CREATING PUBLIC SPACES

THE POTENTIAL OF CIVIL SOCIETY RE-USE OF
BUILDINGS CONFISCATED FROM CRIMINALS

2017

Creating public spaces for democratic culture
The potential of civil society re-use
of buildings confiscated from criminals

Final publication of the project
Creating public spaces – best practice in the re-use of confiscated assets.

Project partners

Imprint

« Cover photograph: The *Osservatorio sulla 'Ndrangheta* (civil society Observatory of the 'Ndrangheta) Reggio Calabria in 2010,
based in a villa confiscated from a 'Ndrangheta-killer. © Adelaide di Nunzio

Contents

Preface by the Regional Minister for Justice, Consumer Protection and Anti-Discrimination Policies of the Berlin Senate

Dear readers,

our everyday life in the neighborhoods of our cities and participation in what the city has to offer would be unthinkable without public space. Only in the public realm is it possible to organise debates and political action in a democratic and transparent manner. To have access to and use real or virtual public space without fear is a prerequisite for democracy.

'No-go-areas', 'spaces of fear', 'danger zones' are all descriptions for an elementary threat to the democratic social order. This threat is particularly serious when political and structural minorities are afraid of being discriminated against, threatened or attacked, threats in the public sphere. For 'spaces of fear' represent not only a permanent disadvantage in everyday life for people concerned, rather they systematically make it impossible for entire groups of people to partake in democratic processes.

Therefore the state and civil society cannot accept the establishment of permanent spaces of fear. However, to ensure security through police action is not the only approach necessary. Rather, a functioning democratic civil society is the prerequisite for confidence in a social space. In Berlin, there have been some good experiences in the work against right-wing dominated 'spaces of fear': if actors of a social space work together and democratically mark and shape public space then threatening situations can be reduced. The involvement of local politics, local businesses, associations and neighborhood initiatives is particularly important for this.

For example, the work of the *Berliner Beirat für Schöneweide* (Berlin advisory committee for Schöneweide) succeeded in creating strong positive signals for a democratic way of life in the space of fear around Brückenstrasse in Berlin-Schöneweide. Even if threats by right-wing extremists did not completely vanish they were strongly reduced. The Berlin Regional Government will continue to support civil society actors in their work to recover spaces of fear for democratic culture. Within the framework of our funding program 'Democracy. Diversity. Respect. Against Right-Wing Extremism, Racism and Anti-Semitism' we continue to fund mobile counseling teams who help to create local strategies against such threats. Equally, public authorities must provide solidarity and concrete assistance for victims of hate crimes. We are committed to a continued expansion of victim support services and anti-discrimination counsellors throughout the city.

Public space will always remain a place for the resolution of social conflicts, it will always be a 'contested' space. It is therefore all the more important that society and the state are sensitive to the vulnerability of democratic culture in everyday life. To ostracize violence and contempt for other people, as well as solidarity with those affected is a basic requirement for the recovery of so-called spaces of fear. ● ●

Dirk Behrendt
Regional Minister for Justice, Consumer Protection and Anti-Discrimination Policies of the Berlin Senate

« Example of the federal headquarters of the German neo-Nazi party, NPD, in the Berlin district of Köpenick: spaces of fear often come about around specific buildings. © Lêmrich

Preface by the Prime Minister of Calabria

The project *Creating public spaces* (CrePS) is the result of the regional government of Calabria's commitment to be active in the various areas of European policy programs: from urban renewal, or integration policies for migrants and other disadvantaged persons, to active citizenship. In the case of this project our administration successfully took up suggestions from civil society to work on a topic of great local, national and European relevance: the social re-use of property confiscated from criminal groups, whether they are called 'Ndrangheta, Camorra, Mafia or neo-Nazism.

For the first time ever, our region has had the honorable task of bringing examples of Calabrian good practice to the attention of one of the most advanced member states of the EU: Germany. As lead partner of the CrePS project we have worked to highlight the effective parts of our legal system, of our administrative practice and of the social and economic mechanisms for managing confiscated assets. At the same time, we are pursuing the goal of creating more sustainable economic situations around re-used assets through legislative action and the development of our administrative practices.

The project's work process has strengthened our sensitivity and respect towards the important role played by civil society associations in this policy area. Take for instance the *Osservatorio sulla 'Ndrangheta* in Reggio Calabria: like some other associations they have truly managed to revive the location they received some years ago, and they restored it to society through their daily work with young people, with schools, as well as with other associations or parishes. There is much work needed, including innovative multi-media strategies, to provide visibility to all those organizations in Calabria that bring their fellow citizens closer to the possibilities of re-using formerly criminal assets.

The project's co-operative approach of bringing local administrations, schools, universities and other NGOs together in a democratic, civil society form of networking was key for the project's success. At the same time, it helped to create links between the public administration and committed citizens in order to work together to transform ugliness with its stench into beauty, mafia to righteousness, so that many young people can participate in this and other relevant projects.

The co-operative project allowed us to bring together the expertise of the regional government with that of the University *La Sapienza* in Rome and to make comparisons with the practice in other EU Member States. This allowed us to identify our own experiences as something valuable. We have looked at how the local systems would have to be adapted if they were to be used somewhere else. Moreover, we have worked on the analysis of the difficulties that remain in our system: aspects of the distribution process, economic and social sustainability, and, above all, the cultural activation of the local community.

The exchange of experiences with other organizations and European stakeholders will allow our communities to grow. It will help us to overcome the economic and social isolation that perhaps we have grown too accustomed to due to our geographic position in Europe. The prosperity and well-being of our region will grow when we know how to open our experiences and our places to the best European and international realities. ●●

Mario Oliverio
Prime Minister of Calabria

Preface from the Chairman of the Anti-'Ndrangheta Committee in the Calabrian Parliament

The words *Calabria* and *'Ndrangheta* are linked by near automatic association, rightly so unfortunately. All available research shows that the 'Ndrangheta has built up a large international empire with the ability to influence the economies of the countries it choses to attack. It is like a cancer that nourishes itself through the power of the economy it first infiltrates and then undermines from within.

In the fight against organized crime one has to work with different approaches. Calabria and Italy have had to accumulate a lot of experience in this regard over the years, and this could constitute an important contribution to international legal systems and means of repression. In particular, there is the definition of the phenomenon of the mafia in the Italian Penal Code (Article 416-bis *codice penale*), as well as legislation on the social re-use of confiscated assets. The ,Ndrangheta can be defeated and its effects can be cancelled, or at least transformed into something positive for society.

In Calabria, at present there are 2724 assets of real estate confiscated from the ,Ndrangheta, 57% of which have been allocated, more allocations following all the time. This is an example of different interrelating approaches: the confiscation of assets not only weakens the economic and financial power of the ,Ndrangheta. It also provides some punishment for crimes such as trafficking in arms, drugs, human beings, or extortion, usury, etc. But confiscation followed by social re-use also strengthens democratic society.

The commitment of the government of Calabria in this respect is shown, among other things, by the way in which European funds are made available for the conversion of confiscated assets (for example, Action 9.6.6 of the Guidelines of the Por 2014-2010 program). In this way, projects for integration and urban renewal can be promoted, as well as the activation of creative workshops. The cases of confiscated companies require special attention. The public institutions have a special responsibility to maintain the economically viable parts of such businesses and their jobs. Here too, the regional government of Calabria has created a specific action (Por, 9.6.1.) to meet these needs.

These are just a few examples of how political action can directly contribute to a weakening of the mafias. These and other examples should be exported within Europe, indeed throughout the world, as the international spread of the ,Ndrangheta and other mafias has assumed a very worrying degree. The presence of organized crime in Spain, Germany, the USA and Australia, to name but a few, makes it necessary for the mafias to be fought by joint actions of all governments, so that there is no corner of the world where mafia-type organised crime can develop freely. ●●

Arturo Bova
Chairman of the Anti-'Ndrangheta Committee in the Calabrian Parliament

Introduction

it is with great pleasure that we present this publication after more than two years of joint work in the German-Italian project *Creating public spaces – best practice in the re-use* of confiscated assets. The project was financed by the Directorate-General for Migration and Home Affairs of the EU Commission under the Prevention and Fight against Crime Program 2007-2013.

Criminal organizations like Mafias and neo-Nazis have many things in common, not least that they draw their power from the weakening of constitutional structures, civil society and, more generally, democratic culture. Such weakness is both the prerequisite for and one of the results of an anti-democratic counter-power, exemplified by the level of their territorial control. In the past years the Italian anti-mafia legislation's system of the confiscation and social re-use of confiscated assets has proven itself as an effective repressive and preventive measure against mafia-type organized crime. With Directive 42/2014, the EU has recommended the Italian model to its Member States for examination.

The partners in the project *Creating Public Spaces* have organised a number of seminars and conferences to compare the different legal bases and possibilities of legal practices in Italy and Germany. Likewise, different social spaces with their varying forms of cultural hegemony and territorial control were examined during study visits to Calabria, Berlin and Mecklenburg-Pomerania, always specifically looking out for effective civil society actions to counter them. The description of so-called 'spaces of fear' took a central position in the project seen that properties used by criminal networks are often of central importance for such territorial control through fear. Best practice examples from Calabria, as well as some approaches from Germany, underline the scope of social and cultural work able to change the practical relevance and symbolism of such properties. Spaces of fear can be pushed back and it is possible to foster public spaces for democratic culture.

The expertise of all partner organizations involved in the project is gathered in this publication available in three languages (German, Italian, English): the Regional Government of Calabria (lead partner), the *Osservatorio sulla 'Ndrangheta* (Reggio Calabria), Amadeu Antonio Foundation (Berlin), the association Echolot – projects for democratic culture, against mafias (Berlin), as well as Humboldt-University Berlin (Law department, Prof. Dr. Martin Heger) and the Roman La Sapienza University (scenography, prof. Luca Ruzza). Following an opening article placing the project's themes in the context of historical and contemporary connections between mafias and right-wing extremists, a second section devotes itself to the social-spatial problem of cultural hegemonies and spaces of fear that characterize them. The central part of the brochure then deals with the German-Italian comparison of legal foundations for policies of confiscation and possible social re-use of assets. Finally, the third section returns to a decidedly civil society perspective to describe the practical experiences and possibilities of cultural work and democratic interventions in spaces of fear, providing examples from Calabria and Germany.

Again, we see that even powerful anti-democratic structures can be successfully tackled if a serious cooperation between democratic civil society and democratic authorities can be achieved. ●●

Benno Plassmann
Echolot – projects for democratic culture,
against mafias e.V., Berlin

Timo Reinfrank
Amadeu Antonio Foundation, Berlin

Attilio Tucci
Osservatorio sulla 'Ndrangheta, Reggio Calabria

» Sometimes protection by police is necessary and helpful, like in some areas of the city of Dortmund in this case; however, in the long-run only democratic spaces with equal rights for all can be spaces that are public and safe. © Lêmrich

NEW THREATS TO DEMOCRATIC CULTURE BY MULTI-CRIMINAL STRUCTURES

Historical and current convergences between Neo-Nazis, right-wing populism and mafia-type criminal organisations

By **Enzo Ciconte** and **Jürgen Roth**

Introduction

It is scary that the convergences between Neo-Nazis, right-wing populist parties and mafia-tpye criminal organisations seem to be a black hole, not only in Germany – as if it was impossible for such systemic links to exist, maybe with the exception of Italy. Both the media and politicians in the field of internal security are afraid to refer to, let alone work on these relationships. In the 1980s and 1990s exactly the same happened with the Italian mafias in Germany: never talked about for a long time, now a best-selling theme, sadly much reduced to the 'Ndrangheta alone.

Today we can basically discern two levels in this system of relationships. On the one hand, there is a 'working level' between mafia-type structures and Neo-Nazis: a (lower) level of specific crimes or territorial dominance. A striking example from Germany for such collaboration is that leading Neo-Nazis in Saxony deal in crystal methamphetaime, a synthetic drug bought from *mafiosi* in the Czech Republic. Equally, the investigations into the Nazi-terror network NSU (National Socialist Underground) have repeatedly brought information to light about organized crime figures, e.g. Jan P., member of the violent Nazi network *Thüringer Heimatschutz* (Thuringian Homeland Security), closely linked to organized crime structures, and now a fugitive searched for by the *Bundeskriminalamt* (BKA, the federal criminal agency). We can also observe many links between rocker gangs, ie criminal motorcycle chapters (CMC) and Neo-Nazis, among them the rocker organization *Osmanen Germania*, who in turn have direct connections to the Turkish Mafia 'Godfather' Sedat Peker and a number of deputies of Turkey's ruling party AKP.

However, the structural and politically overarching meta-level of the system of relationships of Neo-Nazis, right-wing populists and mafia people is certainly not any less menacing for democratic culture. There is nearly no doubting that almost all European right-wing extremist parties and right-wing populist movements are deeply involved in corrupt and mafia-type structures. In fact, a merging of the systems of corruption and mafia-type organised crime with the systems of political representatives of right-wing extremist and right-wing populist parties has taken place or is just taking place, especially in Eastern EU Member states. Key exponents of this development are those politicians who fight against the admission of refugees from Muslim-majority countries, who work against a liberal multicultural society and/or warn against the impending demise of the supposedly morally superior and virgin 'Christian West'. One must be blind to not recognize that this is only the pretext for implementing an economic and social policy that exclusively serves their own political interests and cronies. Their aim is: the absolute priority of self-interest before the common good.

