funds, thus falling within the malicious transactions with real estate that the invitation letter explicitly excluded from the scope of the project. The anti-corruption regime requires specific managers of the public administration to assess the risk of corruption within their organization. The system mostly focuses on checks and balances, decision-making processes within the administration, transparency and whistleblowing, with nearly no reference to real estate exploitation.

For the prevention of mafia infiltration into public procurement, the Italian authorities have established since the 1990s a system to prevent and assess the risk of mafia infiltration in public procurements (Calderoni and Di Stefano 2015).<sup>12</sup> The system is generally amenable to what normally defined as the administrative approach to organized crime, an approach that aims to prevent and discourage organized crime infiltration in the legal economy and legitimate businesses. The administrative approach was inspired by the efforts conducted in the United States and particularly in New York to eradicate the American Cosa Nostra infiltration in several economic sectors (Jacobs, Friel, and Raddick 1999). It was subsequently imported and adapted in Europe, with important applica-

---

<sup>12</sup> As already mentioned, two more fields currently comprise some forms of risk assessments and indicators. These are the anti-money-laundering regime and the anti-corruption regime. However, their functioning is only marginally overlapping with the criminal use of real estate property. For the anti-money-laundering regime, the main indicators and obligations are imposed on the financial institutions and they normally check money transfers, transactions and suspicious operations. In fact, more recent requirement imposed controls also upon public notaries but only a small share of suspicious transactions reports is coming from these professionals. It is likely that most of these reports would suggest possible purchase of real estate with illicit funds, thus falling within the malicious transactions with real estate that the invitation letter explicitly excluded from the scope of the project.

The anti-corruption regime requires specific managers of the public administration to assess the risk of corruption within their organization. The system mostly focuses on checks and balances, decision-making processes within the administration, transparency and whistleblowing, with nearly no reference to real estate exploitation.

tions in the Netherlands and the establishment of a European Network on the Administrative Approach tackling serious and organised crime (<https://eucpn.org/enaa>) (Cyrille Fijnaut 2002; Nelen and Huisman 2008; Council of the European Union 2011; Spapens, Peters, and Van Daele 2015).

The current version of the legislation is provided by Legislative Decree 159 of 2011. For larger contracts, it requires the awarding authority to request a document (informazione antimafia) from the local Prefecture. In the document, the Prefect confirms that the enterprise or person to be awarded the contract or concession does report any impediment and that there are no attempts to infiltrate, or ongoing infiltration of, the enterprise by the mafias.

The assessment of the infiltration relies on a number of situations or conditions or indicators provided by the law (Article 84, paragraph 4 of the Legislative Decree 159). In general, these comprise ongoing investigations, pretrial detention, first degree convictions, preventive orders of the owners, managers and directors of the enterprise; specific evidence collected by the Prefect through searches and investigations; substitution of owners, managers, and directors targeted by investigations, convictions and preventive orders with other individuals living with them with the aim to circumvent the anti-mafia controls.

The above-summarized indicators do not specifically refer to the criminal use of real estate as they target the broader infiltration of the mafias into public procurement. Nevertheless, some of them could be useful also to detect specific criminal exploitation of real estate property. For example, checking the criminal records or ongoing investigations of the owners of real estate properties as well the change of ownership in favor of relatives or family with no records might contribute to filter situations requiring specific attention.

## **5. Italian instruments to prevent, limit or combat the criminal use of residential and business premises<sup>13</sup>**

The current Italian antimafia legislation is the results of legislative efforts started back in the 1950s and intensified since the 1980s. A comprehensive review of this legislation falls outside the scope of this paper. However, most of the criminal and administrative measures revolve around the concept of mafia association, an offence introduced in 1982 at Article 416-bis of the Italian Criminal Code and modified in several occasions. The current version of Article 416-bis is as follows:

Article 416-bis. Mafia type associations, also foreign

1. Whoever is part of a mafia-type association consisting of three or more people is punishable with 10 to 15 years of imprisonment.
2. Whoever promotes or manages or directs such an association is punishable with 12 to 18 years of imprisonment

---

<sup>13</sup> This section draws on a chapter I co-authored (Calderoni and Di Stefano 2015). Given the substantial amendments occurred in the last years, I have updated the analysis and focused only on the measures who may overlap with the criminal use of real estate property.

3. The association is of a mafia-type when the participants use the power of intimidation of the association, and the condition of subjection and omertà (code of silence) that arises from it, to commit crimes, or to obtain – directly or indirectly – control over economic activities, public contracts or concessions, or to obtain unfair profits for themselves or others, or to impede or jeopardize the free exercise of the right to vote or to gain votes for themselves or others upon elections.
4. If the association uses weapons the penalty is from 12 to 20 years for the cases provided by the first paragraph and from 15 to 26 years for the cases provided by the second paragraph.
5. The association is armed whenever the participants have at their disposal, for the achievement of the aims of the association, weapons or explosives, even if hidden or kept in a deposit.
6. If the economic activities whose control the participants aim to achieve or maintain are financed wholly or in part with the price, the product or the profit of crimes, the penalties provided by the previous paragraphs are increased from one third to the half.
7. Upon conviction, the confiscation of the assets which served or were allocated to the commission of the crime and the assets which are its price, product, profit or investment is mandatory.
8. The provisions of this article also apply to the camorra, the ‘ndrangheta, and to other associations, whatever their local names, including foreign ones, which, taking advantage of the intimidation power of the association, pursue aims corresponding to those of mafia-type associations.

Article 416-bis not only provides a criminal offence which allowed the prosecution and conviction of thousands of offenders, but also includes the legal definition of a mafia association. This has become the reference for several additional measures introduced by Italy to prevent mafia activities. Some of these measures will be summarily examined as they may offer some indications regarding Italy’s policies against mafia exploitation of real estate property by the mafias.

The legislative decree n.159 of 2011 introduced a new code of antimafia legislation (Antimafia Code hereinafter), reorganizing and harmonizing the discipline of preventive measures, confiscations, and measures against infiltration in public procurement. Since its introduction it has been amended multiple times and it has generated a significant amount of controversies, theoretical, practical and operational debates, which have mostly concerned Italian scholars in criminal, administrative, and constitutional law (a sample of recent contributions, in Italian, are D’Angelo 2018; De Jorio 2019). From its original focus on (mostly) mafia offenders, the scope of the legislation, especially for the preventive seizure and confiscation of assets, has gradually expanded to other serious crimes.

## **5.1 Preventive seizure and confiscation of assets**

Italy was one of the first countries to introduce the seizure and confiscation of properties whose possession is not justified by a subject official wealth or income. With the adoption of the Antimafia Code the discipline has been updated, expanded and reorganized (Articles 16-26 and ff). The current legislation enables to seize any asset directly or indirectly owned or possessed by suspect of being part of a mafia association and other categories of individuals listed in Article 4 of the Antimafia Code. The seizure is ordered by a court upon a prosecutor's request whenever the assets are disproportioned compared to the suspect's revenue, his/her economic activity, or when there are enough clues to believe the assets are the product or reinvestment of illicit activities.

The seized assets are subsequently confiscated after a procedure where the owner can provide evidence of their legitimate origin. If the owner has transferred or lost the property of the assets, the court may impose the seizure and confiscation of assets of equivalent value. Furthermore, the seizure is possible also if the assets are fictitiously alienated to others during the procedure.

The seizure and confiscation procedures above summarized are independent from the criminal prosecution of the owner for any crime (non-conviction based confiscation).

Overall, these measure can apply to any type of asset, from cash to shares and real estate property. They are often deployed against real estate properties as these assets are often easily traceable through public registers and notaries. The gradual expansion of the scope of the preventive measures (originally mostly for mafia members) to a broader set of situations make the policy particularly relevant. However, the actual use of a property is only partially relevant for its seizure and confiscation according to the Antimafia Code.

## **5.2 Administrative prevention of mafia infiltration in public procurement**

Italy has introduced a preventive system against mafia infiltration in public procurement since 1994. With the Antimafia Code, the matter has been substantially reorganized, streamlined and amended. In general, the system is called antimafia documentation (*documentazione antimafia*) as public authorities or specific bodies (e.g. professional councils, chambers of commerce) are required to obtain documentation authorizing the award of public contracts, concessions, licenses, grants, and other decisions to individuals and enterprises.

The main goal of the antimafia documentation system is to verify whether an individual or enterprise has connections with the mafia. In practice, this is performed by checking whether important individuals in an enterprise are in specific situations listed by the Antimafia Code. If any individual or an enterprise is in one or more of the situations specified by the law, the documentation acquired by the authorities indicates it and this prevents the award of contracts and grants, and the issue licenses, or authorizations.

According to Article 85 of the Antimafia Code, the checks for the *documentazione antimafia* must include the owners, and technical managers of individual enterprises, legal representatives of associations, cooperatives and consortia, the majority partners in companies, all the members of general partnerships, all the general partners in limited partnerships, all local representatives of companies, European economic interest groupings (EEIGs), members of company audit committees (even if the company lacks legal personality), persons who manage and represent foreign companies (without a second Italian home office) and gambling dealers (organized into capital-based companies). Also, the checks extend to the cohabiting family members (older than 18 years old) of the above individuals.

Article 67 of the Antimafia Code provides that an individual who has a preventive measures imposed on him or is convicted of serious offences listed under Article 51 paragraph 3-bis of the Italian Criminal Procedure Code cannot be issued any kind of license or authorization, including licenses or police authorizations, public concessions, concessions for public works, registration in public registers (i.e. the Chamber of Commerce), attestations to carry out public works, public funding and firearms licenses. If the court imposes a preventive measure on an individual all the above mentioned licenses and registrations and authorizations are withdrawn.

According to Article 83 paragraph 1 and 2 of the Antimafia Code, before contracting or issuing concessions or grants, contracting authorities must obtain the required type of antimafia documentation from the Prefecture.<sup>14</sup> There are two types of documentation: the *comunicazioni* or the *informazioni*. The *comunicazione antimafia* certifies the absence of any impediment as prescribed by Article 67 of the Antimafia Code, i.e. grounds for disqualification, banishment or suspension based on a preventive measure or a criminal conviction for offences listed in Article 51, paragraph 3-bis of the Italian Criminal Procedure Code. The *comunicazione* is normally issued within a short deadline since the implementation of the national antimafia database. The prefecture checks whether the required individuals fall within the categories of Article 67 and eventually verifies the results, which may lead to additional controls.

The *informazione antimafia* has a wider scope, allowing investigation of any attempt at mafia infiltration into a company and providing the prefect and law enforcement agencies greater flexibility. In addition to the checks required for the *comunicazione*, the prefect can undertake investigations

---

<sup>14</sup> The Prefect is a high-level administrative civil servant who has general competence to act on behalf of government at the provincial level. The prefect operates under the authority of the Italian Ministry of the Interior and is in charge of the Prefecture-Territorial Government Office (UTG). It has competence on public order and security at the provincial level; guarantees the security and safety of citizens, the protection of properties and compliance with national and regional laws and local ordinances. The prefect has access to police forces to enforce these tasks. If the public interest so requires, he may adopt essential measures, called 'ordinances' or 'decrees'. Furthermore, in the relationship between State and local administrators, he assumes the role of guarantor of administrative activities. This includes monitoring correct procedure during local elections and supervising the suspension of city council administrators.

(similar to criminal investigations) to prove the presence of mafia infiltration based on the indicators already mentioned in section 4.2 and listed at Article 84 para 4 of the Antimafia Code). In addition, the prefect has the option of further monitoring and the right to make on-site checks at the construction sites of any company awarded public works contracts. Therefore, while the *comunicazione* is the mere check of specific situations, the *informazione* requires some forms of risk-assessment process guided by the criteria and indicators listed in the Antimafia Code.