Historical context for Western Europe during the Cold War
To gain a better understanding of these networks it is worthwhile to consider the long history of connections between mafias and right-wing terrorism in Italy. At the beginning of the Cold War and in the 1960s and 1970s, Italy played an important role for several reasons: because it was a country near the Eastern bloc; because among the Western capitalist countries it had the largest communist party directly connected to the Soviet Union; and because it had a strong (neo-)Fascist party in parliament, the *Movimento Sociale Italiano* (MSI, Italian Social Movement). Until the party's very end its secretary was a so-called *Republicchino*, a person who in the name of Mussolini had once called for the execution of partisans. In addition, Italy has always had a great array of Neo-Fascist extra-parliamentary organizations, closely intertwined with the so-called 'black subversive scene' (black being the colour of the Fascists in Italy) and often with conflicting relations with the parliamentary MSI. There were many acronyms and men who at the same time co-operated and fought against one another. Finally, Italy was an intervention area of foreign intelligence services (for instance, as will be seen later in this article, those of the United States and of Great Britain), and many leading figures of the Italian intelligence services remained closely connected with the old Fascist regime. It must also be remembered that Italy was, and still is, characterized by a strong presence of three historical Mafia organizations: the Mafia (Cosa Nostra), originating in Sicily; the 'Ndrangheta, originating in Calabria; and the Camorra, originating in Campania. This historical background is necessary when trying to understand the connections between the mafias, right-wing extremism and right-wing terrorism. This applies to Italy in particular, but for sure also to at least Western Europe. For states of the former Eastern bloc, there were other historic conditions for the development of today's networks between right-wing extremists, right-wing populists and mafia-type criminal organizations.

'Ndrangheta and right-wing terrorism in Italy towards the end of the 20th century

It is commonplace to ascertain that the mafias pursue 'only' economic interests, usually without adhering to a specific political ideology. Generally speaking, when looking at the past, this may be true for Italy – however, with the exception of at least one very instructive example. In the city of Reggio Calabria one can find the De Stefano 'Ndrangheta-clan. This clan is best described as organically, culturally and ideologically fascist. And it is a clan with a strong territorial dominance in the province of Reggio Calabria for these past forty or more years.

A meeting of high ranking 'Ndrangheta bosses took place on 25 October 1969 in the province of Reggio Calabria. They met the day after a rally in the city of Reggio Calabria lead by Junio Valerio Borghese, a former high-ranking commander in the Second World War. Among other postings he was commander of the independent military structure of the X° MAS.[1] Like other high-ranking Fascists and Nazis, he was saved from death by British agents. The intelligence services followed the logic that today's enemy may be the best ally tomorrow.

Said meeting of the 'Ndrangheta on 25 October 1969 had to decide whether the 'Ndrangheta should maintain a broadly supportive position towards the current government structure, or whether it should move its political axis to the right and support the very concrete prospect of a coup d'état of the extreme right under the leadership of Junio Valerio Borghese (later aborted in the last minute). This coup was planned against the backdrop of Italy's society and political establishment being strongly affected by the events of the student movement and numerous trade union demonstrations with strong wage demands. These developments deeply unsettled all those who were afraid of change. The following strategies including terrorist actions were invented and implemented from this fear of a communist government. On 12 December 1969 a bomb exploded in Piazza Fontana in Milan; almost simultaneously a bomb exploded in front of the Bank for Agriculture in Rome. This was the beginning of what in Italy is commonly referred to as the "strategy of tension".[2]

---

[1]   This structure of about 20.000 soldiers was officially part of the Italian Marines, and officially active between 1943 and 1945 under the command of Prince Valerio Junio Borghese. Their units played a strong role in the fight against partisans.

[2]   Magistrate Ferdinando Imposimato quotes his colleague Vittorio Occorsio (murdered in July 1976) in saying that the basic logic of the strategy of tension was „to sow terror amongst Italians. They should be brought to demand a strong government that would be able to re-establish order, whilst putting all the blame on the Reds." http://www.avvocatisenzafrontiere.it/?s=Ferdinando+Imposimato , viewed 22 August 2016.

The situation worsened further in 1970: public unrest broke out in Reggio Calabria for the seemingly superficial reason that the seat of the newly established regional administration for Calabria was to be in Catanzaro, and not in the historical regional capital of Reggio Calabria.[3] The revolt was taken over by the Fascist right: Ciccio Franco, a leading trade unionist of the Neo-Fascist CISNAL union, took over the lead; later he was even elected to the Senate of the Italian Republic. The presence of the 'Ndrangheta was very clear throughout the unrest, testifying to the ongoing co-operation between the subversive extreme right and the 'Ndrangheta. The Sicilian mafia had also been called upon to co-operate during the planning of the Borghese coup d'état but no agreement was reached.

Another example of the relationship between mafia and right-wing terrorism ('black terrorism', as it is called in Italy) is the assassination of the investigative judge Vittorio Occorsio.[4] Based on information from chief witness and former high ranking 'Ndrangheta member Toto D'Agostino, Occorsio had started looking into the links between the subversive extreme right and Licio Gelli, head of the Masonic lodge P 2. Occorsio was assassinated by Pier Luigi Concutelli, a well-known leading Fascist, the day before the interrogation of Licio Gelli. The identification of Occorsio's murderer was possible due to structures interwoven with the 'Ndrangheta.

To conclude the list of examples of the close knit links between 'Ndrangheta and the subversive extreme right, there is the story of Franco Freda, again a member of the extreme right. He was indicted in the court case dealing with the attack on Piazza Fontana together with other people linked to the secret services. The court case took place in Catanzaro, and Freda was able to escape and go into hiding. A few months later, he was tracked to Costa Rica. Before fleeing to Costa Rica he had gone into hiding in a house of Filippo Barreca, a member of the De Stefano clan. Barreca had come into contact with Freda through Paolo Romeo, a prominent figure of the subversive neo-fascist scene, later member of parliament, convicted for supporting the mafia, yet for a long time a very influential person in Calabria.[5] But Philip Barreca was not only a man of the 'Ndrangheta, he was also an informer for the Italian secret services. In the end it was him who gave the authorities the hint that Franco Freda was in Costa Rica.

Banda della Magliana, Mafia Capitale, up to today

A further complex of strong relations between Mafia and neo-fascist subversion is found in the so-called 'Banda della Magliana'[6] in Rome, with *mafiosi* from the different classic Mafia organisations, from the secret services as well as subversive Fascists and ordinary criminals working together. Among them, for example, is a certain Massimo Carminati; today we find him again as one of the main defendants in the mass trial in Rome called *Mafia Capitale* (Mafia Capital). According to the prosecutor's office in Rome, he is the head of a Mafia organization – without, however, coming from Calabria, Sicily or Campania – because Carminati works with Mafia methods. The previous investigation *Mondo di mezzo* (World in the Middle) has opened a whole new phase in the history of the mafias in Italy.

---

3   The most commonly used slogan during the unrest was 'Boia chi molla' (A hangman is who gives up), a typical slogan of the Italian neo-fascist scene. The public unrest continued for about ten months, six people were killed and thousands were arrested by police.

4   Magistrate Vittorio Occorsio had started to investigate the aborted coup d'état by Prince Borghese. Then he became the first investigator to probe the links between 'black' Neo-Fascist terror, masonic lodges and rogue elements of the secret services (eg Sifar, Servizio Informazioni Forze Armate / Military Intelligence Service).

5   see Waibel, Ambros: „Die Mafia-Faschismus Connection", taz.die tageszeitung of 14 July 2016 http://www.taz.de/!5319142/ seen retrieved 22 August 2016.

6   The 'Banda della Magliana' first started their activities in Rome in the second half of the 1970s. Its network comprises important criminal groups of the whole city as well as exponents of mafia-type criminal organisations such as Cosa Nostra, Camorra and 'Ndrangheta. Links to persons from the secret services, from freemasons' lodges and from subversive Fascist circles can be found in a number of trials in connection with 'Banda della Magliana'.

An important figure originating from Fascist circles of this kind is Gennaro Mokbel, a friend of Valerio Fioravanti and Francesca Mambro, who were sentenced for the Bologna massacre of 1980. In 2010 he was immortalized in the photo of an evening dinner with two other interesting characters. The first is a member of a clan of the Calabrian 'Ndrangheta from the region of Crotone. The second is a Senator of the Italian Republic, elected in a foreign election district, comprising Belgium as well as Germany. It seems that 'Ndrangheta people had managed to manipulate the election documents of the Italian embassy in Brussels enabling Di Girolamo to stand for election.[7] His subsequent election was presumably organised through election fraud by locally present 'Ndrangheta clans in the German state of Baden-Württemberg. In 2010 he was forced to step down from the office as Senator and he was arrested.After the Berlin Wall came down the people of the subversive extreme right and the *mafiosi* continued with their connections, reinventing themselves in other business areas. Nevertheless, their networks almost certainly still exist and stand ready to return to their terrorist ways.

Gladio: **Organisational structure of the 'Deep State'**

These Italian experiences lead to what is commonly described as the Deep State. The question is whether there a kind of political fingerprint can be shown to exist in the context of ideologically controlled, partially secret power structures: the state within the state. The most important distinguishing feature of this fingerprint is ethnic nationalism, elitism and authoritarianism. It can still be seen in both national conservative and extreme right-wing parties and organizations in the 1980ies, not only in Italy, but also in other European countries. Whether it is the secretive stay-behind organizations of the 1950ies and 1960ies,[8] the no less secret brotherhood of former NS officers in the early 1950ies, continued work of of former Nazi judges and high police officers in Germany until the late 1970ies, or the operations of the *Gladio* network right up to the early 1990ies – this structural fingerprint can be found in many places, even to this day.

7   See Schönau, Birgit: „Gennaro und seine Freunde", in Die Zeit of 18 March 2010, http://www.zeit.de/2010/12/Mafia-Telekommunikation-Italien consulted on 22 August 2016

8   The term 'stay behind' is derived from the hypothetical task of these structures to stay behind enemy lines in case of a possible occupation of Western Europe by Soviet forces and continue fighting with guerilla tactics or acts of sabotage.

Turkey

The Turkish military had also set up a Gladio-inspired 'stay-behind army' in the struggle against communists and political opponents in the 1960s and 1970s. The commandos were trained by the Turkish intelligence agency MIT, but above all by US special units. The followers of the Fascist Party of the Nationalist Movement (MHP) were particularly involved in this strategy, known for its close links with the Turkish drug mafia, the so-called Babas. MHP leaders in Germany organized both the heroin trade in the 1970s and 1980s, while maintaining close contacts with Turkish and German intelligence services and terrorizing Turkish and Kurdish opposition politicians in Germany.

An organization has existed able to elude all democratic controls, run by the secret services of the states concerned in collaboration with NATO? It is said to have been associated with bloody terrorist acts interfering with the political affairs of EU Member States. It is said to have operated completely outside the law and developed dangerous capacities of attack against democratic structures. These allegations agains the 'Gladio' network were raised in a resolution of the European Parliament of 22 November 1990.[9] In this resolution, the EU Member States were requested to take all necessary measures, if necessary by establishing parliamentary committees of inquiry, to establish a complete inventory of this organization. At the same time, their links with the relevant intelligence services, terrorist action groups and their affinity with other illegal practices should be examined. Only Italy, Belgium and Switzerland have taken these steps.

Greece

In Greece, Gladio was involved in the military coup against Papandreou's socialist government in April 1967, choosing the name 'Sheep skin' for their clandestine organisation. Georgios Papadopoulos, who was both a Greek officer and on the CIA payroll, was the head of the coup. From the Washington point of view, the coup saved the free world from communist danger. The Colonels themselves justified their coup as a "revolution for the salvation of the nation." A communist conspiracy in the administration, the education system, the media, even in the army had made a revolution necessary. The was lead by the 3rd General Staff Division for Operations Planning. With his coup Papdopoulos realized a plan which had already been worked out in the 1950s in cooperation with NATO for the event of a communist attack. According to the plan the 'Sheep Skin' secret group was to be used to occupy central points in the country and to intern unwanted politicians. After the coup, in April 1968 the Greek military invited a group of Italian right-wing extremists to Greece to study methods of counter-insurrection, among them apparently also a certain Stefano Delle Chiaie.

---

9   Official Journal of the EU Nr. C 324, 24. Dezember 1990, p. 201 - http://eur-lex.europa.eu/legal-content/
     EN/TXT/PDF/?uri=OJ:JOC_1990_324_R_0186_01&from=EN

**Central- and Eastern Europe today,
'captured states'**

The view that the mafias usually 'only' pursue economic interests without a specific political ideology or without a desire for direct power can be held with regards to Italy, at least historically (with the notable exception of the aforementioned De Stefano clan in Reggio Calabria). However, this is different in other European countries. The former Eastern bloc, in particular the Visegrad states Hungary, the Czech Republic, Slovakia and Poland play a central role, not only with regard to the refugee crisis but in terms of destroying liberal democracy. For in the meantime they have fallen into the hands of mafia-type networks made up of people of the former nomenklatura, of the secret services, ideological turn-coats, embar-

go-breakers, oligarchs, straight criminals or signed-up Mafia people. In the Balkans key players of the mafias have successfully sought high office in government or parties offices and / or have good relations with these circles. They can be described as 'multi-functional' individuals with a political orientation who do not dirty their hands, but use their influence in the 'underworld' to enforce their interests. They faciliate mafia deals through their relationships relationships in politics, business and the security. The most striking example surely is Kosovo. Here it took only a few years for some people to transform from being members of the Albanian liberation army UCK's leading circles, to become great drug traffickers, and in the end to being respected members of government. The result was and is: a kleptocracy and an impoverished population in a pseudo-democracy with the rule of law barely in existence – in Europe.