The type of documentation required (whether the *comunicazione* or the *informazione*) depends on the size of the contract or funding:

- when the value of the procurement contract or the grant is below €150,000, no antimafia documentation is required (Article 83 para 3 e))
- when the contract value is above €150,000 but below the EU threshold for public procurement (€5m for public works, and €200,000 for service and supply contract), the *comunicazione antimafia* is required;
- when the contract value exceeds the EU threshold, for any subcontract above €150,000, or in specifically defined cases (e.g. in some sectors such as garbage disposal or concrete supply the *informazione* is always required independently from the value of the contract), the *informazione antimafia* is required (Article 91 of the Antimafia Code).

For contracts requiring a *comunicazione*, Italy has adopted a self-certification system to streamline the procedure in some cases (unavailable if an *informazione* is required) at Article 89 of the Antimafia Code. The self-certification system allows a subject to attest to the absence of impediments as provided for in Article 67 of the Antimafia Code. Self-certification is possible for urgent contracts, for the renewal of contracts, for private activities subject to the administrative system of notification by a citizen or an enterprise at the start of the work, and for activities subject to the system of tacit approval. The self-certification is thus widely applied, for example for the opening of commercial activities.

## **6. The positive and negative experiences in combating the criminal use of residential and business premises**

As already mentioned, Italy has no specific measures against the criminal use of residential and business premises. Such conducts are not a crime *per se* and may fall within different criminal law provisions, different criminal activities (organized crime investment, infiltration in the legal economy, money laundering). This also implies that there is no systematic collection of data enabling to measure the extent of the criminal use.

These considerations suggest that Italy does not consider the criminal use of real estate properties as a specific issue requiring targeted intervention. Rather, the criminal use is considered in the wider context of other crimes, activities and policies.

The experience with the two policies reported above (preventive seizure and confiscation and *documentazione antimafia*) are hard to summarize in a few lines, as these policies have been in place for several decades now and the pace of amendments and reforms has been steady since their introduction. Nevertheless, some very concise considerations, mostly focused on the goal of Bureau Ateneo's study, may be useful.

Regarding the seizure and confiscation of unjustified assets, problematic issues comprise its compliance with citizens' rights and freedoms, its comprehensiveness, and the management of the assets. First, the preventive seizure and confiscation has been traditionally criticized as it imposed significant sanctions on individuals not convicted for any criminal offence. The nature of the sanctions has been traditionally a controversial point, with different positions in the jurisprudence (e.g. criminal penalties, security measures, or administrative sanctions). It basically inverted the burden of proof for any unjustified asset. The matter has been frequently discussed before the Italian courts and the European Courts of Human Rights, which have so far largely upheld the policy, considering that the rights of defense and judicial review are guaranteed and that actions against illicit assets may follow different principles than criminal penalties. Second, the policy has often showed loopholes and gaps. What if, for example, the assets are legally transferred to others in good faith before the seizure/confiscation? What if the seizure and confiscation is annulled after the asset has been destroyed or manipulated? What if the assets are legally owned by family members (wife, children) of a mafia member or by strawmen? It took years to address these gaps and the process is far from complete. The adoption of the Antimafia Code has been a major step to clarify and streamline the discipline but the sheer amount of amendments since 2011 shows the complexity of the matter. Third, the application of the policy has increased the number of assets confiscated to several thousands. While cash and vehicles may be easily used or sold, the management of real estate property and enterprises proved much more difficult. Anti-mafia associations have successfully campaigned for the introduction of policies requiring that confiscated assets should primarily be destined for social purposes and to the benefit of the community instead of sold (Vettori 2006; 2018). While this is theoretically promising, it has generated substantial issues. Many real estate properties were in territories with strong mafia control, sometimes next to the residence of the former owners. Social use of such assets would require the public institutions' capacity to plan, manage and run specific social projects. Renovation of the premises and the ordinary functioning of the activities would require financial and human resources not always available. The situation for confiscated enterprises may be even more complex: some enterprises were just shell companies, others were functioning merely due to mafia members' threats, intimidation and favor-exchanges. An evaluation of some of these projects showed the difficulties in achieving the theoretical goal of the social use (Transcrime 2013b).

While these issues are relevant and still open, it should not be neglected that Italy's action in tackling criminal wealth has yielded some successes. Italy has increasingly seized and confiscated thousands of criminal assets, expanded the scope of the discipline from mafia offenders to corruption, money laundering, international terrorism and further. The policy, jointly with the standard confiscation

following a criminal conviction, makes it possible to tackle assets used for or resulting from criminal activities at a relatively early stage and independently from lengthier criminal proceedings. The policy can easily be deployed against the criminal use of residential and business premises and has been used so to confiscate a number of houses, apartments, bars, and restaurants.

Regarding the anti-mafia documentation, in addition to the legal issues and the difficult interpretation due to the multiple amendments and constant administrative and constitutional jurisprudence, the problematic issues include the complexity of the checks especially when the informazione is required, the costs and burdens for public institutions and enterprises, and the possibility that the decisions are overturned by the administrative courts. First, until the introduction of the Antimafia Code, the checks of the *documentazione antimafia* relied on access to several databases and investigations by the prefect through the police forces. Furthermore, once a negative *documentazione* was issued (i.e. a *documentazione* declaring that the enterprise should not be awarded a contract or license) the information and related evidence were not shared with all prefectures and interested institutions. With the adoption of the Antimafia Code, a national database of antimafia documentation has been created, which allows not only to automatically check for specific situations and conditions that may justify a negative documentation, but also to share all documentations issued by any prefecture. While this has improved the situation, the checks for the informazione are still largely discretionary and flexible. The list of indicators or elements provided by Article 84 of the Antimafia Code is broad and leaves significant room of manoeuvre to the prefecture. Some prefects may be more aggressive in their interpretation, others may be more tolerant, also in consideration of the workload and available resources for the necessary checks. Second, the system imposes significant burdens and costs to the public administration and to the enterprises. Public administration such as municipalities and ministries need to wait for the documentation issued by the prefects. While for the *comunicazioni* the procedure has been substantially streamlined with the national database, for the *informazioni* the prefect has a deadline of 30 days for the issue of the document. The current situation is nevertheless a substantial improvement compared to the previous discipline, which allowed longer deadlines. Still it may delay any administrative procedure. Furthermore, a negative *documentazione* has a strong impact on the affected businesses, also in terms of image. Given the discretion and the complexity of the matter, and the fact that the procedure does not require the enterprise to be heard, many decisions are appealed against through the administrative courts, which may suspend the *documentazione*, block a contract, and cause financial costs. Lastly, the *documentazione antimafia*, just like any administrative act in Italy, is subject to the judicial review of the administrative courts. While this is an essential guarantee for the enterprise affected by a negative *documentazione*, especially considering that they have no right to be heard or consulted before the issue of the *documentazione*, this further jeopardizes the process. It is not uncommon for administrative judges to declare null and void the prefect decisions on several grounds both of merit and procedure.

It is hard to assess the impact and the added value of the *documentazione antimafia* system. It certainly provides some deterrence, at least for the most direct forms of mafia control of legitimate

businesses. It has prevented several attempts of infiltration in public procurement. Given the size of public expenditure, it is likely that the advantages (in terms of justice, better contracts, lower prices, timely delivery and similar benefits) outweigh the costs (in terms of staff and resources required to the prefectures and the awarding authorities as well as lost time and required paperwork to the enterprises). Still, there has been no attempt to evaluate the policy from a criminal justice or economic point of view. While the advantages are rarely tangible, the costs are quite evident and often criticized by stakeholders and scholars. Before the entry into force of the Antimafia Code and of the national database, the number of negative *documentazioni* was in the range of a few hundred per year out of several tens of thousands requests, with a rate lower than 1% of the total requests. There is some evidence that since 2011 the numbers have grown as a result of the new discipline, of better data access, of improved sharing of *negative documentazioni*, and possibly more attention and training on the subject. Still, the increasing use of strawmen to control enterprises, the complexity and costs of the checks and the strong ties between mafia groups and certain individuals in the public administration still pose important challenges.

## References

- ANSA.it. 2020a. “Scoperta piantagione droga, 5 arresti - Calabria.” Agenzia ANSA. June 3, 2020. [https://www.ansa.it/calabria/notizie/2020/06/03/scoperta-piantagione-droga5-arresti\\_183df883-9f13-45f6-bcc0-89980e789193.html](https://www.ansa.it/calabria/notizie/2020/06/03/scoperta-piantagione-droga5-arresti_183df883-9f13-45f6-bcc0-89980e789193.html).
- . 2020b. “In casa 44 piante di marijuana, arrestato dai Carabinieri - Notizie - Molise.” Agenzia ANSA. June 25, 2020. [https://www.ansa.it/molise/notizie/2020/06/25/in-casa-44-piante-di-marijuana-arrestato-dai-carabinieri\\_c11a82a9-ca59-4d26-8306-321a4782f3b3.html](https://www.ansa.it/molise/notizie/2020/06/25/in-casa-44-piante-di-marijuana-arrestato-dai-carabinieri_c11a82a9-ca59-4d26-8306-321a4782f3b3.html).
- . 2020c. “Coltiva marijuana in casa, arrestato a Bernalda - Basilicata.” Agenzia ANSA. June 26, 2020. [https://www.ansa.it/basilicata/notizie/2020/06/26/coltiva-marijuana-in-casa-arrestato-a-bernalda\\_89f731c4-9f9d-4b3b-8281-00a8e19d9c15.html](https://www.ansa.it/basilicata/notizie/2020/06/26/coltiva-marijuana-in-casa-arrestato-a-bernalda_89f731c4-9f9d-4b3b-8281-00a8e19d9c15.html).
- . 2020d. “Droga: scoperte 2 piantagioni nel reggino, 4 arresti - Calabria.” Agenzia ANSA. July 1, 2020. [https://www.ansa.it/calabria/notizie/2020/07/01/droga-scoperte-2-piantagioni-nel-reggino-4-arresti\\_eff717d1-766c-4bdd-86ba-96203d09ad18.html](https://www.ansa.it/calabria/notizie/2020/07/01/droga-scoperte-2-piantagioni-nel-reggino-4-arresti_eff717d1-766c-4bdd-86ba-96203d09ad18.html).
- . 2020e. “Coltiva 500 piante di marijuana in casa - Liguria.” Agenzia ANSA. August 19, 2020. [https://www.ansa.it/liguria/notizie/2020/08/19/coltiva-500-piante-di-marijuana-in-casa\\_9b226f86-b85e-4335-affc-ee69f9b71817.html](https://www.ansa.it/liguria/notizie/2020/08/19/coltiva-500-piante-di-marijuana-in-casa_9b226f86-b85e-4335-affc-ee69f9b71817.html).
- Arlacchi, Pino. 1988. *Mafia Business: The Mafia Ethic and the Spirit of Capitalism*. Oxford: Oxford University Press.
- Berlusconi, Giulia. 2016. “Organised Criminals and the Legal Economy.” In *Organised Crime in European Businesses*, edited by Ernesto U. Savona, Michele Riccardi, and Giulia Berlusconi, 4–15. London - New York: Routledge.
- Block, Alan A. (1980) 1983. *East Side, West Side: Organizing Crime in New York 1930-1950*. New Brunswick, NJ: Transaction Publishers.
- Calderoni, Francesco, ed. 2013. *METRiC: Monitoraggio Dell'Economia Trentina Contro Il Rischio Criminalità*. Trento: Transcrime - Università degli Studi di Trento. <http://www.transcrime.it/wp-content/uploads/2013/10/METRiC-1+21.pdf>.

- . 2014. “Mythical Numbers and the Proceeds of Organised Crime: Estimating Mafia Proceeds in Italy.” *Global Crime* 15 (1–2): 138–63. <https://doi.org/10.1080/17440572.2014.882778>.
- Calderoni, Francesco, and Fiammetta Di Stefano. 2015. “The Administrative Approach in Italy.” In *Administrative Measures to Prevent and Tackle Crime: Legal Possibilities and Practical Application in EU Member States*, edited by Antonius C. M. Spapens, Maaïke Peters, and Dirk Van Daele, 239–64. Den Haag: Eleven International Publishing.
- Catanzaro, Raimondo. 1988. *Il delitto come impresa. Storia sociale della mafia*. Serendipity 9. Padova: Liviana Editrice.
- . 1992. *Men of Respect: A Social History of the Sicilian Mafia*. New York: Free Press.
- Catino, Maurizio. 2019. *Mafia Organizations: The Visible Hand of Criminal Enterprise*. Cambridge: Cambridge University Press.
- Ciconte, Enzo. 2008. *'Ndrangheta*. Soveria Mannelli (Catanzaro): Rubbettino.
- Council of the European Union. 2011. “A Multidisciplinary Approach to Organised Crime: Administrative Measures, Judicial Follow-up, and the Role of Eurojust - Copenhagen, 11-13 March 2012 - Outcome Report (Council Document 11298/12).”
- D’Angelo, Giovanni. 2018. “Le Interdittive Antimafia.” In *Codice Delle Confische*, edited by Tomaso Epidendio and Gianluca Varraso, 1125–69. Milano: Giuffrè Editore.
- De Jorio, Jean Paul. 2019. *Le Interdittive Antimafia Ed Il Difficile Bilanciamento Con i Diritti Fondamentali*. Napoli: Jovene.
- Dugato, Marco, Serena Favarin, and Luca Giommoni. 2015. “The Risks and Rewards of Organized Crime Investments in Real Estate.” *British Journal of Criminology* 55 (5): 944–65. <https://doi.org/10.1093/bjc/azv002>.
- Fabrizi, Michele, Patrizia Malaspina, and Antonio Parbonetti. 2017. “Caratteristiche e modalità di gestione delle aziende criminali.” *Rivista di Studi e Ricerche sulla criminalità organizzata* 3 (1): 47–66. <https://doi.org/10.13130/cross-8281>.
- Fantò, Enzo. 1999. *L'impresa a Partecipazione Mafiosa. Economia Legale Ed Economia Criminale*. Bari: Edizioni Dedalo.
- Fijnaut, Cyrille. 2002. “The Administrative Approach to Organised Crime in Amsterdam: Background and Developments.” In *The Administrative Approach to (Organised) Crime in Amsterdam*, edited by C. Fijnaut, 15–30. Amsterdam: Public Order and Safety Department, City of Amsterdam.
- Gambetta, Diego. 1993. *The Sicilian Mafia: The Business of Private Protection*. Harvard University Press.
- Giommoni, Luca. 2015. “From the Generation of Illicit Proceeds to Investments in the Legal Economy.” In *From Illegal Markets to Legitimate Businesses: The Portfolio of Organised Crime in Europe*, edited by Ernesto U. Savona and Michele Riccardi, 144–47. Trento: Università degli Studi di Trento. <http://www.transcrime.it/pubblicazioni/the-portfolio-of-organised-crime-in-europe/>.
- Jacobs, James B., Coleen Friel, and Robert Raddick. 1999. *Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime*. New York: NYU Press.
- Johannes Teichmann, Fabian Maximilian. 2018. “Real Estate Money Laundering in Austria, Germany, Liechtenstein and Switzerland.” *Journal of Money Laundering Control* 21 (3): 370–75. <https://doi.org/10.1108/JMLC-09-2017-0043>.
- Kruisbergen, Edwin W., Edward R. Kleemans, and Ruud F. Kouwenberg. 2015. “Profitability, Power, or Proximity? Organized Crime Offenders Investing Their Money in Legal Economy.” *European Journal on Criminal Policy and Research* 21 (2): 237–56. <https://doi.org/10.1007/s10610-014-9263-5>.

- Levi, Michael. 2015. "Money for Crime and Money from Crime: Financing Crime and Laundering Crime Proceeds." *European Journal on Criminal Policy and Research* 21 (2): 275–97. <https://doi.org/10.1007/s10610-015-9269-7>.
- Lupo, Salvatore. 2011. *History of the Mafia*. New York: Columbia University Press.
- Nelen, H., and Wim Huisman. 2008. "Breaking the Power of Organized Crime? The Administrative Approach in Amsterdam." In *Organized Crime: Culture, Markets and Policies*, edited by Dina Siegel and Hans Nelen, 207–18. New York: Springer.
- Paoli, Letizia. 2002. "The Paradoxes of Organized Crime." *Crime, Law and Social Change* 37: 51–97.
- . 2003. *Mafia Brotherhoods: Organized Crime, Italian Style*. Studies in Crime and Public Policy. Oxford; New York: Oxford University Press.
- Repubblica.it. 2020a. "La marijuana 'made in Dergano.'" Archivio - la Repubblica.it. 2020. <https://ricerca.repubblica.it/repubblica/archivio/repubblica/2020/04/14/la-marijuana-made-in-derganoMilano01.html>.
- . 2020b. "Palermo, serra di marijuana nel seminterrato e spaccio 'chilometro zero' - la Repubblica." Repubblica TV - Repubblica. June 6, 2020. <https://video.repubblica.it/edizione/palermo/palermo-serra-di-marijuana-nel-seminterrato-e-spaccio-chilometro-zero/361828/362386>.
- Reuter, Peter. 1983. *Disorganized Crime: The Economics of the Visible Hand*. Cambridge: MIT Press.
- Riccardi, Michele. 2014. "When Criminals Invest in Businesses: Are We Looking in the Right Direction? An Exploratory Analysis of Companies Controlled by Mafias." In *Organized Crime, Corruption and Crime Prevention*, edited by Stefano Caneppele and Francesco Calderoni, 197–206. New York: Springer International Publishing. [http://link.springer.com/chapter/10.1007/978-3-319-01839-3\\_23](http://link.springer.com/chapter/10.1007/978-3-319-01839-3_23).
- . 2018. "SOC Infiltration in Europe: An Overview." In *Mapping the Risk of Serious and Organised Crime Infiltration in European Businesses – Final Report of the MORE Project*, edited by Ernesto U. Savona and Michele Riccardi, 35–60. Milan: Transcrime - Università Cattolica del Sacro Cuore.
- Riccardi, Michele, Cristina Soriani, and Valentina Giampietri. 2016. "Mafia Infiltration in Legitimate Companies in Italy. From Traditional Sectors to Emerging Businesses." In *Organised Crime in European Businesses*, edited by Ernesto U. Savona, Michele Riccardi, and Giulia Berlusconi, 120–40. London - New York: Routledge.
- Riccardi, Michele, Cristina Soriani, and Priscilla Standridge. 2015. "Organised Crime Investments in Europe." In *From Illegal Markets to Legitimate Businesses: The Portfolio of Organised Crime in Europe*, edited by Ernesto U. Savona and Michele Riccardi, 150–65. Trento: Università degli Studi di Trento. <http://www.transcrime.it/pubblicazioni/the-portfolio-of-organised-crime-in-europe/>.
- Santino, Umberto. 2006. *Dalla Mafia Alle Mafie: Scienze Sociali e Crimine Organizzato*. Soveria Mannelli: Rubbettino.
- Savona, Ernesto U., and Giulia Berlusconi, eds. 2015. *Organized Crime Infiltration of Legitimate Businesses in Europe: A Pilot Project in Five European Countries. Final Report of Project ARIEL – Assessing the Risk of the Infiltration of Organized Crime in EU MSs Legitimate Economies: A Pilot Project in 5 EU Countries*. Trento: Transcrime - Università degli Studi di Trento.
- Savona, Ernesto U., and Michele Riccardi, eds. 2015. *From Illegal Markets to Legitimate Businesses: The Portfolio of Organised Crime in Europe*. Trento: Università degli Studi di Trento. <http://www.transcrime.it/pubblicazioni/the-portfolio-of-organised-crime-in-europe/>.
- , eds. 2018. *Mapping the Risk of Serious and Organised Crime Infiltration in European Businesses – Final Report of the MORE Project*. Milan: Transcrime - Università Cattolica del Sacro Cuore.
- Savona, Ernesto U., Michele Riccardi, and Giulia Berlusconi, eds. 2016. *Organised Crime in European Businesses*. London - New York: Routledge.

- Schneider, Stephen. 2004. "Organized Crime, Money Laundering, and the Real Estate Market in Canada." *Journal of Property Research* 21 (2): 99.
- Smith, Dwight C. 1975. *The Mafia mystique*. New York: Basic Books.
- Spapens, Antonius C. M., Maaïke Peters, and Dirk Van Daele, eds. 2015. *Administrative Measures to Prevent and Tackle Crime: Legal Possibilities and Practical Application in EU Member States*. Den Haag: Eleven International Publishing.
- Transcrime. 2013a. "Progetto PON Sicurezza 2007-2013: Gli investimenti delle mafie. Rapporto Linea 1." Milano: Ministero dell'Interno. [www.investmentioc.it](http://www.investmentioc.it).
- . 2013b. "Progetto PON sicurezza 2007-2013. Il riutilizzo dei beni confiscati." Rapporto Linea 2. Milano: Transcrime.
- Unger, Brigitte, and Joras Ferwerda, eds. 2011. *Money Laundering in the Real Estate Sector: Suspicious Properties*. Edward Elgar Pub.
- Varese, Federico. 2010. "General Introduction: What Is Organized Crime?" In *Organized Crime*, edited by Federico Varese, 1–35. *Critical Concepts in Criminology*. New York: Routledge.
- Vettori, Barbara. 2006. *Tough on Criminal Wealth Exploring the Practice of Proceeds from Crime Confiscation in the EU*. Dordrecht: Springer.
- . 2018. "The Disposal of Confiscated Assets in the EU Member States: What Works, What Does Not Work and What Is Promising." In *The Palgrave Handbook of Criminal and Terrorism Financing Law*, edited by Colin King, Clive Walker, and Jimmy Gurulé, 705–33. Cham: Springer International Publishing. [https://doi.org/10.1007/978-3-319-64498-1\\_29](https://doi.org/10.1007/978-3-319-64498-1_29).
- Villányi, Benjámín. 2018. "Risk Factors at the Micro Level." In *Mapping the Risk of Serious and Organised Crime Infiltration in European Businesses – Final Report of the MORE Project*, edited by Ernesto U. Savona and Michele Riccardi, 89–100. Milan: Transcrime - Università Cattolica del Sacro Cuore.

# Czech Republic

**Petr Zeman**

Institute of Criminology and Social Prevention, Prague, Czech Republic

Prague, April 2020

## 1. Forms of criminal use of private homes and business-related buildings

The Czech Republic is a medium-sized European country situated in the centre of the continent; it is a part of the European Union and Schengen area. As such, it experiences virtually all kinds and forms of crime common to similar European countries, including different forms of (transnational) organized crime. The current situation is a result of the country's development since the transformation of the political system towards an open democratic society in 1989, which involved profound changes in the economy, state administration, justice system, social structure and culture. Similarly, we can say that the use of real estate properties for criminal purposes takes place in the same areas of crime as in other European countries. Based on an analysis of official documents (annual reports of relevant police services, situation reports on internal security and public order) and the results of interviews with participants in the expert survey, it can be concluded that the use of real estate properties for criminal purposes in the Czech Republic happens most frequently in the following areas:

### 1.1 Cultivation / manufacture of drugs

Drug crime (offences consisting in the illegal manufacture, distribution or possession<sup>15</sup> of narcotic drugs and psychotropic substances) forms 2 – 3% of all offences registered by the police in the Czech Republic in recent years. This criminal activity usually relates to the unauthorized handling of methamphetamine (pervitin) and cannabis – offenders arrested for the unauthorized handling of these substances make up approx. 90% of all arrested drug offenders in the long term. The Czech Republic is well-known as a major producer of methamphetamine, not only for the domestic market, but also for export. The cultivation of cannabis plant for the purpose of cannabis drugs production is also widespread here. In both cases, this activity can be found on both a small scale and large (industrial) scale. The manufacture of methamphetamine at home has a long tradition in the Czech Republic dating back to the communist era when closed borders meant the absence of “classic” drugs like heroin or cocaine on the domestic market. The manufacture of pervitin in small community-run laboratories is still prevailing today, but at the same time the volume of large industrial scale manufacturing operations is growing, organized by criminal groups to meet foreign demand.