Or take the Hungarian Prime Minister Viktor Orbán. After the great change of 1989, Hungary was considered a star among the transformation countries with a functioning democratic culture. According to a witness, today's Prime Minister Orbán (then only a simple deputy of the FIDESZ party) received a million Deutschmarks for his party from the Russian mafia boss Semion Mogilevich in the mid-1990s. In a written affidavit the chief witness stated, among other things: "Mogilevich called this support, later on, an election campaign donation."[10]

Today, twenty years later the US State Departement's country report 2015 describes the Hungarian economy as state-run capitalism rife with clientelism. The report uses the term 'state capture' to criticize the opaque symbiosis between government and selected private companies.[11] The term describes systemic political corruption in which private interests influence state decision-making processes to their own advantage to a considerable extent. Their influence can be seen in state institutions, including the legislature, the executive, the ministries and the judiciary.

This is exactly what has happened since Viktor Orbán leads the government. Through appropriately tailored public procurement contracts entrepreneurs loyal to FIDESZ are strengthened. The Hungarian economy was subordinated to the needs of Orbán and his cronies, while at the same time smashing the democratic structures. His father and some siblings came to a considerable prosperity since Viktor Orbán stears the ship of the state. "In the period between 1998 and 2002 alone, the value of his father's Dolomite Company rose from 98 million in 1998 to 660 million forints in 2002. The company Gánt-Ko. with strong ties to his brother has increased its value from 16 million Hungarian forints to 167 million forints."[12] Today Jósef Debreczeni is one of the most respected writers in Hungary and former political adviser to Viktor Orbán. In 2009, he published the best-selling *Arcmás* (The Other Face). In his book he claims that Viktor Orbán, or rather his wife, bought an apartment worth 563,000 forints in on the Pest side of Budapest in 1998. Four years later they would have added a villa in an exclusive district of Budapest, worth 75 million forints. And all of that when the salary of a prime minister, who has five children, is not that high. "Hungary has become a kind of estate in recent years," says Budapest journalist Krisztina Ferenczi, "Orbán has established a neo-feudal order with the gentry and bonded people. But he hides his politics against the poor behind his nationalistic propaganda."[13]

---

10   Affidavit by Dietmar Clodo, 15 June 2016
11   http://www.state.gov/j/drl/rls/hrrpt/2015/eur/252855.htm
12   http://hungarianspectrum.org/2011/12/03/the-Orbán-family-and-corruption/ seen on 12 December 2016
13   Keno Verseck: Ungarn: Orbáns Clan plündert die Staatskassen. Der Spiegel, 2 April 2014

«   Young people from alternative, anti-fascist circles can play important roles in the battle against the Nazis' claims to spatial dominance. © Lêmrich

László Keller was, among other things, Minister of State for Public Finance in the office of Prime Minister from 2002 to 2004. He focused on controlling public expenditure. "After the Orbán government came to power in 1998, corruption was centralized. Orbán built the structures making it possible for state funds to disappear in private coffers. Among the profiteers was his father." When asked whether Viktor Orbán acted like the Italian Mafia, he replied: "This is not an exaggeration. He is the Capo, the Hungarian Don Corleone."[14] And the sociologist Kim Lane Scheppele of Princeton University calls the existing Orbán system a" post-communist mafia state."[15] And it must not be forgotten, we are talking of Viktor Orbán, the man who is feted by the European right-wing populists, by the Pegida movement in Germany all the way to the German CSU as the guardian of the Christian West.

In conclusion

In short, democratic culture in Europe is now not only attacked by what, in principle, everyone can see: by ethnic-authoritarian movements and parties. It is attacked also by criminogenic, ie mixed-mafia-structures within the governmental apparatus itself in some European countries. Together, these different threats combine to ensure that there are hardly any spaces for democratic culture, especially not for those living in social misery or those seeking protection in Europe. And the democratic European public is accepting of this with more or less no real complaints. The outrage about, and fixation on individual Italian mafia-type organisations such as the 'Ndrangheta (without deeply going into the way it fits into the neo-liberal economic order) prevents us from noticing the massive threats posed by the mafias in conjunction with their fraternal relations with right-wing extremist groups and right-wing populist parties (or governments) in Europe. ●●

---

14   Conversation with László Keller in Budapest
15   Scheppele Kim Lane: Introduction for Magyar Bálint: Post-Communist Mafia State. The Case of Hungary, 2016, p. xxiii

---

CULTURAL HEGEMONIES, TERRITORIAL DOMINANCE AND SPACES OF FEAR

Spaces of fear: a sociological view combined with the perspectives of potentially affected persons

By **Tahera Ameer, Stella Hindemith** and **Tobias Scholz**

Anklam railway station is near the outskirts of the town. Before the project 'Democracy Station' was established there, station and forecourt were a place which many people avoided. In such places, a question arises come nightfall: Who will come to help if something happens? Now, stations like that can be found in many places. The case of Anklam is particular because the German Neo-Nazi party NPD is firmly rooted in the city and the local presence of Nazis cannot be overlooked. In November 2014 three refugees were attacked by Nazis on the forecourt of the station. One of the Nazis pulled a knife; another one tried to run one of the refugees over with his car. The attack happened in the evening and, as may sadly be expected, no witnesses came forward. It would be convenient to dismiss this story as a (terrible) single criminal act, but this is not an option when listening to the voices of People of Color or other people who do not fit the Nazi racial ideology. Not only have there been frequent racist attacks in Anklam, and not only has the station long been a meeting place for the local Nazi scene; rather, it is also almost impossible for people belonging to visible minorities to move around the city without being stared at. An atmosphere of hostility and racism is practically tangible. In Anklam's local context, the station is a symbolic place where right-wing hegemony is intensified. Any attempt to establish a democratic civil culture in Anklam could begin – but by no means end – with its railway station.

Examples like this exist in many other cities and villages, and their examination helps to approach the phenomenon of spaces of fear. This term has been used by German media since the end of the 1990s in reporting on racist attacks and on places dominated by right-wing extremism. It has nevertheless remained a 'fuzzy' category, since it is usually only possible to work with concrete examples when trying to answer questions for whom, why and where spaces of fear exist, and which prerequisites favor their development.

Spaces of fear are never random or inexplicable. Wherever they exist, they are indicators of the vulnerability or weakness of local democratic culture. Constitutional norms underlying open society are abolished where right-wing extremist groups successfully exercise a sanctioning power and 'close off' social spaces. In such cases, local, democratic, migrant or antiracist (sub-)culture and civil society is hampered in its work or, indeed, may not even exist.

The aim of the present paper is to approach the concept of local spaces of fear, and to analyze it in the context of the project *Creating Public Spaces*. The great potential of the re-use use of buildings formerly used by criminal networks or neo-Nazis ultimately lies in changing the local social-spatial order; that is, in the suppression of existing spaces of fear and the creation of public spaces for democratic culture.

There is hardly any scientific literature on this phenomenon. The few available titles do not take account of current political and demographic developments into account. Moreover, there are no texts written from minority perspectives, those most affected by spaces of fear. This contribution considers theses and observations from the studies of Uta Döring (2008) and Thomas Bürk (2012), as well as materials developed within the long history of project work by the Amadeu Antonio Foundation.

There is a simple reason why the concept of social space enjoys such a central position within the project *Creating Public Spaces*. This results from the observation that Germany's legal culture – so different in comparison to Italy – will only change when the legal instruments of confiscation and re-use begins to have a noticeable effect in the lives of people. The practice of social re-use of confiscated assets by civil society actors is common in Italy, but it must first prove itself in Germany. And for this it is important to understand the social spaces which are to be changed. The following text aims to show parallels between spaces of fear and inin their production and maintenance in Germany and Italy. We posit that buildings are a central function in the production of territorial domination by violence and intimidation. If one wants to create pluralistic public spaces for democratic culture, it must be clearly understood how spaces of fear come about, how they function and what role individual buildings can play in this process.

From 'liberated national zones' to spaces of fear
In Germany, discussions about so-called spaces of fear are based on two separate developments. Firstly, it arose out of a debate on male violence against women in public and semi-public urban spaces, led by feminist researchers, women architects and planners, from the 1980s onwards. At that time places were described as spaces of fear on the basis of female perception and empirical data on feelings of insecurity: underpasses, underground parking lots, parks, areas around railway stations etc. As potential spaces of fear, these places were then included in urban planning processes and corresponding prevention strategies were developed--for example, women's parking spaces in underground parking lots.

Secondly, the use of the term 'space of fear' is based on developments especially in the Eastern states of Germany, becoming apparent in the 1990s with the public emergence of an action-oriented, right-wing youth culture, including its territorial strategies. Central to right-wing extremist strategy were the so-called 'liberated national zones'. They were to be created as areas of free movement and action, with great autonomy for these groups. The term 'space of fear' is thus derived particularly from discussing these spaces of dominance and protection of right-wing extremist groups.

After German unification and in the course of the 1990s, the establishment of 'liberated national zones' was an increasingly important theme in nationalist and right-wing extremist publications. Such considerations were strongly marked by territorial thinking, but less in an expansive sense than with the intention to build up a parallel 'counter-society' to mainstream society in some areas. These areas were to be dominated by the power of extreme right-wing actors, and they aimed at holding a monopoly of violence. In their thinking, these strategists partly based themselves on the social revolutionary *Terza Posizione*, an Italian movement of the extreme-right around Roberto Fiore in the 1970s.

These publications of the extreme right-wing did not develop a uniform step-by-step guidance on how to establish 'liberated national zones'. However, their strategic thinking covered such aspects as financing models, economic independence through the establishment of nationalist cooperatives, as well as their networking into autonomous economic cycles. An important aim of the strategy was to win over the general population to the comprehensive ideological and spatial project, thereby reducing the democratic state's influence in all areas. Political ideas or or alternative lifestyles different from theirs should be expelled from their territory along with people with 'foreign' religions or skin color.

In 2006 – a few months before the opening of the Men's Football World Cup in Germany – the former government spokesperson Uwe-Karsten Heye stated on national radio that "people with non-white skin color risk their lives in some areas of Brandenburg." Suddenly the national media debated so-called 'no-go-areas', areas to be avoided by tourists and members of visible minority groups.

The extremists' plans of territorial dominance have been fully implemented hardly anywhere. Neverthelses, the aims of right-wing extremist and nationalist groups remain: the creation of a cultural hegemony and the establishment of territorial control. The way in which they try to achieve this depends on the specific dynamics of the local situation. However, a general distinction can be made between the ways in which processes of spatial dominance develop in rural areas – the emergence of the no-go areas referred to by Heye – and in urban areas. In the former case, they are usually less violent and achieve greater acceptance from local mainstream society; violence against migrants, for example, is not perceived as a threat by mainstream society. Territorial gains in urban areas, on the other hand, usually involve more violence and are, above all, more visible. The researcher Dierk Borstel describes this in a 4-phase model he developed for describing the production and assertion of territorial dominance:

A) Gains through provocation: The right-wing extremist groups try to present themselves as a serious group in society through public appearances and by marking spaces with symbols, posters or graffiti.

B) Clearance gains: The groups of the extreme right try to push other groups out. It is a battle over spatial order, however limited it may be. Especially in this phase the evocation and use of fear plays a central role, e.g. by invading 'alternative' youth centers.

C) Spatial gains: In this stage, right-wing groups present local power publicly. A certain space becomes their territory. Other groups avoid these places, potential victims view the places as spaces of fear, not to be entered at all or only with great caution.

D) Normalization gains: This last stage is characterized by a 'new normal.' Right-wing extremism is established and the exclusion of weaker groups isaccepted.

Over the course of such processes, spaces are established in which persons who are defined as belonging to a minority group must live with the permanent threat and the expectation of violent discrimination. These are the archetypal 'spaces of fear'.There are obvious parallels to methods of territorial dominance by mafia-type organizations in Italy and elsewhere. The interests, aims and methods of these anti-democratic actors may differ in some respects. In practice, one central common denominator is that both groups derive their power from the weakening of the structures of the democratic state and of civil society and, more generally, from the weakening of democratic culture. This weakness is both the prerequisite for, and the result of, the development of such anti-democratic power. Intimidation, threats and the use of force are key means to achieve this end.

Whose fear? The perspective of those affected and their strategies of dealing with spaces of fear
In approaching the concept of spaces of fear, we have thus far concentrated on the perspective of 'perpetrators', i.e. those who aim to achieve their goals by creating spaces of fear. However, already the use of the term 'space of fear' in some respects marks a shift towards the perspective of those affected. This shift is highlighted by a definition of spaces of fear as "places where single or several members of particular groups of the population are afraid of crimes against them for specific reasons (gender, age, skin color, sexual orientation, presence of certain persons, etc.)." The focus is therefore on places and buildings which, because of their location, use or activity therein, create fear and, thus, are avoided.

When looking at the way in which certain social spaces represent spaces of fear for certain groups, it is imperative to understand how such places are perceived and how they are 'dealt with' by those affected. Sadly, this change in perspective runs counter to the official perspective, which is based on officially registered offenses, and convictions.By avoiding to recognize the phenomonen from the perspective of potentially targeted persons law enforcement agencies often enough leave minorities all the more vulnerable instead of protecting them.

Seen from the victim's perspective, the question of how violence is used, threatened and present as a form of intimidation underlies the maintenance of spaces of fear. But there are also other forms of communication: posters of the extreme-right wing party NPD, places where visible members of right-wing extremist groups meet, rallies, right-wing newspapers on kiosks or hateful graffiti in bus stops. They express a dominance in the social space, especially when they go unchallenged.. This kind of communication reaches deeply into all forms of interaction: people with visible physical special needs are often stared at but at the same time 'overlooked'. These different forms of communication taken together mean that in spaces of fear there is no reliable answer to the question raised in the beginning with regard to the example of Anklam station: will someone come to help if something happens?