---

<sup>15</sup> The use of drugs itself is not a criminal offence in the Czech Republic.

With regard to the cultivation of cannabis plant, the Czech Republic, like other countries, has experienced a massive increase in cultivation using indoor technology. This technology is used by both small-scale growers only producing drugs for their own use or for their close community, as well as organized groups producing marijuana on an industrial scale.

There are two basic types of real estate properties used for the purpose of manufacturing methamphetamine – apartments and houses, i.e. buildings intended for permanent residence. Recreational properties like cottages and chalets, or small buildings in gardens and on agricultural land like garden sheds and outhouses, are often used as well. These real estate properties are usually rented for the purpose of manufacturing methamphetamine, though in some case (more for small-scale manufacture), they are owned directly by one of the offenders or their family, but this is quite rare given that the manufacturing process seriously contaminates the premises in which it takes place. Methamphetamine laboratories can also be found in rented industrial and farm buildings (factories, halls, warehouses...), garages and different deserted properties like former church buildings, closed schools, etc. In some registered cases, the offenders manufactured pervitin in a hotel/hostel room. In a few exceptional cases, the lab was disclosed in properties such as a wine-cellar, camp, hospital, restaurant, marketplace or car wash. Large-scale production of methamphetamine has remained in the hands of criminal groups specialising exclusively in this particular type of illegal business. Most of them are predominantly of Vietnamese origin and most of their output is intended to meet the demand from abroad. According to police intelligence, these groups frequently move their large-scale production of methamphetamine amongst rented properties in different regions of the Czech Republic. Each such real estate property is used for one or two production cycles only. By moving their manufacturing back and forth, the offenders strive to avoid detection and get easier access to precursors or pre-precursors for their manufacture.

Growing sites, i.e. premises where cannabis plants are cultivated, are also detected in buildings intended for permanent residence most often – i.e. houses and apartments. Small-scale cultivation often takes place on premises owned by the grower or their family, while large-scale growing sites are found on properties rented from a third party more often. Other types of real estate properties used for the cultivation of cannabis include industrial and farm buildings (e.g. properties of former agricultural cooperatives), garages or deserted buildings. Even outdoor premises such as gardens, fields, glasshouses or deserted industrial sites or farm grounds are used for the cultivation of cannabis. Large-scale (industrial) cannabis cultivation is mainly operated by Vietnamese and Balkan criminal groups.

Besides the cultivation of cannabis plant and manufacture of methamphetamine, certain types of real estate properties are also used – in the connection with drug crime –as transit warehouses for drugs, precursors, or even waste products originating from the manufacture of drugs (see below). These are buildings suitable for such purpose, i.e. usually detached or deserted warehouses, factories, garages etc.

A secondary, but no less serious problem connected to the use of real estate properties for drug manufacturing is their contamination with toxic substances, which not only affects the building where manufacturing takes place but also its wider surroundings. Each methamphetamine laboratory leaves behind a contaminated / polluted area surrounding buildings, land, soil, waste water and underground water. Remedying these damages is very demanding and expensive.

## 1.2 Money laundering

Real estate properties are often used to legalise the proceeds of crime (especially organized crime) when it is necessary to get considerable amounts of money, representing the profit from criminal activity, out of the sight of financial institutions and the government. Therefore, offenders invest their criminal gains in different types of real estate properties – apartments, houses, land, businesses etc. These are usually luxury apartments, profitable buildings in the centre of major cities, large premises in new residential areas, development sites in the vicinity of major urban areas, etc. Some of these apartments or houses subsequently accommodate the needs of their new owner (the offender), others are kept unused as a simple investment and the rest are rented out to third parties, usually for entirely legal purposes.

Money laundering (legalisation of the proceeds of crime) through different business premises like shops, bars, restaurants, cafés, etc., once widespread among foreign criminal groups (Vietnamese, Chinese...), is no longer as common in its exclusive form today. In other words, these business premises still often partially serve for money laundering by their owners, but only as a subsidiary activity to regular legal business.<sup>0</sup>

And finally, some types of real estate properties (bars, clubs, apartments, houses), purchased with the proceeds of crime, are often used to pursue illegal or “semi-legal” activities like prostitution<sup>16</sup>, gambling etc.

## 1.3 Storage of stolen goods from fraudulent international truck haulage

A specific way in which real estate properties are used for criminal activities is their use for the storage of goods gained illegally from fraudulent international truck haulage. Fraudulent international truck haulage consists in cases where an organized criminal group pretends to be a regular road transport company, then takes a load (goods) that should be delivered from the supplier based in one country to the customer based in another one, but instead sells the goods and keeps the profit for itself. Since road transport companies are hired through the so-called freight exchange, where only well-established and reliable companies can compete for a contract, criminal groups either use

---

<sup>16</sup> Prostitution is not a criminal offence in the Czech Republic and it is not regulated by law at all. Certain related activities are prosecuted as a criminal offence, like pimping, human trafficking, sexual exploitation of minors, etc.

(steal) the identity of an existing road transport company for this purpose, or they buy such a company that is having financial problems cheaply (usually through a so-called straw man) or they establish a new transport company (often using ready-made companies) and make several proper / legal deliveries to assure the company will be admitted to the freight exchange.

The criminal group has to carry out the whole operation very quickly, in just a few days before the supplier discovers that the customer did not get the load and reports it to the authorities. For this reason, the criminal group usually organizes several fraudulent deliveries at the same time, which means that it possesses a considerable amount of goods in one single moment that has to be unloaded from trucks and stored before it is sorted and sold. The group rent storage premises (warehouses, halls etc.) for this purpose, which are usually of two types. They are either detached warehouses in remote areas with a single access road where it is easy to control who is approaching the property. Or, on the contrary, the warehouse is located in a very busy storage or manufacturing area with a huge circulation of vehicles, where trucks with stolen goods won't attract any attention. The storage premises are often rented through so called straw men. The stolen goods, mainly loaded in neighbouring countries like Germany, Slovakia or Poland, are then usually stored this way in Czech warehouses.

#### **1.4 Environmental crime**

Another specific way that real estate properties are being used for criminal purposes is their use for activities that can be called criminal offences against nature / the environment. There are two basic types –unauthorized handling of waste and illegal wildlife trade.

Czech authorities have experienced cases where criminal groups rent out premises to which they bring hazardous (toxic) waste in the form of different solutions, acids, poisons, contaminated material, etc. They store the waste on these premises without authorization, breaching legislation on handling hazardous waste, and then leave it there unsecured and without any protection. The waste usually comes from abroad. The offenders, acting as a company dealing in ecological waste disposal (they either actually establish such a company or they steal the identity of another existing company), get paid for ecological waste disposal by the generator of the waste, but they don't meet their obligation. Hazardous waste stored like this, without all necessary safety and sanitation measures, poses a considerable threat to the environment (land, soil, underground water, plants) and the health and life of the neighbouring population. National, regional and local authorities must spend substantial amounts on proper waste disposal and decontamination of the site after the disclosure of such illegal hazardous waste storage facilities. The facility is usually rented out to a straw man, a fictitious or shell company, which do not carry out any activity, do not have any property and so it is impossible to claim compensation from them. Aside from standard storage/warehouse facilities, criminal groups can also use spacious unused properties like deserted factories or other industrial buildings, farm buildings etc. The offenders use remote, easily-controlled and deserted real estate

properties, or on the contrary premises located in very busy areas, where trucks with waste don't attract attention.

Alternatively, the criminal group loads waste whose disposal requires special authorization (not just hazardous waste) and higher costs abroad, they store it in the Czech Republic in a rented warehouse/storage facility and try to declare it officially as common waste not requiring special authorization. A specificity of such cases is that if the offenders do not manage to "legalize" the imported waste in the Czech Republic, they move it to a common waste dump illegally or worse, they set fire to the storage facility and declare it as an accident. Criminal groups also use old deserted mining areas (both open-cast and underground) or extensive land reclamation sites as a part of the removal of environmental burdens from the past (reclamation after coal mining, etc.) for the illegal disposal of such waste.

According to police experts, the operation of illegal pet breeding stations (puppy/kitten mills), i.e. facilities for breeding pets focused on the production of the maximum number of young (and maximization of profit) in absolutely unacceptable conditions, is widespread in the Czech Republic. The operators do not comply with basic legal regulations for the operation of breeding stations, and given the conditions in which dogs and cats are kept in illegal breeding stations, the operation of these facilities is often qualified as the criminal offence of animal cruelty. These facilities are usually run in old buildings or yards, often deserted or situated on the periphery of the town/village, so that the presence of a large number of animals doesn't attract much attention. These real estate properties can be rented for this purpose, but they can also be owned by the offenders themselves.

Similarly Czech authorities face illegal breeding and trade in protected wildlife (contrary to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES). These are most often reptiles, fish and birds of prey, but also other protected or exotic wild animals. The type of real estate property in which these illegal breeding stations are operated corresponds to the species in question – for example breeding reptiles does not require much space and can be operated in apartments or cellars, while breeding birds of prey requires much more space and so deserted areas or farmhouses are used for this purpose. In these cases, the real estate properties are usually owned by the offenders themselves.

And finally, in this context, police sources mention cases of breeding exotic animals (tigers, lions, etc.) which as young ones are shown off in private zoos, often with the possibility of physical contact with visitors ("cubs for caress"). When they grow up, these animals are either illegally sold or killed and used for taxidermy purposes or the production of preparations sold as medicinal products or stimulants, especially to Asian clients. This illegal handling of exotic (often protected) wild animals takes place in rented properties usually in remote areas, deserted warehouse facilities and similar properties, where such activity doesn't attract much attention. Given predominantly Asian clients, Vietnamese criminal groups are also involved in this activity, using (as in the case of their other

illegal activity) their spacious and hard-to-control marketplaces and related infrastructure (transport, international contacts, etc.).

**2. Extent of the criminal use of private homes and business-related buildings**

As mentioned above, the use of real estate properties for criminal purposes is not a separately monitored and registered phenomenon. Thus, there are no official public statistics specifically related to this activity to enable the determination of its extent. As for non-public internal police data, the analysis of police information systems and consultations with relevant police units showed that the current way of collecting criminal data in the police database doesn't allow an aggregated overview of cases corresponding to the definition of criminal use of private homes and business-related buildings adopted in the study to be generated. It would be necessary to analyse all potentially eligible cases for this purpose, which is unfeasible given the timetable of this review.

Information on typical ways in which real estate properties are used for criminal purposes described above was gathered through semi-structured interviews with police experts working in relevant nation-wide police units. The fact that they mentioned these in their answers indicates that experts consider them significant not only in terms of seriousness, but also in terms of extent. In other words, it indicates that these cases are not rare, but rather regular *modus operandi* of certain criminal groups in the Czech Republic.