Experiences of victims or people affected, and strategies in dealing with spaces of fear
Spaces of fear come in many different shapes and forms. Darkness reliably constitutes a space of fear for most women, as do parks and parking lots. Beyond that, however, the perception of what may or may not be a space of fear is also individual and dependent on social atmospheres. The Keplerstrasse supermarket in Schwerin is such a place. For people of color, shopping there means entering a space of fear. It is a space where the sentence 'You are not allowed here' can well be backed up with attack dogs and fists. Violence is a means of appropriation of space, and it is effective regardless of the time of day, regardless of whether the street is busy or empty.

QUOTE
"Since the dogs were sicced on friends of ours, we have all been afraid that something will happen to us. We don't dare to go out and about anymore. The Keplerstrasse is one of the reasons for this fear. It's better not to go there, but we hear it everywhere: refugees are not welcome. We are just scared because we know: there are people who do not want us to be here. And that makes us feel anxious and unsafe. Keplerstrasse is one thing, but that people are simply against refugees, that is also clear. That creates a basic fear."

A person of color who lives in the nearby district of Muess of Schwerin speaks of the omnipresence of hostile attitudes, manifesting also in verbal attacks. But he does not want to let spaces of fear into his life that would restrict him in his freedom of movement. He perceives close looks and stares as normal. He goes on the offensive when a space of fear opens up in public through verbal attacks.

QUOTE
"I stare back at the people, I answer back at the insults, I push them away from me. It's unpleasant at times but I do not want to retreat."

Or there is a mother who has been deprived of her safety by several racist attacks near her home, and even in the entrance area of her house. She responds by arming herself with pepper spray.

QUOTE
"I do not let the violence impress me. I bought pepper spray. Nobody can stop me from doing anything. It would be wrong to retreat. It is not good to give space to fear. You have to stand up against it! This is what those people want: that one retreats and is only at home, that we are not part of general street life. This is what they want to achieve. But we do not want that. We have to do something – and that means: go out, whenever. Whenever it must be and whenever you feel like it. And wherever you want to go. Regardless of whether I know the people there don't want to see me. I want to! I want to be there."

Spaces of fear arise where verbal and physical attacks take place. And they arise in all those places where there is a collective experience of potentially dangerous spaces. This can be a car park, but it can also be the sidewalk in a residential area in bright daylight where five young men walk towards you with beer bottles in their hand.

The results of such social atmospheres can differ greatly. An important strategy in dealing with spaces of fear is, and will remain, to simply avoid them. Women and girls often do not enter parks at night or take a detour to go home – this even affects white women in urban areas. A second important strategy is to change one's own image – as far as possible – so that visible signs of affinity remain hidden that may make you vulnerable. Jewish people for example, don't wear a David's star in public spaces (even during the day), or hide their Kippot under hats; women wearing hijab often wear large hoods. These kinds of strategies are not available to all people. For these people, social cohesion provides security, in addition to personal and internal forms of dealing with such atmospheres. However, this text cannot go deeper into that aspect. These strategies described here – especially the avoidance of certain places and the adaptation of one's own appearance – often require a high level of (self-)control, but they are can also be seen as strategies of resistance as they broaden access to public spaces and question hegemonies.

Such strategies of spatial dominance affect people who are not familiar with the situation. Appropriate markings and interactions in public space communicate who belongs to the space and who does not.

In such situations, local democratic structures can make a big difference. Whether it is a demonstration opposing a Nazi demonstration, or to overpaint stickers on electricity boxes, or to object to racist profiling on trains: whenever people make it clear they do not agree with right-wing hegemony, it weakens that power structure through this contradiction. Ideally, such resistance takes place on several social levelsat the same time, both by local civil society as well as public administration.

Examples for the function of buildings in the establishment and strengthening of spaces of fear
Buildings play a central role in the functioning of spaces of fear. According to the Federal Ministry of the Interior (see document 18/4995 of the Bundestag) at least 260 properties were used by the right-wing extremist scene in Germany in 2015, with about 60 of them in their direct ownership. It may seem banal at first to point out that buildings undergird, and are often preconditions for, spaces of fear. However, for the authorities and local civil society it is imperative to understand this processif existing spaces of fear are to be overcome. Otherwise, it is hard to take appropriate action even if the opportunity for conversion and social re-use becomes available.

Here we will briefly present three examples of buildings which in their respective local contexts are (or have been) central for a specific space of fear: the so-called *Thinghaus* in Grevesmühlen (Mecklenburg-Western Pomerania), the federal headquarters of the extreme-right wing party NPD in Berlin-Köpenick, and the building at Oberprex 47 in Regnitzlosau (Bavaria). They are quoted as examples for the hundreds of buildings mentioned by the Federal Ministry of the Interior; in these cases, all three are owned by people in, or close to the Neo-Nazi scene. The Federal Government and the authorities seem to have little knowledge of their exact use, despite the large number of specific parliamentary questions on state and federal level testifying to their great number and importance.

1. The *Thinghaus* in Grevesmühlen (Mecklenburg-Western Pomerania) is a drastic example of a building in the center of a space of fear for people of color, refugees, young people with alternative lifestyles etc. Inaugurated in 2010, the house symbolizes no less than a very concrete region-wide threat for said groups. The grounds of the *Thinghaus* are fenced with NATO barbed wire, partly patrolled with Caucasian shepherd dogs and the windows of the buildings are barred. The house serves as company office for the known Neo-Nazi offender Sven Krüger, who comes from the nearby village of Jamel and publishes nationalist publications such as the *Meckelbörger Boten*. Furthermore, it houses the offices of high-ranking NPD figures such as the former federal party chairman Udo Pastörs and the regional party chairman Stefan Köster. The estate is used, amongst other things, for concerts, party events, carnival parties, children's parties or readings. The music events in particular attract several hundred participants from different regions. The *Thinghaus* demonstrates their claim to cultural hegemony in the rural area. It stands as a space of fear for the entire region because its strong symbolism on the ground goes basically unchallenged.

2. The federal headquarters of the NPD in the Berlin district of Köpenick has been a latent and multi-faceted threat to the local social space, especially to members of groups defined as minorities. The headquarters is not only an office, but also a logistics center, as well as a venue for events. It is often the starting point for violent attacks, threats and intimidation. NPD members were involved in an arson attack on an alternative, democratic youth centre bout 100 meters away, and according to the Berlin registry for the recording of right-wing extremist and discriminatory incidents, local incidents are characterized by their great violence. The property and its surroundings represent a focus for the settlement policy of the violent Neo-Nazi scene of Berlin-Brandenburg. It is a crystallization point of an active subversive policy: a conscious infiltration of social situations in the area can be observed. Ultimately, the social space has developed into a space of fear, deliberately avoided by many people.

3. The Oberprex 47 property in the Northern Bavarian municipality of Regnitzlosau was confiscated by the Interior Minister of the federal state of Bavaria in July 2014. This confiscation took place as part of a dissolution order placed on the Neo-Nazi comradeship *Freies Netz Süd* according to the Associations Act (Vereinsgesetz). In a manner analogous to the *Thinghaus*, the small farm at the edge of the village is anexample of how a property at the time of it being actively used by the Neo-Nazis posed a threat to the local surroundings, especially as it served as a meeting place and as an event location for an international Neo-Nazi scene. Even though the authorities clearly stated at the time of confiscation that a direct social re-use was being planned, nothing much has happened to the building since its confiscation. The right-wing activists in the area are now beginning to use this for their propaganda.

These three examples underline the importance buildings have for the establishment and strengthening of local spaces of fear. They also serve to highlight the – mostly unused – potential of direct social re-use. Please refer to the article by Benno Plassmann towards the end of the brochure for positive examples for successful forms of re-use in Germany.

Outlook and opportunities
It is to be expected that the virulence of the phenomenon of spaces of fear will further intensify given the enormous increase in violence against migrants in Germany since 2014, and given the electoral successes of the relatively new right-wing populist party AfD in a number of regional elections. And then we haven't even spoken of the presence of mafia-type criminal organisations in Germany. Accordingly, the question arises as which effective instruments exist to change these dynamics of social space. Based on the above examples, and the best practice models from Italy presented in this booklet by Francesca Chirico, it becomes clear that the wealth of knowledge of civil society actors and organizations must be mobilized to stimulate or support appropriate governmental actions.

In recent years, the necessary co-operation between courts, authorities and civil society has only ever been the result of the personal initiative of specific civil society actors. There would not have otherwise been any form of re-use of properties formerly used by right-wing extremists. If the legislators in Germany were aware of the scope of the problem of local spaces of fear, corresponding legal answers would surely be formulated, taking up the blueprints of a proven system in Italy and as recommended by the EU directive 2014/42. It would be an important step to introduce a specific clause considering the 'special case of real estate' in the current legislative procedure for a reform of the system of criminal confiscation. ●●

» The only way to structurally work in support of public space is to strengthen the presence of democratic civil society.
© Lêmrich

The development of Italy's anti-Mafia legislation from the point of view of civil society
the long road from emergency laws to structured action against the Mafias

By **Claudio La Camera**

The Italian mafias, with all their symbolic and cultural power, have long been an integral part of international classifications of criminal organizations. The Italian anti-Mafia legislation represents an extraordinary legal body unlike anything that can be found in other countries. The historical development of this legislation, its social connotations, and the role of civil society are key for understanding their actual impact on the Italian mafias – even if criminals continue to hold a dominant position of territorial power in many areas.

Milestones in anti-Mafia legislation up to the 1990s

Although the mafias have been around for more than a century, Italian anti-mafia legislation is relatively young. This frightening delay in legislation has allowed the mafias to expand so strongly. The first official report on the 'Ndrangheta by the Anti-mafia parliamentary committee dates from 2008; the term 'Ndrangheta itself does not appear in the Italian Penal Code until 2010. Meanwhile, the city administration of Reggio Calabria – the home of the 'Ndrangheta – had to be dissolved for mafia-infiltration as early as 1895! The Italian institutions underestimated the mafia-phenomenon for too long: up to the 1980s, mafia court cases usually ended with not-guilty verdicts, either because of a lack of evidence or due to difficulties in formulating mafia membership as a criminal offense. The majority of the anti-mafia laws were therefore an answer to acute emergencies, looking to respond to tragic events marking Italian society. In 1963, seven Carabinieri died at the Ciaculli attack in Palermo; the response was the first establishment of an anti-Mafia committee in the Sicilian regional parliament. Two years later, in the autumn of 1965, the law n. 575 was passed which for the first time bore the word mafia its title: 'Provisions against the Mafia'. This law contained provisions allowing for the curtailment of freedoms of persons who were suspected of belonging to one of the mafias. Up until 1981 court cases were usually built on Article 416 of the Italian penal code (*associazione per delinquere,* criminal organisation), but this proved to be ineffective considering the scope of the problem. Great public outrage followed the assassination of the Carabinieri General Dalla Chiesa on 3 September 1982 in Palermo. The Italian government decided to amend Article 416, introducing for the first

time a legal definition of mafia-type criminal organisations in Law n. 646 of 13 September 1982 (commonly referred to as the 'Rognoni-La Torre Act'). According to Article 416-bis Italian penal code, three standards must be met: the organization must consist of at least three members; the organization exerts an intimidating force leading to subjection of the members including their silence (omertà); and the organization is capable of bringing an intimidatory force to bear on territory under its control. The peculiarity of the offense of belonging to a mafia-type criminal organization is that it does not require having actually committed a specific delictual crime. Two further important factors added to this important change in the law: firstly, those years also saw the inception of the 'Palermo pool', with the close-knit cooperation between investigators Rocco Chinnici, Antonino Caponnetto, Giovanni Falcone and Paolo Borsellino; secondly, for the first time, there were important turncoat witnesses like Tommaso Buscetta, and later Calderone, Contorno and Marino Mannoia. The short years between 1982 and 1984 therefore saw the fruitful interaction of important changes in the law, in the workings of the prosecution services and a cultural change leading many bosses to a decision to collaborate with the justice system. After the murder of Judge Rosario Livatino in 1991, the National Antimafia Directorate *(Direzione Nazionale Antimafia)* and the Directorate of Antimafia Investigations *(DIA, Direzione Investigativa Antimafia)* were founded. These are institutional cross-sectional bodies comprised of carabinieri, police and customs officials, specializing in the fight against mafia crime. The first legislation against extortion was implemented only after the assassination of Libero Grassi in August 1991. He was a well-known Palermo entrepreneur who refused to pay the local mafia's so-called 'protection' money. After the attacks of Capaci and Via d'Amelio in 1992, killing investigative judges Giovanni Falcone, his wife, Paolo Borsellino and their bodyguards, the Article 4-bis (solitary confinement for high-ranking members of the mafia) was introduced by Law n. 663/1986. The combined effects of these legislative and structural measures in the security

services marks the watershed between the anti-mafia 'of the day after' with their emergency responses and to structured actions against the mafias from the early 1990s. For the security services, there were three important elements that marked this change: the testimony of former mafia members willing to cooperate with the judiciary, the willingness of victims of the mafias to cooperate with the judiciary, and improvements in investigative techniques, especially interception techniques such as eavesdropping, telephone monitoring, and the monitoring of electronic information. These new investigative powers were introduced in Italy in 1989 and have radically altered the history of anti-mafia law enforcement.