Although specific statistics on the criminal use of real estate properties are not available, it is possible to use certain proxy indicators to at least get a basic picture. Figures on detected meth laboratories and growing sites recorded by the police can serve as such proxy indicators of real estate properties used for the manufacture of methamphetamine or cultivation of cannabis. NPC publishes this data in their annual reports, but for the purpose of this review more detailed statistics for 2017 and 2018 were obtained directly from them. In 2017, the police registered a total of 264 detected meth laboratories, of which 216 were located in real estate properties. In 2018, the police registered a total of 244 detected meth laboratories, of which 266 were located in real estate properties. The numbers of detected labs divided by the type of real estate property in which they were located are shown in Table 1.

**Table 1: Detected methamphetamine laboratories in 2017-2018, by type of real estate property**

Year	Apartments and appurtenances	Houses and appurtenances	Premises for temporary accommodation	Premises not intended for residential purposes	Outdoor premises
2017	96	57	28	27	8
2018	90	60	22	20	14

Source: NPC, special dataset

Data in Table 1 shows that a vast majority of real estate properties where methamphetamine laboratories were found were buildings intended for residential purposes, especially apartments and houses, or buildings for temporary accommodation like hotel / hostel rooms or cottages. Premises not intended for residential purposes were mainly garages, deserted industrial or farm buildings. NPC annual reports state that approximately half of detected labs had a production capacity up to 50 grams of meth per production cycle and more than 80% had a production capacity not exceeding 500 grams per production cycle.

In 2017, the police registered a total of 305 detected cannabis growing sites, of which 297 were located in real estate properties. In 2018, the police registered a total of 202 detected growing sites, of which 196 were located in real estate properties. The numbers of detected growing sites divided by the type of real estate property where they were located are shown in Table 2.

**Table 2: Detected cannabis growing sites in 2017-2018, by type of real estate property**

<b>Year</b>	<b>Apartments and appurtenances</b>	<b>Houses and appurtenances</b>	<b>Premises for temporary accommodation</b>	<b>Premises not intended for residential purposes</b>	<b>Outdoor premises</b>
<b>2017</b>	117	132	41	5	2
<b>2018</b>	66	87	35	7	1

Source: NPC, special dataset

Growing sites were also mainly found in buildings intended for residential purposes, significantly less on indoor premises intended for different purposes. Outdoor growing sites were apparently detected quite rarely. According to NPC annual reports, approximately 80% were small-scale growing sites, while less than 10% were large-scale or even industrial growing sites.

Another proxy indicator can be the number of real estate properties frozen or confiscated by law enforcement authorities due to their connection to criminal activity.<sup>17</sup> Law enforcement agencies can freeze certain items in the course of criminal proceedings for the purpose of later confiscation if the established facts indicate that it is the instrument or proceeds of a criminal activity (see also section 4 of this review).

For the purpose of this review, NCOZ provided data on property frozen in connection with criminal activity in the course of criminal proceedings in 2016-2019. Table 3 summarizes data related to frozen real estate properties.

---

<sup>17</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union

**Table 3: Real estate properties frozen in criminal proceedings in 2016-2019**

Year	Number of real estate properties	Price of real estate properties <sup>18</sup>
2016	360	CZK 1,745,105,319
2017	394	CZK 1,940,812,464
2018	385	CZK 3,171,717,265
2019	336	CZK 1,139,096,396

Source: NCOZ, special dataset

It should be emphasized that not all frozen property is actually confiscated at the end of criminal proceedings. In some cases, the accused is not convicted, in others there is a conviction but there is no convincing evidence that the item in question is really the instrument or proceeds of crime.

This, by the way, corresponds to the other proxy indicator - properties actually confiscated at the end of criminal proceedings, either as a consequence of the “forfeiture of an item” or “forfeiture of property” (kinds of punishment) or as a consequence of the “confiscation of an item” (kind of protective measure, see Phase II of this review). The Office for Government Representation in Property Affairs (*Úřad pro zastupování státu ve věcech majetkových, ÚZSVM*) is in charge of managing confiscated property and ensuring its further use or sale. ÚZSVM annual reports contain data on confiscated real estate properties whose management came to the office this way. Table 4 describes the situation in 2016-2018.

**Table 4: Real estate properties confiscated in criminal proceedings in 2016-2018**

Year	Houses / buildings / apartments		Land	
	Number	Price	Number	Price
2016	35	CZK 47,675,659	52	CZK 4,814,442
2017	64	CZK 39,218,236	142	CZK 40,107,950
2018	29	CZK 23,799,235	54	CZK 8,741,783

Source: ÚZSVM 2017, 2018, 2019

It should be added that not all real estate properties confiscated in criminal proceedings and managed by ÚZSVM necessarily correspond to the definition of premises used for criminal purposes adopted in the study. However, a more detailed specification of cases included in Table 4 is not available from official public sources.

When comparing data in Tables 3 and 4, it is obvious that the number and price of real estate properties confiscated in connection with criminal activity at the end of criminal proceedings is considerably lower than the number and price of real estate properties frozen in the course of criminal proceedings. It confirms the above-mentioned fact that not all the property frozen for the purpose of criminal proceedings is subsequently confiscated by far.

<sup>18</sup> EUR 1 = approx. CZK 25 (26/02/2020).

### 3. Indicators of the criminal use of private homes and business-related buildings

No specific indicators of the criminal use of private homes and business-related buildings have been developed in the Czech Republic, either by state agencies or by private institutions (at least as far as publicly available documents from private institutions are concerned). This is no doubt related to the fact that the criminal use of real estate properties is not separately and systematically registered and monitored as a specific phenomenon. Furthermore, it is good to know that there is an official register in the Czech Republic - the Cadastre of Real Estate (*Katastr nemovitostí*) – that obligatorily includes records on the ownership or other material rights to real estate properties and their changes (e.g. their sale, donation, hereditary succession etc.) but not on the rental of real estate properties. The law only allows to recording certain information on the rental to the cadastre if the contracting parties wish so, but it is not an obligation and in practice these data are often unrecorded (see Phase II for details). Comprehensive summary information on the rental of real estate properties thus cannot be obtained from any official register.

Instead of established indicators, we could at the very most mention certain clues that authorities, especially the police, use for the detection of cases where real estate properties are used for criminal purposes. The specific type of such clues relates to the type of criminal activity in question. Examples of such clues are as follows:

- unusually high electricity consumption on premises that should be deserted or that have had much lower consumption so far;
- new and seemingly pointless alterations like covering windows and gaps, the erection of walls and/or fences, strengthening security elements (barriers, safety locks, etc.) on otherwise neglected premises;
- unusual increase of movement (cars, people) around seemingly deserted premises;
- unusual smell in the vicinity of the premises;
- purchase of expensive real estate properties by the suspect, their family or companies connected to them, which is inadequate to their declared incomes.

### 4. Instruments to prevent, limit or combat the criminal use of residential and business premises, and the use of these instruments

Since cases of criminal use of residential and business premises are not monitored and recorded separately or systematically in the Czech Republic, no specific instruments for preventing or combating such cases are available. This applies to both public authorities and private institutions (although precise assessment of potential internal instruments of private organizations, which are often subject to company/business secret, would need significantly more thorough and extensive research

than is feasible in the framework of this review). Nevertheless, certain instruments may be mentioned that could be used for this purpose, even though they are not directly and exclusively designed for it. They fall under the area of penal law and administrative law. These instruments have two basic types: (a) crime control measures not focusing specifically and exclusively on real estate properties but that may be applied to them as well, and (b) measures for real estate properties regulations not specifically and exclusively focusing on preventing and/or combating crime but that may also be used for this purpose. On the other hand the review is not able to cover all possible instruments, since a list of such measures would be vast, and the relationship to the struggle against criminal use of real estate properties in most cases would be rather theoretical (e.g., any criminal/administrative sanction that may be imposed for the criminal use of real estate properties could be considered on the grounds of its allegedly deterrent effect on potential perpetrators). The review therefore includes only instruments that could be of practical use in this area. This limitation should be considered permanently in reading this review. Similarly, given the purpose and extent of the review, only basic descriptions and summary explanations of these instruments rather than comprehensive legal analysis are presented.

## 4.1 Penal law instruments

### 4.1.1 Freezing of instrumentalities and proceeds of crime

As mentioned above, law enforcement agencies may freeze certain items during criminal proceedings for the purpose of later confiscation if the established facts indicate that they are the instrumentalities or proceeds of criminal activity; this is permitted under the Code of Criminal Procedure,<sup>19</sup> specifically, the provision of Art. 79a et seq. The decision to freeze real estate property may be passed by the judge, or in preliminary proceedings, by the public prosecutor or police authority. The police authority needs a preliminary approval from the public prosecutor to apply this decision. Preliminary approval is not required in urgent cases that may not be delayed. In these cases, the police authority presents their decision within forty-eight hours to the public prosecutor, who will either approve or revoke it. A complaint against the decision to freeze is admissible. Under the decision to freeze, the person whose real estate property is frozen may not transfer the property to anyone else or encumber, damage or destroy it intentionally after they are notified of the decision. If required for the purposes of freezing or administering the frozen real estate property, the decision to freeze or an additional decision may also prohibit or restrict the exercise of other rights associated with the frozen property. Any legal action contrary to the restrictions applying under the decision to freeze is invalid. The freezing of the real estate property is revoked or reduced if it is no longer necessary or not required in the determined extent, including when it is not proven during criminal proceedings that a property is an instrumentality or the proceeds of crime.<sup>20</sup>

---

<sup>19</sup> Act no. 141/1961 Coll., on criminal proceedings (code of criminal procedure), as amended.

<sup>20</sup> The Code of Criminal Procedure also permits items (e.g. real estate property) of the accused to be frozen for the purpose of later covering the claim of the injured party (victim) in compensation for damage caused by the offence (Art. 47).

#### 4.1.2 sentence of forfeiture of items/property and protective measure of confiscation of items

The main purpose of freezing real estate property in criminal proceedings is to enable the execution of “forfeiture of items” or “forfeiture of property” sentences or the execution of the protective measure of “confiscation of items”<sup>21</sup> in the future. Criminal sanctions are set in the Penal Code.<sup>22</sup> Only the court may impose criminal sanctions (Karabec et al., 2017). The court will always impose a sentence of *forfeiture of items* (Art. 70) if the item concerned is the direct proceeds of crime. The court may also impose forfeiture of items if the item is an instrumentality of crime or the indirect proceeds of crime when the value of the item constituting the direct proceeds of crime is not negligible in relation to the value of the item constituting the indirect proceeds of crime. The sentence may be imposed only if the item belongs to the offender. Before the decision enters full force and effect, the prohibition on misappropriating a forfeited item applies; this includes the prohibition on any activity that would lead to impeding the execution of punishment. The forfeited item falls to the State. Forfeiture of real estate properties used for criminal purposes will most likely apply to property purchased by the offender for assets originating from criminal activity (money laundering, see Phase I). This may also be the case of real estate properties used for criminal activities such as drug manufacturing/cultivation, storing stolen goods, etc. In any case however the property must be owned by the convicted offender.

Another sentence that can affect the real estate property used for criminal purposes is the sentence of a *forfeiture of property* (Art. 66). The court may, in consideration of the circumstances of the criminal offence committed and the offender’s personal circumstances, impose the forfeiture of property on an offender sentenced with exceptional punishment or for a particularly serious crime in which the offender sought material benefits for themselves or another person, or if the Penal Code explicitly permits the imposition of such punishment for the criminal offence committed. Forfeiture of property affects the offender’s entire property or part thereof, as determined by the court. The real estate used for criminal activity may be a part of the affected property. But there is not any direct link between criminal use of real estate property and imposition of this sentence, so further elaboration on this topic is not necessary.

Forfeiture of an item may only apply to the item belonging to the offender (either natural person or legal entity, company, etc.). Real estate properties used for criminal purposes, however, are often owned by another person or company and rented by the offenders, but even this real estate properties may nonetheless be affected in response to a criminal offence. The protective measure of *confiscation of items* (Art. 101, 104) serves this purpose. The court may impose the confiscation of an item used as an instrumentality of crime, even if it does not belong to the offender, as long as the item threatens the safety of persons, property or society or represents a risk that it will be used to commit

---

<sup>21</sup> Dual criminal sanctions, i.e. not only punishments but also so-called protective measures, may be imposed in the Czech Republic in response to a criminal offence. Protective measures have a preventive and security function and do not depend on culpability, i.e. they may also be imposed on offenders not criminally liable because they are minors or insane, or they can affect items not belonging to the offender.

<sup>22</sup> Act no. 40/2009 Coll., the penal code, as amended.

a crime. The court may also impose the confiscation of an item that constitutes the direct or indirect proceeds of crime (when the value of the item constituting the direct proceeds of crime is not negligible relative to the value of the item constituting the indirect proceeds of crime) if the item is owned by a person to whom the offender transferred it or by a person who acquired the item in another manner, or it forms a part of a property in a trust fund, similar facility or mutual fund.<sup>23</sup> Thus as with the sentence of forfeiture of items, confiscation of items can affect real estate properties that represents the instrumentalities or the proceeds of crime. The confiscated item falls to the State. Before the court's decision enters full force and effect, the prohibition on misappropriating a confiscated item applies, including the prohibition on any activity that would lead to impeding the execution of protective measure.

The protective measure of confiscation of a part of property (Art. 102a) was introduced in the framework of the implementation of Directive 2014/42/EU of the European Parliament and of the Council, of 3 April 2014, on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. It enables (in response to certain criminal offences) to affect items that are not themselves the proceeds of crime if the court believes that a certain portion of the offender's property is derived from criminal activity. This may be the case of real estate properties used for criminal purposes, owned either by the offender or person to whom the offender transferred them purposely.

## 4.2 Administrative law instruments

Administrative law provides certain instruments that can be used to prevent or combat the criminal use of real estate properties. These instruments are not primarily designed to combat crime but may be used as subsidiary and supplementary tools where penal law measures cannot be applied (e.g., because of the higher standard of proof in criminal proceedings). Some authors call it "administrative approach" to tackle crime in this connection (Spapens, Peters & Van Daele, 2015). A common feature of these administrative instruments is that they represent a response to the violation of legal regulations in different areas, such as buildings, sanitation, the protection of public health, consumers or wildlife, and business, etc., which however doesn't reach the seriousness of a criminal offence. The options for their use depend on the type of criminal activity in which the real estate property is used, and on the way how it happens. Examples of such instruments that come into question for this purpose are mentioned below, in connection with the types of crime described in section 1:

- the Building Act<sup>24</sup> entitles the Building Office to apply different measures on the owners or users of a building, if they seriously breach their duties or the urgent interest requires it (e.g. the protection of life and health of people, environmental safety, etc.). These measures include

---

<sup>23</sup> In simple terms, other cases where the confiscation of items may be imposed relate to items belonging to offenders who are not criminally liable (e.g., because they are minors or insane), which is beyond the scope of this review.

<sup>24</sup> Act no. 183/2006 Coll., on spatial planning and building regulation, as amended.

- the power to order any of the following: removal of a building (Art 129),<sup>25</sup> immediate removal of a building and application of necessary securing work (Art. 135, 136), necessary modifications to a building (Art. 137), maintenance of a building (Art. 139), eviction from a building (140).<sup>26</sup> These measures may be applied when real estate property is used for criminal activity that represents a risk to public health or the environment, such as drug manufacturing or illegal storage of hazardous waste with the potential to contaminate the property's surroundings;
- the CTIA Act<sup>27</sup> entitles an inspector of the Czech Trade Inspection Authority<sup>28</sup> to prohibit the continuation of an activity or order the closure of a business premises for up to two working days if a risk to the life or health of consumers due to violation of legal obligations is discovered. If the ascertained shortcomings are not eliminated within this time, closure may be prolonged indefinitely until they are eliminated (Art. 8). The CTIA may use this power when business premises serve not only legitimate commercial activities but also criminal activities whose consequences (e.g., contamination) may affect the health of consumers. The Czech Agriculture and Food Inspection Authority (*Státní zemědělská a potravinářská inspekce*) has similar powers over the production and distribution of agricultural products, food and tobacco products;<sup>29</sup>
  - the Public Health Protection Act<sup>30</sup> empowers public health protection authorities to prohibit, under certain conditions, the operation of facilities if public health protection legislation (noise, pollution, sanitary deficiencies, etc.) is violated. It may relate to real estate properties used for criminal purposes, as in previous cases (Art. 80);
  - under the Animals Protection Act,<sup>31</sup> a municipality may prohibit the continuation of a breeder's activities resulting in animal maltreatment until the shortcomings are eliminated (Art. 28a). This measure may be applied to real estate property suspected of being involved in illegal breeding or trading of animals (see Phase I);

---

<sup>25</sup> It means the forced demolition of a building.

<sup>26</sup> Through an eviction order the Building Office may oblige all persons dwelling in the building to vacate it immediately, if the condition of the building imminently threatens the life or health of people or animals, or if the Office is going to issue the immediate removal of a building order or the necessary securing work order.

<sup>27</sup> Act no. 64/1986 Coll., on the Czech Trade Inspection Authority, as amended.

<sup>28</sup> The Czech Trade Inspection Authority (*Česká obchodní inspekce, CTIA*) is the administrative government authority that monitors and inspects businesses and individuals who supply or sell goods on the Czech market, provide services or similar activities on the domestic market, provide consumer credit, and operate marketplaces, unless, as a result of special legislation, these activities fall under the authority of another administrative institution.

<sup>29</sup> Act no. 146/2002 Coll., on the Czech Agriculture and Food Inspection Authority, as amended.

<sup>30</sup> Act no. 258/2000 Coll., on public health protection, as amended.

<sup>31</sup> Act no. 246/1992 Coll., on the protection of animals against maltreatment, as amended.

- when damage is imminent, various environmental protection laws<sup>32</sup> empower the Czech Environmental Inspectorate (*Česká inspekce životního prostředí*)<sup>33</sup> to order a reduction or termination of harmful activity until the shortcomings and their causes are eliminated. In the area of waste handling of waste the regional authorities<sup>34</sup> have the power to prohibit the operation of a waste disposal facility if its operator fails to meet legal obligations in handling waste and if this failure could lead to serious environmental harm.<sup>35</sup> These measures may be applied when real estate properties are used for criminal activities that harm or may harm the environment, especially for illegal handling of waste, including the waste products of drug manufacturing.

### 4.3 Criminal liability of legal entities

In relation to potential instruments for preventing the criminal use of real estate properties it is worthy to mention a special tool that allows legal entities to release themselves from criminal liability. As of 1 January 2012, not only natural persons but also legal entities may be criminally prosecuted in the Czech Republic (for most criminal offences).<sup>36</sup> Under certain conditions, a legal entity is criminally liable for the offence committed in its interest or in the framework of its activities by its bodies or employees. However, the law stipulates that a legal entity releases itself from criminal liability if it made any effort that could be justly required from it in preventing the illegal actions of the abovementioned persons (Art. 8 para. 5). This provision aims to motivate legal entities to adopt not only crime prevention measures but also investigative and reactive measures (Fenyk & Smejkal, 2012). Legal entities, especially commercial companies, amend their internal regulations with guidelines, mechanisms and procedures to avoid the company's involvement in criminal activity or avoid or reduce the consequences of an offence already committed (internal audits, compliance management systems, due diligence, risk management, etc.). The law does not establish any details for these rules, and legal entities generally produce them in non-public internal documents (eventually under a company/business secret). Legal entities managing real estate properties in their business are also expected to specify in these documents measures for preventing the criminal use of their properties.

### 4.4 Rights and duties of the real estate property's lessor

Real estate properties used for criminal purposes are often rented by the offender(s) from third persons, who may be natural persons or legal entities. The rental of real estate properties is governed

---

<sup>32</sup> E.g. Act no. 114/1992 Coll., on the protection of nature and the landscape, as amended, or Act no. 254/2001 Coll., on water, as amended.

<sup>33</sup> Act no. 282/1991 Coll., on the Czech Environmental Inspectorate, as amended.

<sup>34</sup> Regional authorities are the local (regional) administration bodies of the fourteen Czech regions.

<sup>35</sup> Act no. 185/2001 Coll., on waste, as amended.

<sup>36</sup> Act no. 418/2011 Coll., on criminal liability of legal entities and proceedings against them.

by the Civil Code,<sup>37</sup> specifically in the provisions on rental contract (Arts. 2201 –2331) and usufructuary lease contract (Arts. 2332 –2357). A rental contract is an agreement to lease a building, apartment, office, etc., and a usufructuary lease contract governs the lease of land, fields, gardens, meadows, forests, etc. The Civil Code regulates the rental of real estate properties in a rather liberal manner. Apart from renting an apartment or house for residential purposes, rental or usufructuary lease contracts do not require a written agreement; in practice, however these contracts are almost always written. A property owner only has a few options to check the credibility of a rental applicant before the contract is concluded. The law does not provide any specific entitlement to examine an applicant's criminal history or payment discipline. The applicant has no obligation to present the lessor, for example, a copy of their criminal records or Tax Office certificate of no tax debt. The lessor cannot obtain these documents from relevant institutions since these registers are not public. The lessor may search for the applicant in public registers (Commercial Register, Insolvency Register, Register of Foundations, etc.) or commercial or partially public registers that provide information as a paid service (registers of debtors, Central Distraint Register, etc.).

The rental of real estate property is a bilateral civil law relationship where no contracting party has a right to its formation (conclusion of a contract), therefore the owner may require certain information (e.g., an applicant's criminal history supported by a copy of their criminal record) as a prerequisite for the contract. This is only practical, however, when the demand for rental real estate properties exceeds supply considerably, otherwise the owner risks losing the opportunity to rent their property. Moreover, any condition relating to the potential tenant should also be considered from the perspective of anti-discriminatory legislation,<sup>38</sup> which prohibits the denial of access to services on grounds of certain characteristics of a person in question.

Clear and unambiguous identification of both contracting parties is a prerequisite for a contract to be valid. The real estate property's owner should therefore always know the identity of the person to whom they rent the property. The Civil Code allows the rental/usufructuary lease to be recorded in the Cadastre of Real Estate, where the real estate property concerned is incorporated on the owner's proposal or on the tenant's proposal with the owner's approval (Arts. 2203, 2333). In this case, information about the property, tenant and day when the rental/usufructuary lease ceases (if a contract has been concluded for a definite period) are recorded in the cadastre. However, this record is not mandatory and it is left at the discretion of the contracting parties, especially the owner; rental/usufructuary leases therefore often remain unrecorded.

Reporting information about rental/usufructuary leases or tenants to the State authorities is generally not obligatory; only certain partial registration obligations can be mentioned in this regard, mainly concerning the rental of real estate properties under an owner's business. Rental income is subject

---

<sup>37</sup> Act no. 89/2012 Coll., civil code, as amended.

<sup>38</sup> Act no. 198/2009 Coll., on equal treatment and legal instruments for protecting against discrimination (anti-discriminatory act), as amended.

to the income tax, therefore the lessor is obliged to keep records on rental/usufructuary lease contracts for the purpose of Tax Office auditing.<sup>39</sup> Similar records must be kept for the Trades Licensing Office, which monitors the conditions for operating businesses (e.g., commercial rental of real estate properties).<sup>40</sup> Persons renting their property to foreigners for residential purposes have a specific duty under the Stay of Foreigners Act.<sup>41</sup> These persons are obliged to notify the accommodation of a foreign citizen to the police within three workdays of the lessee moving in (Art. 102). Notification includes information about the name, surname, date of birth, citizenship, permanent address abroad, passport number (event. visa number), beginning of stay, address in the Czech Republic, estimated term of stay and its purpose.