**The introduction of the social re-use
of confiscated assets on demand of civil society**
An important law marking the break between 'emergency-style' anti-mafia legislation and structured anti-mafia legislation was Law n. 109/96 of March 1996, introducing the re-use of confiscated mafia assets for social purposes. The bill was launched in response to pressure from civil-societal organisations, with a nation-wide campaign collecting one million signatures that were delivered to the President of the Italian House of Representatives in early 1996. This law succeeded in creating conditions in many Italian regions, not only those of the South, for young people to engage in real work and helping them free themselves from social and economic misery. But the law also represents a partial failure of coherent cooperation between civil society and the state. Its implementation shows serious dysfunctions in the public institutions' fight against the mafias. The system of administration and allocation of confiscated properties soon attracted numerous criticisms. Years often pass between confiscation and allocation of an asset; especially in the case of confiscated companies, this leads to a quick loss of competitiveness on the market. Real estate or other goods are often rendered unusable in this long period of stasis.. In addition, the former (criminal) owners often damage the assets before their surrender or when they fall under new community management. The costs for upkeep and repair are a burden on the coffers of the local administrations and on those of the associations to whom the asset is passed. This can lead to the paradoxical situation in which assets must be returned for cost reasons. Such dysfunctionalities are a major defeat: each failed project could have been a concrete step and symbol for successfully fighting the mafias. After all, the power structures of the mafias are able to continue because they are directly linked to symbolic structures which secure a large (enough) social consensus.

Further central legal provisions

Gradually, further laws were added, following the same general objectives and under similar conditions: Law n. 108/1996 on usury and Law n. 44/1999 establishing a solidarity fund for the victims of extortion and usury. The latter law provides for financial compensation for victims of extortion if they go to the police to report the racketeers, if they have stopped paying, if they have not partaken in crime in any way, and if they are not persons subjected to preventive measures in connection with mafia-type activities. The law has proven to be an important prerequisite for the creation of associations taking action against extortionand usury. They have been and continue to be an indispensable tool helping victims and their families in all phases of the social and judicial process. In 1999, Law n. 512 was adopted, setting up a specific legal aid fund in solidarity with the victims of mafia-type crimes. Public administrations are also the subject of an important law (164/1991), which regulates the procedure for the dissolution of local authorities in the case of mafia infiltration. Only by decree of the President of the Republic, on request of the Minister of the Interior, may a local council be dissolved. This decree must be preceded by a decision of the entire Cabinet, which in turn must be preceded by a final report by a commission appointed by the Prefect concerned (the Prefect is the regional representative of the Ministry of the Interior with special powers in internal security matters). As of April 2016, some 250 municipalities have been dissolved in this manner. Corruption was addressed in more detail by Law n. 190/2012, dealing both with prevention and repression of corruption and illicit action in public administration. Interestingly, it created a blacklist of activities which are prone to mafia infiltration. Finally, with Decree 159/2011, the new Codex of Anti-Mafia Laws and Preventive Measures came into force, reorganizing and systematizing all existing regulations in this field.

In the present day, Italy has a highly elaborate legislative apparatus to effectively combat the phenomenon of the mafias. Moreover, there is an active democratic civil society that opposes the phenomenon. Wherever there is strong cooperation between state institutions and civil society, much can be achieved. Nevertheless, the Italian mafias still enjoy high levels of social consensus and retain the ability to corrupt public institutions. In the face of the mafias' involvement with large parts of politics, business and institutions, the so-called 'grey area' of the mafias still maintains strong territorial control over many areas and many parts of society. ●●

» What in the past was the villa of a 'Ndrangheta-killer, is today the *Osservatorio sulla 'Ndrangheta* (civil society Observatory of the 'Ndrangheta) in Reggio Calabria; amongst other things it provides a large archive of anti-Mafia court cases and sentences. © Adelaide di Nunzio

LEGAL DEVELOPMENTS IN THE FIELD OF CONFISCATION OF ASSETS OF CRIMINAL GROUPS

An overview of the Italian legal system
Criminal economies, confiscation regulations and social re-use of confiscated assets

By **Ottavio Sferlazza** and **Federico Alagna**

 In the long history of the struggle against organized crime in Italy, the most effective measures have proven to be those aiming at the core of the criminal organisations' economic and material interests. On the one hand, this helps to ensure that 'crime does not pay' and to counteract the organisations' prime aim, that is, the accumulation of wealth and power (Santino 2006). The criminal structures themselves can be weakened by systematically removing their capacities of investment and self-preservation. On the other hand, this approach also assumes a great importance when looked at from a civic and social perspective: the confiscation of assets and their subsequent re-use for social purposes ensures that society receives genuine compensation for what was unjustly stolen from it by criminal organisations.

Legal and criminal economy
One of the specific characteristics of mafia-type criminal organisations is their relations with the legal socio-economic field, ranging from economic enterprises to political and administrative institutions with which they interact. Relationships are built in various ways: these can be quasi-parasitic, but often enough they are also organisationally symbiotic in nature (for further information see La Spina 2005). An effective strategy for combating organized crime, especially mafia-type organized crime, must primarily aim at severing this link between the criminal and legal economies, and at the same time at hitting the accumulated wealth of mafia groups.

So-called 'dirty' money is in itself not very liquid, and can therefore be spent without difficulties only in the same illegal economy (as a criminal re-investment, for example on drugs, weapons, etc.). Criminal profits only have a *potential* purchasing power; it can be rendered effective only through money laundering. The access to effective money laundering is arguably a decisive factor in the planning of criminal acts. In drug trafficking, for example, money laundering is of fundamental importance, meticulously planned by the criminal groups and usually operated by trusted specialists as a kind of 'outsourced activity' (Tarantola 2011). Effective actions against the accumulated capital must start at the point where the 'dirty' money is to be re-introduced into the legal economy.

The Italian legal framework for the fight against illegal wealth and its re-introduction into the legal economy is defined by four main definitions:

1. The offense of money laundering, Article 648-bis c.p. (*codice penale,* Italian Penal Code), which foresees punishment for everyone who "without having been party to the original offense (...) exchanges or forwards money or goods or other benefits arising from a non-negligent offense; or carries out other operations in this regard in order to make it difficult to determine their criminal origins."

2. The offense of the re-use of money, goods or other benefits of illegal origin, Article 648-ter c.p., which punishes those "who, apart from the cases of participation in the original offense and of those cases treated in Articles 648 and 648-bis, invests money, goods or other advantages of criminal origin in economic activities." In this case re-use is to be understood as a specific form of money laundering when the money or the goods resulting from an offense have been received from the money launderer in order to further invest them in economic or financial activities. So, it is an offense which can follow that of money laundering after successfully completing the laundering process, whereby the associated income is then entrusted to a person (who is aware of the criminal origin) for further investment.

3. The offense of fraudulent transfer of any form of asset-sums, contained in Article 12-quinquies Law n. 306 of 8 June 1992, punishing "who transfers fictitious ownership of money, goods or other advantages to another person in order to circumvent the relevant legal provisions or to facilitate the execution of one of the offenses listed in Articles 648, 648-e 648-ter."

4. The offense of 'self-money laundering' according to Article 648-ter.1 c.p., introduced by Law n. 186 of 15 December 2014. This applies where the following three conditions occur simultaneously: (a) the production, by means of a previous non-negligent offense, of money, goods or other advantages; (b) the use, exchange or transfer of such funds in entrepreneurial, speculative, economic or financial market activities through continuous and autonomous action; (c) the continued existence of a specific obstacle to the identification of the illegal origin of the money, goods, or other advantages.

The system of confiscation

Besides the important instruments used against attempts to re-introduce illegal assets into the legal economy, there are those cases where illegal assets remain outside the legal economic system or where a sanctioning intervention becomes necessary *ex post facto* precisely because such illegal assets have already successfully been re-introduced into the legal economy.

In all these cases, the system confiscation as an instrument is extremely important. The legal framework in Italy provides for various types of confiscation (always preceded by an official seizure):

1. Judicial confiscation, under the following conditions: a) the conviction of a defendant is necessary, b) it is possible to prove a direct connection between the object to be confiscated and the criminal act (the so-called *actio in personam*). This is largely defined by Art. 240 c.p. and can be imposed by the judge, following a sentence in a criminal case, regarding assets "that served or were intended to serve for committing the offense, as well as assets which are the offense's product or profit." It is obligatory for the judge to impose confiscation for the "assets that represent the price of the offense." In addition to Art. 240 c.p. there are other articles of the Criminal Code which provide for compulsory seizure and confiscation of objects in connection with particularly serious offenses, such as offenses against the public administration, usury, mafia-type criminal organisations, or smuggling.

2. Confiscation of equivalent assets pursuant to Art. 648-quater c.p.; in cases of money laundering or re-use, conviction is followed by the confiscation of those goods which constitute their product or profit. If the seizure is not possible, the same Article allows for the seizure of assets owned by the culprit to an equivalent amount as the product, profit or price of the offense. The article is also applied in cases of crimes against public administration and especially in the case of corruption according to Art. 322-ter. c.p.

3. Another type of confiscation was introduced with Article 12-sexies of Law n. 306/1992, generally referred to as 'extended confiscation' or 'confiscation for disproportions'. The rule makes it possible to use extended confiscation procedures against persons convicted of criminal offenses pursuant to Art. 648, 648-bis and 648-ter of the Criminal Code, when it is established that their assets are disproportionate to their taxed income or to the professional activity pursued, and when they cannot provide a plausible justification of the assets' legal origin (reversal of the burden of proof). The logic of this rule is to simplify confiscation while gettting as much as access as possible to the assets of the convicted person. It is all the more useful in combating mafia-type organized crime, since it allows the entire property of the convicted person to be taken (and thereby also profits from previous crimes, which likely connected with mafia-type organized crime).

4. Finally, a fourth type of confiscation is the most innovative and interesting in terms of combating mafia-type organised crime, however, it many ways it is also the most difficult to grasp. It is not a confiscation linked to / as a punishment, but it is a preventive measure against persons who are strongly believed to be part of a mafia-type organisation. It was introduced by Law n. 646/1982 and is now regulated by the First Book of the Anti-Mafia Criminal Code, as defined by Law n. 159 of 6 September 2011. Just like in the case of extended confiscation this form of confiscation can be aimed all the unlawfully acquired assets of the perpetrator, thus offering the same decisive advantages. What distinguishes this type of confiscation from the others is that preventive confiscation does not take effect at the end of criminal proceedings, but rather, as the name suggests, immediately and initially quite independently from the criminal proceedings themselves. It can even be imposed if there is not enough proof (yet) laying the basis for the opening of criminal proceedings, failing "to construct clear proof that a person belongs to a mafia-type criminal organisation" (Direzione Nazionale Antimafia, 2011: 19) – in any case it can be applied much faster and in a much more effective way than the slow criminal justice system would otherwise allow. However, in order for such confiscation measures to be taken, there need to be more than arbitrary assumptions, but "sufficient evidence" of membership in a mafia-type organisation is required, justifying investigations into the assets as well as their preventive confiscation. Thus, the prosecuting authority has the opportunity to "work against (persons in) the contiguous collusive areas", for whom it often proves to be difficult to obtain a conviction in court. This measure is aimed at "any behavior or events in which a concept of 'belonging' (to a mafia-type criminal organisation) is revealed, some-

thing that is certainly less accurate and less technical than that of actual 'participation', both from the point of view of the literal meaning of the word, and from the strength of the case which has to be built on the way from preventive confiscation to the criminal proceedings themselves." (Direzione Nazionale Antimafia, 2011: 19). Despite the many criticisms that this legal provision has received over the years, its legitimacy has been repeatedly confirmed by the Constitutional Court as well as by the European Court of Human Rights stating in a famous judgment that "the interference with the property rights of the plaintiffs does not appear inappropriate with regard to the legitimately pursued objective." (c.f. ECJ Judgment 52439/99 of 4 September 2001, Riela and others vs Italy. Similar conclusions were reached in the judgments of Prisco vs Italy of 15 June 1999 and Raimondo vs Italy of 22 February 1994. On the topic of legitimacy, also within a comparative dimension, please refer to Alagna 2015).

After confiscation: the National Agency and social re-use

When confiscation has become final, the assets in question become the property of the state. Law n. 50 of 2010 established the *Agenzia nazionale per l'amministrazione e la destinazione dei beni confiscati* (National Agency for the Administration and Allocation of Confiscated Properties). The Agency is responsible for the maintenance of the property from the moment of seizure, through final confiscation to the ultimate destination. However, this does not mean that all the critical points have been solved: on the contrary, the management and allocation of confiscated assets is a very delicate field with few easy solutions, not only due to economic constraints.

The administration and awarding of confiscated assets is a complex process regulated by the Anti-Mafia Criminal Code, and usually also a lengthy one.

A distinction must first be made between real estate and companies. In the case of the former, there are three possibilities: the property is sold (following very strict rules), kept in the possession of the state (for example for offices or other buildings required by the criminal justice system), or the real estate is transferred into the ownership of the local council to find an appropriate form of direct social re-use. The use of such real estate is then often transferred to co-operatives or other NGOs that use it for social purposes. This is the famous and extremely important "re-use for social purposes", introduced by the Law n. 109/1996, due to popular demand.

The very strong symbolic effect of this kind of re-use on civil society is clear when, for example, a drugs rehabilitation center opens in a building which used to serve as an operational drug trafficking center. The value of the pedagogical message sent by the social re-use of confiscated buildings can hardly be overestimated. Confiscated companies, on the other hand, are kept in the possession of the state, looking for prospects to lease, sell or dissolve them. The process of seizure, confiscation and ultimate transfer is always much more difficult in the case of companies, as important areas of civil law are brought into play. Time spent in legal limbo can also destroy a company, whether through loss of contracts to competitors, an increase in operating costs, or loss of access to capital.