## **5. The use of instruments to prevent, limit or combat the criminal use of residential and business premises**

The abovementioned potential instruments for preventing or combating the criminal use of real estate properties are not designed specifically for this purpose. These instruments have all been used in practice, but no statistics or empirical findings on the extent to which they relate to the criminal use of real estate properties are available; relying on the experience of experts consulted during expert survey is therefore necessary.

Available statistical data on real estate properties frozen and confiscated in criminal proceedings have been used as proxy indicators of the extent of the examined phenomenon in Phase I. The final decision for confiscation (i.e., imposition of a forfeiture of items sentence or a protective measure of confiscation of items) is always passed by the court. Experts from relevant police services believe that Czech courts are willing to confiscate real estate properties almost exclusively in cases when the property is the demonstrable proceeds of crime. If the real estate property is an instrumentality of crime (e.g., drugs were manufactured on the property) the courts generally do not impose confiscation, arguing that the property was also used for other and legitimate purposes (e.g., as a place of residence). This approach to the confiscation of frozen movable assets and real estate properties is held even by the Czech Constitutional Court, but it is questionable whether this does not contradict Directive 2014/42/EU of the European Parliament and of the Council.

The abovementioned administrative law instruments have been generally used by administrative authorities somewhat frequently but only in exceptions to prevent or combat the criminal use of real estate properties. This presumably relates to it not being the routine agenda of administrative agen-

---

<sup>39</sup> Act no. 586/1992 Coll., on income tax, as amended.

<sup>40</sup> Act no. 455/1991 Coll., on trading, as amended.

<sup>41</sup> Act no. 326/1999 Coll., on the stay of foreigners in the territory of the Czech Republic, as amended.

cies and officials not having an explicit obligation to actively search for and use these “non-standard” instruments or procedures. This amplifies the importance of the motivation and activity of individual officials or administrative authorities.

Measures to prevent crime (including the criminal use of real estate properties) have become a regular part of the internal regulation of legal entities, especially by large commercial companies. It is, however, difficult to assess to what extent their purpose is really to prevent crime or whether their role is rather to serve as company’s protection from the potential criminal prosecution.

Recording data on the rental of real estate properties to the official register – the Cadastre of Real Estate – has not yet become regular practice, the main reason obviously being that it is not mandatory. Contracting parties therefore presumably record the rental to the cadastre only if the existence of the rental must be proved for other purposes (e.g., to acquire an agricultural subsidy, obtain a bank loan, etc.).

In these circumstances, certain initiatives by the Czech Police for example may gain more importance, such as awareness campaigns for real estate properties owners. Through local police, the Economic Crime Division of the Criminal Police and Investigation Service units have recently addressed the known owners of real estate properties typically used for illegal hazardous waste storage (see Phase I) and notified the owners about the characteristics and potential consequences of this criminal activity. Similarly, the National Drug Headquarters is striving to raise awareness of owners of real estate properties typically used for manufacturing drugs or cultivating cannabis plants. However, these praiseworthy activities are no substitute for systemic and specific measures against the criminal use of real estate properties. Unfortunately, such types of measures have not yet been developed in the Czech Republic.

## References

- Cejp, M. et al. (2015). *Společenské zdroje vývoje organizovaného zločinu. (Social Origins of the Organised Crime Development)* Praha: IKSP
- Cejp, M. (2010). *Vývoj organizovaného zločinu na území České republiky. (The Development of Organised Crime on the Territory of the Czech Republic)* Praha: IKSP
- Cejp, M. et al. (2009). *Obrana proti ohrožení společnosti závažnými formami trestné činnosti. (Society Defence Against the Threat of Serious Criminal Activity Forms)* Praha: IKSP
- Fenyk, J., & Smejkal, L. (2012). *Zákon o trestní odpovědnosti právnických osob a řízení proti nim. Komentář. (Act on criminal responsibility of legal persons and proceedings against them. Commentary)* Praha: Wolters Kluwer ČR
- Karabec, Z. et al. (2017). *Criminal Justice System in the Czech Republic. Third amended and revised edition.* Praha: IKSP (available at: <http://www.ok.cz/iksp/docs/443.pdf>)
- Národní protidrogová centrála SKPV PČR (2019). *Výroční zpráva 2018. (National Drug Headquarters Annual Report 2018)* Praha: NPC

- Mravčík, V. et al. (2019). Výroční zpráva o stavu ve věcech drog v České republice v roce 2018. (*National Report: The Czech Republic – 2013 Drug Situation*) Praha: Úřad vlády ČR
- Spapens, A. C. M., Peters, M. & Van Daele, D. (Eds.) (2015). Administrative measures to prevent and tackle crime. Legal possibilities and practical application in EU Member States. The Hague: Eleven International Publishing
- Úřad pro zastupování státu ve věcech majetkových (2019). Výroční zpráva 2018. (*2018 Annual Report of the Office for Government Representation in Property Affairs*) Praha: ÚZSVM.
- Úřad pro zastupování státu ve věcech majetkových (2018). Výroční zpráva 2017. (*2017 Annual Report of the Office for Government Representation in Property Affairs*) Praha: ÚZSVM.
- Úřad pro zastupování státu ve věcech majetkových (2017). Výroční zpráva 2016. (*2016 Annual Report of the Office for Government Representation in Property Affairs*) Praha: ÚZSVM.

# Sweden

Peter Lindström, PhD, Associate professor

Ulf Sempert, Senior research adviser and former Police Commissioner

Linnaeus University

Department of Police Work

Centre for Police Research and Development

June 2020

## 1. Introduction<sup>42</sup>

A large part of what is generally called ‘organized crime’ is related to, and directly or indirectly dependent on, the legal, organizational and physical infrastructure of society. In this context, the somewhat mysterious concept of ‘infrastructure’ also include residential buildings and commercially used real estates (Edwards, 2003; Leigh Star, 1999). A definition circulated in various settings regarding ‘organized crime’ is that it is about:

A continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through the use of force, threats, monopoly control, and/or the corruption of public officials.

To make things a little bit more informal our basic perspective is that crime could be viewed as committed by individuals or groups of individuals either on an ‘on-and-off basis’ or in a more systematic and potentially profitable way. In fact, the perception of organization in ‘organized crime’ has been severely criticised at least in the Swedish context (Rostami, 2016). For an alternative use of the concept, see Hagan (2006) and for a very useful website see van Lampe (2020).

Research on ‘organized crime’ in Sweden, as well as in most other countries, has largely focused on urban areas. At the moment the problem of shootings, explosive attacks and lethal violence between individuals associated with competing criminal networks, often related to drug issues, is particularly prevalent in Sweden’s larger cities (Sempert & Lindström, 2019). Consequently, there is

---

<sup>42</sup> We are very grateful for comments and support from our colleagues at the Department of Police Work, Linnaeus University, Scott Goodwin, police inspector/teacher and Ingela Bengtsson, administrator. We would also like to thank Professor Klaus von Lampe, Professor Per Ole Johansen and Mr. Daniel Vesterhav at the National Council for Crime Prevention for providing valuable information.

a lack of knowledge on the pattern of systematic and potentially profitable offences committed outside larger cities in general and in particular regarding the relationship between residential and commercial buildings and their use in criminal enterprises. The latter claim is also true for both larger and medium-sized urban areas.

As part of a Dutch inquiry on the issue of the use of real estates in criminal activities, this paper presents results from an exploratory study conducted in the southern part of Sweden concerning the following research questions:

1. In what ways are residential and business premises in Sweden used for criminal purposes?
2. Is it possible to make an educated guess about the extent of these phenomena?
3. Have Swedish authorities and/or private institutions developed indicators to recognize criminal use of residential and business premises? If so, what are these indicators?

In order to be able to answer these three and supplementary questions a survey to all 20 Local Police Districts in Police Region Syd (South) was conducted as well as interviews with various experts, and the results from this inquiry is presented in this paper. The paper is organized in the following way: Section 2 gives a short review of previous Swedish knowledge, and current legislation, concerning the relationship between residential and commercial buildings and criminal activities. In Section 3 the research site and methods of data collection is presented followed by Section 4 where the main results are reported. The paper ends in section 5 with a brief summary and a discussion.

Already at this point our main conclusion should be posted: it is clear that residential and commercial buildings are being used in ‘organized’ criminal activities both in larger and medium-sized urban areas as well as in smaller municipalities and rural areas. Although the scale of the phenomenon probably varies by population size and housing structure, more knowledge needs to be achieved in order to detect and prevent this phenomenon. We regard our exploratory study to be an important starting-point for such a mission.

## **2. Previous knowledge in Sweden**

Our interpretation of the given assignment is that the focus should be on premises i.e., detached and semi-detached houses, apartments and rooms for domestic (private) use as well as business facilities including industrial properties, offices, hotel rooms etc. that someone leases and which is used for criminal purposes for example prostitution, drug dealing or storage of stolen goods. The research area will further include premises leased to underground clubs, hookahs, games & gambling, flea markets (where stolen goods are sold) and industrial areas (industrial hotels) where for instance the storage of stolen goods, contraband or illegal manufacture or illegal trading of objects – whatever it may be – occurs. The study may also refer to premises that have been provided, among other things,

for persons belonging to organizations with elements of criminal activity, such as motorcycle clubs and organizations that support violent extremism in all its forms.

To get a quick understanding of the current level of knowledge regarding this issue we approach the Swedish National Council for Crime Prevention (Brå) with questions about their governmentally oriented research and studies in this area. Brå replied to our question on research about the relationship between residential and commercial buildings and criminal activities in the following way:

We have not looked at the issue of real estate specifically, but have approached the phenomenon in some respect in some reports. For example, Brå have encountered the issue of black contracts, mattress rental and incorrect public accounting in both projects on welfare crime (ISF and Brå, 2011 – section on faked spousal separations, and in various parts in Brå, 2015: 8) and in research on socially vulnerable areas (Brå, 2018:6, pp. 121- 123).

Brå reported that in their research on socially vulnerable areas

some informants talked about criminals controlling certain places, often with links to drug trafficking. In some cases it was real estate or parts of real estate e.g., gates, basements, garages or a local mini-store where they hid drugs (Brå, 2018:6).

We were also informed that Brå had studied

criminal infiltration of companies in two EU projects, typically the case is that people with links to organized crime buy an existing one, or an empty company and use it for partly criminal purposes. Some of these companies may have properties. In some cases, tenant-owner associations were taken over to take out loans for apartments that did not exist, or double loans for existing apartments.

Our conclusion from screening the current knowledge on this issue is that there seems to be a lack of relevant research on this phenomenon in Sweden.

### **3. Current legislation**

Swedish legislation does not, in general, provide conditions for the police and the criminal justice system to intervene and prosecute property owners on the basis of the use of the premises. The criminal justice system must therefore target the basic crime itself. For instance, regarding illegal sale of tobacco products in small local shops the police work is mainly directed towards the sale of tobacco products in contravention of the Law (2018: 2088) on tobacco and similar products (here the Tobacco Act). When it comes to activities in underground clubs (e.g., gambling) police measures

are directed at the individual(s) who organized the event in contravention to the Ordinance regulation (1993: 1617). In such cases, the offenses can result in fines or up to six months imprisonment. If there is also alcohol being sold in a premises, without permission, violations of the Alcohol Act (2010: 1622) can result in a fine or imprisonment up to six years. None of these legislations are however directed at the property owner, which is why, despite the property owner's knowledge, the business can proceed, albeit with another organizer, in principle immediately after the police action is carried out.