A look at some statistical data might be useful: as of 31 December 2012 the report of the National Agency shows 11,238 confiscated properties, 5,679 mobile goods and 1,708 companies. Real estate was allocated as per the following list:

Social purposes	36,97%
Associations	18,35%
Housing for the needy	14,68%
Public safety and emergency services	12,14%
Public offices	10,00%
Public health offices	2,40%
Schools	1,91%
Others	3,65%

In March 2016 a total of 837 confiscated companies were allocated, 1,903 were being directly managed active companies and 863 companies had left the management system; thus, the Agency had dealt with or was dealing with a total of 3,603 companies.

Even if a number of delicate and problematic points have to be taken into account, the Italian legislation on social re-use of assets confiscated from mafia-type criminal organisationsorganised crime remains an extremely important democratic and social message. ●●

Bibliographic references

»   Alagna, Federico (2015). 'Non-Conviction Based Confiscation: Why the EU Directive Is a Missed Opportunity'. European Journal on Criminal Policy and Research. Vol. 21, No. 4 (447–461). First online: 5 July 2014 (doi: 10.1007/s10610-014-9252-8).

»   Direzione Nazionale Antimafia (2011). *Gli strumenti di contrasto: la confisca e le misure di prevenzione*. Roma (non pubblicato).

»   La Spina, Antonio (2005). *Mafia, legalità debole e sviluppo del Mezzogiorno*. Bologna: Il Mulino.

»   Santino, Umberto (2006). 'Stereotipi e paradigmi', Narcomafie, No. 1.

»   Tarantola, Anna Maria (2011). 'La prevenzione del riciclaggio nel settore finanziario. Il ruolo della Banca d'Italia'. Scuola Superiore dell'economia e delle finanze – Master 'Etica nella Pubblica Amministrazione e contrasto alla corruzione'. 10 Maggio 2011, Roma.

» Balcony of the villa confiscated from a Mafia-boss in Cinisi (Sicily) before its social re-use; now part of a socio-cultural centre and place of memory. © Adelaide di Nunzio

Current developments in the German confiscation system: will it be possible to strengthen democratic civil society?

By **Martin Heger** and **Sajanee Arzner**

he following text aims to analyze the German system of confiscation currently being renewed by legislative reform. Special attention will be given to concepts of not-for-profit or social re-use. Through such social re-use, the political and legal system, public administration and civil society could co-operate to preserve and promote of a culture of a democratic public space with equal rights for all. Moreover, it could constitute a democratizing act advancing the fight against territorial dominance of mafia-type organized criminal groups or of right-wing extremists.

In its Directive EU/2014/42 of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime the European Union asked Member States to consider taking measures "allowing confiscated property to be used for public interest or social purposes." (Article 10, 3). Reason 35 of the Directive states that the "obligation to consider taking measures entails a procedural obligation for Member States, such as conducting a legal analysis or discussing the advantages and disadvantages of introducing measures. (…) Such measures could, inter alia, comprise earmarking property for law enforcement and crime prevention projects, as well as for other projects of public interest and social utility."

This provision is part of a comprehensive EU strategy to combat fraud, corruption and various forms of organized crime, and it includes an approach to social re-use successfully pursued in Italy for many years, as is described elsewhere in this brochure.

Articles 111ff of the German Code of Criminal Procedure (Strafprozessordnung, StPO) list the different forms of provisional confiscation available.[4] In this, a distinction must be made between the securing and confiscation on the one hand, and an arrest in rem on the other, depending on whether original goods (or their direct surrogates) are being confiscated, or if equivalent amounts are being recovered."[5] In the latter case courts require detailed information about the amount of illegally obtained profits. Equally, based on Art. 73 b StGB they can calculate benefits from general criminal conduct or a particular criminal act. For this, the German police forces have appropriate Financial Units committed to the complicated task of financial criminal investigations.

A brief overview of the current system of confiscation in Germany

The past two decades have seen an ongoing intensification of confiscation measures[1] with the aim of reducing the basis for the existence of organized crime groups. In this context, the interplay of money laundering at the level of criminal offenses and confiscation on the level of legal consequences is of particular importance.[2]

The mechanisms used for confiscation distinguish between provisional measures taken during investigations and final measures taken in the context of a judgment, with only the latter resulting in final confiscation.[3] Furthermore, a distinction must be drawn between such measures which are based on provisions in the Criminal Code (Strafgesetzbuch, StGB) and others based on the Administrative Offenses Act (Ordnungswidrigkeitengsetz, OWiG) or the Associations' Act (Vereinsgesetz, VereinsG).

Penal confiscation and victims' restitution

The different forms of final forfeiture measures are laid down in Art. 73ff of the Code of Criminal Law (StGB). In the future, the only term used to describe the different mechanisms will be 'confiscation' if the German Parliament, the Bundestag, passes the currently debated Penal Confiscation Reform Bill. In the current German system of penal confiscation, a forfeiture in favor of the state can only take place when no victim restitution is to be considered.[6] Even if individual claims may only potentially be directed at a particular object or its surrogate confiscation in favor of the state is currently excluded. Issues of victim restitution are generally dealt with by civil courts. This is why the current system of regulations surrounding victims' restitution in Germany is often referred to as the "grave digger of confiscation", and why penal confiscation is impossible in a great number of cases. In addition, measures of provisional confiscation are not regularly used as they are to be applied only when a final confiscation in favor of the state appears likely.[7] Thus the amendment to Art. 73 (1) StGB currently proposed in the Penal Confiscation

---

1   see Kriminologische Forschungsberichte, p.6.

2   Kriminologische Forschungsreihe, p.21 and p. 28.

3   Handbuch für den Staatsanwalt, p.690.

4   Janssen, p.11f.

5   see Handbuch für den Staatsanwalt, p.701f.

6   Austria and the UK seem to know comparable victim-focussed regulatios whereas victims' restitution seems to be of less importance in the Italian system; see Kriminologische Forschungsreihe, p.449.

7   see Handbuch für den Staatsanwalt, p.707.

Reform Bill would seem to be a positive development: in the future, making a confiscation order will no longer be dependent on potential individual claims of victims. The required changes in the procedure for victim restitution still leave much to be discussed; for example, the priority principle or quota principle following the rules of insolvency proceedings. However, this is not the focus of the current argument.

**Confiscation of instruments
or proceeds of a criminal act**

It is important to point out that in Germany a confiscation order is usually regarded as a kind of preventive measure,[8] not as a sanction, even though it is usually made within the framework of a criminal sentence and rarely takes place independently (Art. 76 a StGB, Art. 440 StPO).[9] This dogmatic classification   is of decisive importance for the assessment of the constitutional permissibility of confiscation measures. The Federal Constitutional Court (Bundesverfassungsgericht) ruled[10] on the compatibility of extended confiscation (Art. 73 d StGB)[11] with the principles of personal guilt and the presumption of innocence, on the one hand, and the state's guarantee to the right to property , on the other hand. In its ruling the Court

once again emphasized the preventive character of the measure, further explaining that the introduction of the so-called 'gross coverage principle'[12] did not confer any form of criminal character on the measure.[13] On the contrary, penal confiscation constitutes a correction of illegal asset allocation required by fundamental legal principles.[14]

The confiscation of direct instruments or proceeds of a crime according to Art. 74 StGB, however, does have a criminal character in so far as it affects a defendant or participant in a crime (as long as Art 74 (2) No. 2 StGB does not apply). It presupposes a court's ruling that an intentional offense has been committed, and is applied as part of the conviction with due regard for the principle of proportionality in sentencing.[15] In the cases of Art. 74 (2) StGB[16] and 74 (3) StGB confiscation is purely a measure of public safety even if it is directed at a third party.[17]

---

8   see Federal Constitutional Court on the constitutionality of extended confiscation, NJW 2004, 2073.

9   see Neuenfeind, p.163.

10   see Federal Constitutional Court on the constitutionality of extended confiscation, NJW 2004, 2073.

11   Confiscation of assets from specific other criminal acts for which applicability of Art 73d StGB is explicitely permitted.

12   This means that when calculating the amount to be confiscated the defendant can no longer reduce the amount by subtracting expenditure incurred for making the illegal gain. This change was introduced to circumvent problems of proof with the previous net coverage principle. See Saliger, p.7.

13   see Federal Constitutional Court on the constitutionality of extended confiscation, NJW 2004, 2073.

14   see Federal Constitutional Court on the constitutionality of extended confiscation, NJW 2004, 2073.

15   Fischer, § 74 Rn.2 m.w.N.

16   Fischer, § 74 Rn.2 m.w.N.

17   Fischer, § 74 Rn.2 m.w.N.

assets of the association itself and / or assets of a third party, should the latter have deliberately promoted the anti-constitutional aims of the association, or ifthe objects served in any other way to promote the association's aims.[20] According to Art. 11, 12 of the executive order for the implementation of the Associations Act (VereinGDVO), an administrator is to be appointed to manage the seized or confiscated assets. In Art. 13 (4) VereinsG we find the Act's special feature with regard to social re-use: it obliges the competent authority to put the confiscated assets to use in a not-for-profit, charitable manner. No further details are provided in the Act itself, nor in the accompanying executive order. However, this can at least be considered as a seed for the establishment of a system of social re-use of confiscated assets. For a view on the efficacy of this system please see the article of Benno Plassmann in this publication, p. 61.

**The Act on Regulatory Offences
and the Associations Act**

In addition, the German Act on Regulatory Offences (Gesetz über Ordnungswidrigkeiten, OWiG) provides for the possibility of confiscation measures. Generally speaking, according to Art. 22 OWiG a confiscation order can be made as a consequence of an administrative offence. This can be part of a fine imposed on a person, against a legal person or an association of persons. According to Art. 17 (4) OWiG such a fine is intended to confiscate at least the economic advantage derived from the regulatory offense, which it why it is possible to speak of a confiscation measure.[18] Equally, Art. 29a OWiG also contains the possibility of confiscation in such a case where the imposition of a personal fine is not possible or is excluded for reasons of discretion (e.g. for a representative of an association).[19]

The Associations Act (Vereinsgesetz, VereinsG), an administrative law regulating the dissolution of anti-constitutional or criminal associations, provides further opportunities for the confiscation of assets (Art. 10F, VereinsG). The prerequisite for asset seizure or confiscation is the dissolution and prohibition of an association by the competent federal or state authority in accordance with Art. 3f VereinsG. Object of confiscation can be all

The liquidation of confiscated goods

Across the different mechanisms of seizure and confiscation currently employed in Germany, liquidation in favor of the state is clearly preferred, with the exception of possible victims' restitution. Guidelines for a social or charitable re-use of confiscated assets can only be found in Art. 13 (4) of the Associations Act and Art. 67 (a) of the Executive Order on the execution of sentences (Strafvollstreckungsordnung), limited however to confiscations related to offences according to laws for the protection of intellectual property. The latter applies equally to all sentences based on the Criminal Code (StGB) and the Act on Regulatory Offences (OWiG); see Art. 1 of the Executive Order on the execution of sentences. As a general rule, all proceeds remaining after the liquidation of confiscated assets go to the competent state treasury. It is clear that there is no system of charitable or social re-use in Germany which would in any way resemble a system of direct social re-use such as that in Italy. Even the Federal Government's current bill of of 5 September 2016 regarding the confiscation of criminal assets does not constitute a major innovation in this field. This is the case although the bill also serves to implement Directive 2014/42/EU, obliging Member States to seriously consider the pros and cons of such a system (see above).

---

18   Podolsky/Brenner, p.192.
19   Podolsky/Brenner, p.194.
20   Erbs/Kohlhaas, Strafrechtliche Nebengesetze. VereinsG §10 Rn.3.

trator of a clearly established crime has died. The introduction of this form of non-conviction-based forfeiture, in fact an action in rem, would represent a complete novelty in German criminal law. The restriction to a list of relatively few offences related to terrorism and so-called organized crime would seem to ensure that this instrument will not be used in an inappropriate manner. This provision also constitutes an approximation to the Italian model of the facilitation of proof, as autonomous confiscation is to be considered in particular if the value of roperty of unclear origin is grossly disproportionate to the legal income of the defendant.[21] In view of the German penal tradition, these planned rules seem to be a strange novelty; yet other countries with a similar criminal code such as Italy have had good experiences with such provisions for many years.

Innovations in the currently proposed reform of penal confiscation

The bill on penal confiscation reform currently being debated in the Bundestag contains a number of changes relevant to the fight against organized forms of crime. For instance, the scope of extended confiscation (Art. 73d StGB) is to be greatly expanded. In future, any criminal offence as defined in primary and secondary criminal law can be considered as a basis for making out an extended confiscation order. For this, however, the bill expressly states that mere suspicion of illegal origin of assets cannot suffice; rather, a full judicial conviction has to be achieved, in conformity with current constitutional jurisprudence.

In the case of a list of specific criminal offences linked to terrorism and to what is commonly referred to as organized crime the bill also intends to introduce the possibility of non-conviction-based forfeiture. In the case of assets of unclear origin, in future it shall be possible to make a so-called 'autonomous confiscation order' if the court is fully convinced of its illegal origin yet cannot try or convict a defendant; see Art. 76a (4) StGB-E in the bill. This could be applied, for instance, in the case of fugitives (trials in absentia are not permitted in Germany) or when the perpe-

Social re-use of confiscated assets as a democratic task

It might not be necessary to include provisions of social re-use in the currently debated bill to make a step forward in the fight against territorial dominance by criminal groups. Mechanisms of social re-use to strengthen democratic public space could also be written into the executive order on the execution of sentences (Strafvollstreckungsordnung) or into the executive order for the implementation of the Associations Act (VereinGDVO). Coupled with concrete policy-building projects this may also bring about the desired and necessary changes in society. However, the symbolic power of a targeted and detailed legislative act must not be underestimated. A corresponding parliamentary act by the Bundestag would raise civil society awareness to a much greater extent and it would oblige public administrations to pay more attention. Moreover, only an appropriate legislative act will ensure uniform administrative practice and certainty in the equitable application of the law, avoiding possible inequalities. Regulating the participation of civil-society initiatives in the distribution mechanisms of social re-use of confiscated property would provide for more transparency. Too great a margin of discretion for administrative practice can undermine the democratic legitimacy of state action.