On the other hand, powerful tools aimed at the property owner do exist. These tools, however, are within the framework of the police's cooperation with municipal administrations and other authorities. In the Tobacco Act, for example, there are provisions that prohibit smoking in premises where the public has access. In such cases the municipal environmental administrations are entitled to access the premises and can impose a ban on the property owner for, among other things, continued smoking on the premises. In the event of a breach, the property owner may be imposed a repeated fine from the date of the decision, irrespective of who arranges the event.

Corresponding penalty provisions can also be found in the Law (2003: 778) on protection against accidents, where the municipal Fire and Rescue service can act if the premises is being used in contradiction to the design of the premises and/or permits granted. City building offices (or equivalent) can also act with a penalty order on the basis of how the property owner complies with planning and area regulations in accordance with the Planning and Building Act (2010: 900) which regulates how and for what purposes a premises may be used. In the case of violations where property owners do not fulfil their responsibilities, for example, having too many people on the premises and/or insufficient emergency exits, a fine can be issued. This is also the case for premises zoned for industry or housing that are used for other purposes such as entertainment or alcohol sales. (The penalty tariffs for various violations are provided in the Appendix).

Finally, in the Swedish Penal Code Section 6 it is stated that:

If a person who has granted a right of use of a flat learns that the flat is used wholly or to a substantial extent for casual sexual relations in return for payment, and fails to do what can reasonably be required to terminate the right granted, they are, if the activity continues or is resumed in the flat, considered to have promoted the activity and are held responsible...

A person who omits to take action in such circumstance may be guilty of procuring and could be sentenced to imprisonment for up to four years. According to an article in a journal for real estate developers (Hörnkvist, 2017) this somewhat forgotten Section within the Penal Code has recently begun to be practiced by the police in Gothenburg as a way of dealing with sexual services at Thai massage businesses. If the police identify that sexual services are provided in such a business they inform the property owner who is then given a certain amount of time to, in some way, disrupt the business. This may include dissolving the contract.

Our tentative conclusion, from a rather limited literature review and interviews with Swedish experts on organized crime, is that the way and to what extent residential and commercial buildings are being used for criminal purposes has not been systematically studied in Sweden. The level of knowledge of this problem is in other words rather bleak.

#### **4. Research site and data collection**

Police Region Syd was established in January 2015 when the Swedish Police Authority was reformed. 21 separate regional police authorities were restructured into seven Police Regions as the police organisation become one national authority. Police Region Syd consists of five police districts and a total of 20 local police districts. Each local police district has an average of 155 police officers. The variation is however quite substantial ranging from around 40 to over 500 officers. In total, about 2 million inhabitants in 58 municipalities are included in the Police Region's services. According to a classification system developed by the Swedish Association of Local Authorities and Regions just under half of the municipalities within Police Region Syd are being classified as 'Smaller towns/urban areas and rural municipalities'. About a third of the municipalities are 'Medium-sized towns and municipalities near medium-sized towns' and the rest (less than one fifth) are being classified as 'Large cities and municipalities near large cities'.

Within police Region Syd, four of the Local Police Areas are primarily situated in large urban areas or municipalities near large cities, seven are situated in medium sized areas and eight in predominantly smaller and rural areas. The remaining local police area has municipalities in all three categories and is therefore regarded as serving a mixed area.

The number of police officers per 100 000 inhabitants in these three groups of municipalities are 131 in smaller or rural areas, 137 in medium-sized towns and 211 in large cities. In other words there are 60 percent more police officers in relation to the number of inhabitants in larger cities compared with smaller and rural areas whereas the police recorded crime rate is only about 30 percent higher in the larger urban areas.

From the themes given in this study, we created a questionnaire including 15 specific questions about the phenomenon on residential and commercial buildings in relation to criminal activities. In addition, we have conducted interviews with various experts on 'organized crime' in Sweden.

#### **5. Results**

The questionnaire about the relationship between residential and commercial buildings and criminal activities was electronically mailed to all 20 local police districts in Police Region Syd in late April,

2020. By mid-May 17 local police districts had responded to the questionnaire and only one of them stated that they did not have any problem with criminal use in residential or commercial buildings. From our questionnaire three specific questions will be included in the analysis:

1. Have you in your Local Police District any experience of residential and/or commercial premises that, during the past year (since January 2019 and up to today), have been used for criminal purposes in such a way that they are not fully available for legal purposes? If yes, describe the types of properties and the criminal activities in question.
2. Is it possible to make a qualified guess as to the extent of this phenomenon?
3. What sort of indicators for this type of criminal activity do you use?

In Table 1 a summary of the main results from the survey is presented.

**Table 1. Criminal activities in residential and commercial buildings**

City or Town	Large	Medium	Small
Type of offences in premises	A. Apartments used for storage of drugs, weapons and stolen goods B. Apartments used for prostitution C. Drug sales in local small shops D. Fencing in second-hand stores	A. Neglected properties used as ‘hot spots’ for criminals B. Apartments used for storage of stolen goods C. Goods transportation to local shops include stolen goods and narcotics D. Premises used by outlaw bikers	A. Marijuana cultivation in rented houses B. Premises used by outlaw bikers C. Illegal sale of tobacco in local shops
Qualified guess regarding the phenomenon	Quite large but the ‘dark figure’ is very high	It goes on all the time; Probably a minor problem but difficult to say	Probably a substantial problem given the population size; difficult to say
Sort of indicators for this type of criminal activity	Notification from the public, landlords, or local authorities; police intelligence; Workplace inspections	Information from partners within municipalities, property owner, notification from residents	Police intelligence, Workplace inspections; Neighborhood watch

Looking briefly at the answers to our questions divided by type of geographical area being served it seems clear that police in larger urban areas more often have identified this phenomenon on a higher scale and perhaps in a more systematic way. One response was that since “this business

generates quite a large sum of money it is of great interest for individuals involved in organized crime”.

The survey responses clearly show that both residential and commercial premises/industrial properties are frequently used for the storage of drugs, stolen goods as well as weapons for both shorter and longer periods. In the region's largest city, police have discovered apartments where no individual is permanent residing, however occupied by serious criminals. Furthermore, the survey shows that in the larger cities there is frequent use of housing and commercial premises/industrial properties for illegal housing occupied either by persons who do not have the right to be in Sweden or by persons who provide sexual services or who constitute black labor in all its forms. As far as street prostitution is concerned, it has almost completely disappeared due to current legislation prohibiting the purchase of sexual services and has largely been replaced by sexual activities indoors after contacts via the internet. In one of our major cities – Helsingborg – there is a wide collaboration between the police, the municipality and the hotel association to prevent prostitution from occurring in hotels.

Based on an internal report from the police in Malmö we were informed that according to intelligence, an outlaw motorcycle gang was planning to hold a wedding party in a premises that was known to the police and was allegedly being used as an "illegal smoking cafe". In light of this information, a preventive effort was taken in collaboration between police and different municipal administrations. The joint prevention effort between the local administrations and the police resulted in the business owner receiving several notices relating to the revoking of permits if the premises was used for the wedding party.

An interesting comment from a local police district in a medium-sized area was that since “the public does not see the problems it will generally not be prioritized from a local perspective for the local police district” whereas one response from a predominantly rural area was that: “As there are plenty of vacant/empty properties in the local police district, the rents are low and it is easy to rent the property and then use it for illegal purposes. Many properties are also remotely located and thus fit illegal purposes. The risk of detection is relatively low”. This circumstance seems particularly relevant when it comes to production of illicit drugs.

Previous research both from the US and New Zealand have shown that production of illicit cultivation of cannabis is sometimes rather widespread in rural regions and a potential source of violent conflicts between rival criminal networks (Weisheit et al., 1994; Wilkins and Casswell, 2003). According to our survey response from some of the local police districts in smaller and rural areas, this may indeed also be the case in Sweden. Interestingly enough, comparing the number of police recorded incidents of manufacturing narcotics or doping substances for 2018/2019 reveals that over 40 percent of all offences were located in smaller municipalities and rural areas in Police Region Syd. From the survey responses and the interviews we conducted it can be concluded that almost all local police districts in Police Region Syd confirm that there are both private and commercial properties used for criminal purposes. An interesting observation is that the problem also appears to exist in

rural areas, which previously did not seem to have been noticed either in Sweden or internationally. This situation has graphically been described in the following way: “organized crime in rural areas has not been and is not now a theme in Scandinavian criminology... however I personally remember a number of semi-professional criminals who preferred the countryside as a base.”

## 6. Summary and discussion

According to our survey to all local police districts in Police Region Syd and through information from various expert it is clear that residential and commercial buildings regularly are being used in ‘organized’ criminal activities both in larger urban areas, medium-sized municipalities and in smaller municipalities and rural areas. Only one local police district indicated that they did not have encountered this phenomenon.

The offences committed in premises range from storage of stolen goods, drugs and weapons to prostitution and cultivation of narcotics. The scale of the problem is according to some respondents significant although all of our informants chose to refrain from making an educated guess regarding the extent of this phenomenon.

Concerning the indicators being used for this type of criminal activity most respondents state that they use police intelligence, notifications from the public, local partners or information from previous or ongoing criminal investigations. Our conclusion, however, is that there does not seem to be any systematic indicator for this phenomenon.

Police Region Syd include about a fifth of the population in Sweden and hold the country’s third largest city (Malmö), with very close proximity to an even larger urban area, i.e., Copenhagen. Basically, the results of our survey is of course only valid for this specific Police Region but there is probably nothing unique with this area compared to the rest of the country regarding the relationship between residential and commercial buildings and criminal activities. However, we argue that there is every reason to develop this exploratory study into a full-fledged national study on the use of residential and commercial buildings in criminal activities since much more needs to be known in order to detect and prevent this phenomenon. We regard our exploratory study to be an important starting-point.

## References

- Edwards, P. N. (2003). Force, Time, and Social Organization in the History of Sociotechnical Systems, in T. J. M., Philip Brey, and A. Feenberg, eds., *Modernity and Technology*, Cambridge, MA: MIT Press
- Hagan, F. (2006). “Organized Crime” and “organized Crime”: Indeterminate Problems of Definition?. *Trends in Organized Crime*, 9:4

Hörnkvist, E. (2017). Att stävja brott. Fastighetstidningen

von Lampe, K. (2020). Organized Crime Research. [www.organized-crime.de](http://www.organized-crime.de)

Leight Star, S. (1999). The ethnography of infrastructure. *American Behavioral Scientist*, Vol 43:3

Rostami, A. (2016). Criminal Organizing. *Studies in the sociology of organized crime*. Department of Sociology, Stockholm University

Sempert, U. & Lindström, P. (2019). Malmö ur ett polisperspektiv. I: M. Väfors Fritz & A. (red.), *Brottslighet och utsatthet i Malmö*. Lund: Studentlitteratur

Weisheit, R., Falcone, D., Wells, E., (1994). *Rural Crime and Rural Policing*. U.S. Department of Justice, National Institute of Justice

Weisheit, R. (2016). Rural Crime from a global perspective. *International Journal of Rural Criminology*, Vol 3:1

Wilkens, C. & Casswell, S. (2003). Organized crime in cannabis cultivation in New Zealand: an economic analysis. *Contemporary Drug Problems*, 30

### Appendix: Penalty tariff issued to property owner if they breach various regulations related to 'organized' crime

Municipal administration	Level of fine	Reasons for decision
Environmental management	€ 5000 per day	When smoking in the premises
Environmental management	€ 7 500	For deficiencies in ventilation
Environmental management	€ 5000	Deficiencies in cleaning routines
Fire and Rescue service in Collaboration with the City Building Office	€ 10 000	In case of violation of prohibition to use the premises

Source: Freddie Nilsson, Police District Malmö, March 18, 2019