Accordingly, a legal regulation with an appropriate margin for administrative discretion would create the appropriate balance between legally defined predictability of state actions and fair decisions on individual cases by the authorities. ●●

---

21   Draft bill p. 73, http://dip21.bundestag.de/dip21/btd/18/095/1809525.pdf

---

» Offices of the council's youth department and a youth club are now in a building which used to be important for Nazis' claims to territorial dominance in some parts of the city of Dortmund. © Lêmrich

Civil society recommendations on the planned reform of the confiscation system in Germany

By **Echolot e.V.** and **Amadeu Antonio Foundation**

Introduction

The signatory civil society organizations work both on a voluntary and full-time basis in a variety of fields, comprising culture, social work, the advancement of democratization and the prevention of right-wing extremism, as well as raising awareness for issues related to mafia-type criminal organizations and / or victims' rights, in particular the rights of trafficked persons. Using their joint expertise for this statement, they aim to provide advice to the parliamentary deliberations on a complex societal issue.

The signing organizations welcome the Federal Government's efforts to fundamentally reorganize the system of confiscation of criminal assets in Germany, thereby implementing 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 in the European Union (hereinafter 'Directive 2014/42 / EU'). From their point of view, the Federal Government's bill for a law on the reform of the criminal code in respect of confiscation of criminal assets of 5 September 2016 (*Bundestagsdrucksache* 18 / 9525) contains a number of positive changes.

Examples include the provision for simplified arrangements for victim compensation, which should generally strengthen the protection of victims' rights. The possibility of separating decisions in the criminal case as such from decisions on possible property confiscation is also a welcome change. However, the provision to limit the duration during which such a second decision must be reached to only six months (see Article 2, § 423 confiscation after separation) does not seem well-founded. Considering the internationality of many organised-crime cases with correspondingly lengthy international investigations, a period of 12 months to reach a decision would seem more practical. The proposed easing of the burden of proof appears to be balanced and in alignment with international standards (see Article 2, amendment of the Code of criminal procedure, § 437 Special rules for autonomous confiscation).

This statement cannot and does not provide a comprehensive assessment of the entire draft bill. Instead, our aim is to focus on a specific issue and to make concrete recommendations for the further legislative process.

One of the objectives of the bill is the implementation of EU Directive 2014/42 / EU. However, when preparing the implementation, article 10 (3) of Directive 2014/42 / EU seems to not have had any influence on the Federal Government's draft bill. The article states that "Member States shall consider taking measures allowing confiscated property to be used for public interest or social purposes." Similar measures for the reuse of confiscated assets are already foreseen in Germany for assets confiscated according to the statute concerning associations (Vereinsgesetz), § 13 (4): "The assets remaining after satisfying possible creditors' demands are to be used for charitable purposes by the beneficiary of the confiscation." In light of this provision it is all the more questionable why this existing legislative demand is not to be applied in the present draft bill.

Through this statement the signing organizations aim to insert such measures into the draft bill on the reform of the system of confiscation of criminal assets, in particular with regard to confiscated buildings and real estate.

The particular role of buildings and real estate

For mafia-type organisations, other groups falling under the banner of organised crime (eg environmental crime or landfill sites, economic crime, human trafficking), and Nazi-type criminal organisations, buildings and real estate are of particular interest in many respects. As is clear from a specialist study commissioned by the German Federal Criminal Agency (BKA)[1], the real estate sector in Germany is particularly vulnerable to money laundering activities. It could be said that the real estate sector has a pivotal role for the infiltration of the legal economy by criminal organizations. In addition, buildings often have an important logistical function for the activities of criminal organizations, whether they are used to accommodate people, to provide space to carry out criminal activities, or to store goods; in the case of right-wing extremism they are often used for training courses and events such as concerts. This is also proven by the fact that in past years, property has been confiscated at various occasions when state or federal authorities have dissolved associations according to the provisions of the statute regarding associations (Vereinsgesetz).[2]

Often events take place in specific buildings that highlight the many connections between criminal organizations, such as the so-called 'rocker clubs', and neo-Nazi criminal organizations. Many concerts in the right-wing music scene are performed jointly with so-called 'rocker clubs'. Per the joint statement drawn up by the BKA and the Federal Office for the Protection of the Constitution, links between the right-wing extremist scene and rocker-clubs included a total of 522 neo-Nazis known as members of outlaw motorcycle gangs.[3]

1   http://bit.ly/2dogFb2 – read on 10 October 2016
2   cf for instance.: www.bundesanzeiger.de dissolution of „Schwarze Schar MC Wismar" by the state of Mecklenburg-Vorpommern (published on 8 January 2014) or dissolution of „Freie Netz Süd" by the free state of Bavaria (published on 23 July 2014).
3   Quoted according to Förster, Andreas: „Lagebild zu Rockerclubs in Deutschland: Rocker und Rechtsextreme – gemeinsam aber nicht eins", Berliner Zeitung of 1 March 2015.

The presence of criminal organizations and their aim to exercise territorial control through intimidation or violence is often experienced in a social space around individual properties. It is often around specific buildings that the general public, or specific groups defined as minorities experience what the BKA has recently termed a "climate of fear"[4]. Equally, the Federal Government spoke of "disturbing developments" in its report on German unity in 2016 "which have the potential to disturb the peace and public order in East Germany."[5]

Based on these considerations, the signing organisations recommend providing for the separate treatment of confiscated buildings and real estate in the bill on the reform of confiscation of criminal assets. The aim should be to allow confiscated property to be used for public interest or social purposes, and assigning such properties in transparent public procedures, similar to what is stipulated in the German statute concerning associations and analogous to comparable systems in other EU Member States.[6]

Considerations on the necessity and appropriateness of special treatment of buildings and real estate

The European Court of Human Rights and a number of national Supreme Courts have repeatedly ruled that confiscation of property in cases of serious offenses, such as terrorism or serious organised crime, are compatible with the fundamental human right to private property.[7] To the signing organizations, special treatment of confiscated buildings and real estate appears necessary and appropriate, as there is a demonstrable strong social interest in the effective confiscation in such cases. It must be underlined, however, that the signing organizations are not providing recommendations on state intervention rights as such, let alone aiming to strengthen them per se. The sanctity of legitimately acquired private living space must in any case be preserved. The signing organizations are concerned with drawing attention to the specific issue of the social reuse of formerly criminal property on the basis of states' rights to define the contents and limits of the guarantees to the right of private property.

4   Quoted according to http://www.tagesschau.de/inland/bka-asylunterkuenfte-101.html, read on 10 October 2016

5   Die Beauftragte der Bundesregierung für die neuen Bundesländer: „Jahresbericht der Bundesregierung zum Stand der Deutschen Einheit 2016", page 10.

6   cf. http://www.europarl.europa.eu/RegData/etudes/note/join/2012/462437/IPOL-LIBE_NT(2012)462437_EN.pdf

7   cf for instance : ECtHR, 12 August 2015, Gogitidze and others v. Georgia, no. 36862/05; ECtHR, 15 January 2015, Veits v. Estonia, no. 12951/11; ECtHR, 27 June 2002, Butler v. The United Kingdom, no. 41661/98; ECtHR, 4 September 2001, Riela and others v. Italy, no. 52439/99; ECtHR, 22 February 1994, Raimondo v. Italy, no. 12954/87.

In implementing the proposed special treatment of buildings and real estate, the signing organizations therefore recommend an approach based on civil law principles, such as those which are laid out in the statues on associations (Vereinsgesetz). A publicly and transparently implemented procedure for the allocation of confiscated property to not-for-profit civil-society organizations will strengthen the rule of law through the predictability of future practice. Moreover, the publicly stated aim of sending the message that 'crime should not pay' will be easier to achieve. It will be possible to strengthen the public's awareness of democratic norms if previously criminally used buildings and real estate are transferred to not-for-profit civil-society organisations.

Commentary on some passages in the draft bill

§ 75 StGB-E Effect of Confiscation
By introducing the possibility of civil-society reuse of confiscated buildings and real estate, the public's awareness of democratic norms and public confidence in the criminal justice system can be effectively strengthened, helping to achieve general preventive aims. Furthermore, in accordance with the draft bill's central aim of strengthening victims' rights for compensation, the local social space could thereby be 'compensated' for previous criminal damages, however intangible.

Recommendation:
A new paragraph (4) could be inserted here to create a special treatment of buildings and real estate for the above reasons:
"(4) In the case of the confiscation of buildings and real estate, the beneficiary shall decide on its future use based on the results of a public participatory planning procedure. Priority is to be given to non-for-profit organizations. Details shall be governed by state laws."

§ 76 a StGB-E Autonomous confiscation
The introduction of the possibility of autonomous confiscation is welcomed. The possibilities of obscuring factual rights to property are particularly significant in the case of mafia-type and Nazi-type criminal organizations with their diverse income streams. This is founded both in the nature of the organizations mentioned above (e.g. using impeccable front men), as well as in the internationalization and new opportunities provided by the Internet. Since the possibilities of the use of autonomous confiscation are to be restricted by a catalogue of serious crimes related to terrorism and organized crime, the signing organizations regard the introduction of the possibility of autonomous confiscation as both acceptable and useful.

Recommendation:
In the case of the introduction of a specific treatment of buildings and real estate, § 76 a (4) should be amended accordingly:
"(…) If the confiscation of an object is ordered, ownership of the object or ownership rights shall pass to the State once the decision enters into force; Section 75 (3) and (4) shall apply accordingly."

§ 76 a (4) (1) (c) StGB-E
The planned § 76 (4) StGB-E lists a catalogue of serious offences in the field of terrorism and organized crime. This is to be welcomed. Forms of organized crime can often be a qualifying aspect for crimes of human trafficking (§§232 ff StGB). Moreover, in situations of human trafficking, links to buildings and real estate can often be discerned which serves to underline that from our point of view the introduction of a special treatment of confiscated buildings and real estate is recommendable. However, in our opinion, the basic forms of human trafficking as defined in § 232 StGB and § 233 StGB already constitute serious criminal offenses.

Recommendation:
The signing organizations therefore recommend that the catalogue of criminal offenses within the meaning of sentence 1 of § 76 a StGB-E should include § 232 StGB and § 233 StGB in full, § 76 a (4) (1) (c) .

Summary

The signing organizations recommend:

» Extension of the deadline to bring a decision in separate confiscation procedures to 12 months (see Article 2 of the draft bill, amendment of the Code of Criminal Procedure StPO, § 423 Confiscation after seperation).

» Insertion of a new paragraph (4) in § 75 concerning the special treatment of confiscated buildings and real estate and its social and not-for-profit reuse, analogous to the provisions of the statutes on associations (Vereinsgesetz).

» A minor extension to the list of catalogue crimes in connection with which autonomous confiscation can be applied in order to include the full range of criminal offenses related to human trafficking.   ●●

The first signing organizations:

» Echolot – Projekte für demokratische Kultur, gegen Mafien e.V.
(Echolot - projects for democratic culture, against mafias)
Contact: b.plassmann@echolot-verein.de

» Amadeu Antonio Foundation
Contact: tobias.scholz@amadeu-antonio-stiftung.de

» Bundesverband Mobile Beratung e.V.
(Federation of mobile support centres for victims of right-wing extremism)
www.bundesverband-mobile-beratung.de

» KOK – Bundesweiter Koordinierungskreis gegen Menschenhandel e.V.
(KOK – federal coordination circle against human trafficking)
www.kok-gegen-menschenhandel.de

» Bundesverband Freie Darstellende Künste e.V.
(Federal association of free performing arts)
www.freie-theater.de

» Mafia? Nein Danke! e.V.
www.mafianeindanke.de

» .lkj) Landesvereinigung kulturelle Kinder- und Jugendbildung Sachsen-Anhalt e.V.
(Regional association for cultural youth work Saxony-Anhalt)
www.lkj-sachsen-anhalt.de

» Lola für Demokratie in Mecklenburg-Vorpommern e.V.
www.lola-fuer-lulu.de

» Much can be achieved when civil society and public authorities manage to establish a serious co-operation: Respekt offices of the city of Dortmund in a former Nazi-building. © Lêmrich

Social Re-use – a critical international perspective on problems and potentials

By **Frank Meyer**

Shortened and revised version of an article previously published in the Zeitschrift für Rechtspolitik.

EU Directive 2014/42, Article 10 (3) requires Member States to consider adopting measures which make it possible to use confiscated assets for the purposes of public or social interest. The paragraph was included in the Directive at a late stage by the European Parliament. This article will briefly outline different forms of social re-use, to then explore arguments for and against their introduction at the national or supranational level.

Social re-use in the context of systems for the confiscation of criminal assets
The confiscation of criminal assets is regarded as an outstanding instrument for combating mafias or organized crime. The attention of national legislators, as well as the legal acts of international organizations, have so far focused on rendering confiscation policies effective: concrete reach of confiscation instruments such as extended, or third-party, confiscation; shifting the burden of proof; effectiveness of asset recovery procedures, including effective financial investigations, better asset management,[1] effectiveness of international legal assistance,[2] and the introduction of so-called 'non-conviction-based' forfeitures.[3] For it must be said that the amounts recovered are tragically low, and striking proof of the ineffectiveness of existing confiscation procedures.[4]

---

[1]   Art. 10 para. 1, 2 Directive 2014/42/EU.
[2]   compare *Zinkernagel/Monteith/Pereira* (eds.), Emerging Trends in Asset Recovery, 2013, chapter "Major Stumbling Blocks", p. 67 ff.
[3]   *Meyer*, ZStW 127 (2015), 241, 256 ff.
[4]   *Meyer*, ZStW 127 (2015), 241, 242.

On the other hand, little attention is paid to systems of asset liquidation or use of the confiscated assets. The fate of confiscated assets lies in the hands of sovereign states. These autonomously determine asset exploitation procedures, which leads to an accordingly disparate international situation. This will be shortly outlined here.[5]

General structures of asset liquidation
Internationally, the clearly dominant mode of liquidation and exploitation is the sale of assets with proceeds going towards state budgets. The funds are then at the disposal of state authorities, with most countries at least providing for the possibility of victims' compensation. Another option is the direct use of objects by authorities; e.g. armored vehicles or motor boats, which in some countries only takes police or border authorities to a level playing field with their adversaries. Regulations governing this vary widely. They range from special laws providing authorizations to simple discretionary powers based on the general state legislative powers.

A larger group of EU Member States,[6] as well as Canada and the United States,[7] on the other hand, have targeted regulations enshrined in law or legal-policy programs regulating civil society re-use of confiscated assets. These arrangements vary depending on how an asset is made available for re-use, the range of assets for which re-use is possible, and the range of offenses to which social re-use programs can be applied.

Models of social re-use
Genuine social re-use refers to when concrete tangible assets are directly returned to civil society, typically to municipalities, co-operatives, selected private buyers or sometimes NGOs. The most sophisticated regulation is found in Italy, where the re-use of confiscated real estate is comprehensively regulated and intensively practiced.[8] Other countries, such as Hungary[9] or Greece, have rules governing the direct passing-on of movable property; especially cars or other items of daily use. Direct return or transfer is also possible in Spain. However, there distribution is organized via barely-regulated individual decisions by the courts (usually following a specific petition by local communities),[10] and the procedures have to be painstakingly negotiated on a case-by-case basis. In the case of direct social re-use, forms of liquidation may consist in transferring ownership, in signing letting / leasing arrangements, or in transferring the asset in question to the management by civil society actors.

---

5   Comparative analyses of the national legal systems can be found here: *Vettori/Kolarov/Rusev,* Disposal of Confiscated Assets in the EU Member States Laws and Practices, 2014, p. 33 ff.; *Forsaith/Irving/ Nanopoulos/Fazekas,* Study for an Impact Assessment on a Proposal for a new legal Framework on the Confiscation and Recovery of Criminal Assets, RAND Europe, 2012, p. 56 ff.; *Vettori,* Tough on Criminal Wealth, 2006, p. 41 ff.

6   Bulgaria, Estonia, France, Italy, Luxembourg, Lithuania, Portugal, Romania, Slovakia, Slovenia, Spain, UK; see *Vettori/Kolarov/Rusev,* Disposal of Confiscated Assets in the EU Member States Laws and Practices, 2014, p. 20, 41 f.

7   Canada Criminal code s. 83.14 (5.1.); DOJ Asset Forfeiture Program (U.S.); Treasury Forfeiture Fund (U.S.).

8   *Falcone,* in: Flare (ed.), Six Stories About Reuse of Confiscated Assets in Europe, p. 36 ff.; a possibility of civil society re-use of real estate seems to exist as well in the Flemish part of Belgium; *Vettori/Kolarov/ Rusev,* Disposal of Confiscated Assets in the EU Member States Laws and Practices, 2014, p. 53.

9   Distribution is organised via a Charity Council, Act XII 2000; Montaldo, New Journal of European Criminal Law 2015, 195, 211.

10   *Mattioli,* in: Flare (ed.), Six Stories About Reuse On Confiscated Assets in Europe, p. 56 ff.

One possibility of indirect re-use of tangible confiscated assets is the drawing-up of inventories. In some countries, public institutions (sometimes NGOs) can order items from these catalogs if they can demonstrate a special need for such items in order to help them in their duties or in the fulfillment of public social obligations.[11]

Indirect social re-use, on the other hand, refers to when funds are made available through state funding systems. This is the predominant form of social re-use. This model is based on a primary liquidation (selling) of confiscated assets by state authorities. Proceeds are allocated on a pro rata basis to justice funds, public institutions or special aid programs. These types of funding systems provide for a great many forms of support. Sometimes they are used to compensate and support victims,[12] or prevention and rehabilitation measures are promoted; e.g. in the area of drug abuse.[13] The well-known Scottish 'cash-back for communities' is aimed at socially at-risk young people and finances meaningful leisure activities for them. Such funds are often intended to alleviate criminogenic conditions. In some cases, the flow of funds is also used to provide incentives[14] by rewarding authorities and municipalities involved for effective confiscation actions, or to create fiscal incentives for the future.

As a rule, these programs are not applied comprehensively, but mostly concern only specific limited offenses (such as drug crimes, serious crimes or terrorism).[15] Equally, sources of income for such programs usually only comes from legal cases related to these crime groups. There are, however, also countries with general justice funds, which are entitled to receive grants or compensation on request. Public exploitation and awarding procedures also seem to differ greatly between countries in terms of transparency, duration and professionalism. A common denominator is hardly to be found in these international comparisons. Systems of indirect re-use come in all sizes, shapes and forms.

Benefits of Social Re-use

What benefit, or added value, is attributed to social re-use? The following consideration will be limited to the Italian model of direct social re-use. This is justified as it is particularly present in academic discourse and is often referred to as an ideal type of re-use. The benefits attributed to this type of social re-use can be divided into four categories: legal, criminal, political, ethical and economic benefits.

---

11   Slovenia, Slovakia.

12   e.g. Victim Assistance Funds in the Canadian provinces; DOJ Asset Forfeiture Program (USA). *Forsaith/Irving/Nanopoulos/Fazekas*, Study for an Impact Assessment on a Proposal for a new legal Framework on the Confiscation and Recovery of Criminal Assets, RAND Europe, 2012, p. 92.

13   Plan Nacional sobre drogas (Spanien); Fonds de lutte contre le trafic de stupéfiants (Luxemburg); *Forsaith/Irving/Nanopoulos/Fazekas*, Study for an Impact Assessment on a Proposal for a new legal Framework on the Confiscation and Recovery of Criminal Assets, RAND Europe, 2012, p. 57.

14   e.g. Asset recovery incentivisation scheme (ARIS) in the UK.

15   *Vettori/Kolarov/Rusev*, Disposal of Confiscated Assets in the EU Member States Laws and Practices, 2014, p. 34, 40.

In addition to the strengthening of victims' rights, a key benefit lies in the field of prevention of crime.[16] To achieve the aims of crime prevention policies, great importance is attached to the visibility of a return of assets to society.[17] By these means the threats posed by mafia-type or organized crime, and the extent of criminal permeation of society would be rendered more clear. The intervention of the criminal justice system against these threats would equally be made clearer to the ordinary citizen. The benefits attributed to social re-use on a symbolic level follow a similar line: elimination of negative role models, rejection of openly criminal lifestyles, and the breaking of deeply rooted criminal traditions. The hope is that social re-use will strengthen the public's confidence in the criminal justice system and increase public norm awareness (or 'legality' as this is referred to in Italy).[18]

The special symbolism of social re-use and awareness-raising for the threat of mafia or organized crime comprise significant ethical advantages. These include the empowerment of civil society organizations, linking them to the liberation of citizens from their perceived impotence in the face of excessive power of organized crime, and to their inclusion as key players in criminal law procedures, i.e. in the processes of confiscation and re-use.[19] This can even be described in terms of a renewal of the social contract by recovering and demonstrating the state's monopoly on violence. In terms of economic policy, social re-use is intended to re-insert assets into the economic cycle, and thus, at the same time, strengthen regional structures and foster economic development on the ground.[20] An equally fundamental principle at play is the re-establishment of the rules of free competition in a democratic market economy, often destroyed by mafia-type activities.

---

16   *Montaldo*, New Journal of European Criminal Law 2015, 195, 199; Report on organised crime in the European Union (2010/2309(INI), consideration D.

17   *Montaldo*, New Journal of European Criminal Law 2015, 195, 200.

18   *Forsaith/Irving/Nanopoulos/Fazekas,* Study for an impact assessment on a proposal for a new legal framework on the confiscation and recovery of criminal assets, RAND Europe, 2012, p. 22.

19   European Parliament resolution of 25 October 2011 on organised crime in the European Union (2010/2309(INI), 6.1.

20   Report on organised crime in the European Union (2010/2309(INI), Erwägung; *Montaldo*, New Journal of European Criminal Law 2015, 195, 197

**Implementation difficulties and
legal concerns on EU-wide harmonisation**

Practical problems and legal concerns about EU-wide harmonised standards should not go unmentioned. A general problem in systems of social re-use, as well as in the underlying state-run systems for the liquidation and financial exploitation of confiscated assets, consists in the monitoring and management of the proceeds. Intensive monitoring and follow-up systems are necessary to ascertain whether processes are carried out in a transparent manner and whether the intended purposes have been achieved. Experience shows that even the length of proceedings required before societal re-use can start can largely obstruct their efficacy. Moreover, embezzlement, corruption and mismanagement are everyday problems. It remains to be discussed to what extent a meaningful and effective social re-use presupposes the existence of a democratic culture in society and in the economic system, or to what extent social re-use can promote the former even in cases when democratic culture is largely absent. In this respect, of course, the selection of the right civil society partners is a priority. The risk of a re-appropriation of the assets by or for the former criminal owners is very real, e.g. through middlemen. This must be countered effectively in all types of social re-use, as well as in state-run systems of liquidation or financial exploitation of confiscated assets.

Even if it seems that such difficulties can be addressed successfully, there are obstacles to the introduction of harmonized standards for distribution mechanisms at the EU level. The EU has no authority to create binding minimum standards in this area; only the regulation of victim compensation would be covered by Article 82 (2) of the Treaty of Lisbon. In the case of crime prevention, Article 84 would provide for the creation of non-binding programs in the area of criminal policy which could promote or, even more importantly, test systems of re-use.

Unfortunately, empirical studies on the benefits of social re-use are largely missing. In terms of criminal policy an interesting question arises: Would an increase in visibility and support for confiscation and re-use of criminal assets lead to an increase in its effectiveness? Perhaps forms of confiscation followed by social re-use are more effective than forms of confiscation followed by the state-run liquidation of assets. However, these questions remain open due to the lack of scholarship in this area.

Concluding remarks

As promising and symbolic as social re-use appears, this should not divert attention from the priorities the criminal justice system follows with the confiscation of criminal assets, nor should it conceal possible serious deficiencies in systems dealing with confiscated assets. However, individual states are obliged to reflect on re-use measures fitting their wider social and legal culture following the binding EU Directive 2014/42. Such efforts should be related to overall concepts of public safety legislation, security, rules governing associations and good governance in general, including the promotion of democratic culture in society. In many states or regions, this ought to be legally rooted in positive human rights protection laws so as to build a functioning governmental structure and to strengthen civil society structures. Criminal law can play an important role here, but would be hopelessly overmatched to do so alone. ●●

» Some of the founders of the *Osservatorio sulla 'Ndrangheta* (civil society Observatory of the 'Ndrangheta) in Reggio Calabria. © Adelaide di Nunzio

EXAMPLES OF BEST PRACTICE AND VISIONS FOR DEMOCRATIC INTERVENTIONS: TURNING SPACES OF FEAR INTO SPACES FOR DEMOCRATIC CULTURE!

The praxis in Calabria: Resistance of civil society as a defense of democratic values

By **Francesca Chirico**

Introduction

There are successes, but they are painstakingly achieved: this maybe sums it up best if we want to derive good practices and strategies from all those stories of concrete social re-use of confiscated assets that have proven themselves. To see this we must turn to what is achieved at the everyday level, as a form of organized resistance. All four Calabrian projects presented here in this brief overview differ in their perspective, in the profile of their protagonists and in their context. Yet they have an indispensable common ground: they all have the ability to counter or neutralize the various mechanisms of criminal 'resistance' that follow confiscation. Good practices are therefore primarily practices that resist. The following details repeat themselves: all projects suffer from the combination of slow-grinding bureaucratic processes, difficulties in the immediate environment (to say it politely) and very practical challenges. Three of projects presented here started between 2009 and 2010 – the Scout Center in the 'Fortino' Condello, the Museo della 'Ndrangheta (today Osservatorio sulla' Ndrangheta) in Villa Puntorieri (both in Reggio Calabria) and the Social Center in Palazzo Versace in Polistena – and they undoubtedly had a difficult pioneering role. They represent the first successful examples of the re-use of confiscated buildings, they started a cultural change.

Osservatorio sulla 'Ndrangheta, Reggio Calabria

When the seals were put on his villa in Reggio Calabria in 1996, the 40-year-old Giovanni Puntorieri was in hiding in Spain. After growing up in a social housing estate in the district of Croce Valanidi, the cruel killer of the 'Ndrangheta-Cosca Ficara-Latella wanted show off his rise in the criminal hierarchy with the clearest of all signs: a large villa dominating the whole area, three floors of 200 square meters and surrounded by a bit of land, designed like the Villa of the clan boss Giacomo Latella. At the time of confiscation, the work had not yet been completed, but all the typical signatures of the mafiosi were present: whirlpool, marble, slits to keep an eye on the outside, as well as a strange room in the basement would perhaps have become a bunker. But Puntorieri's dreams of grandeur were not to come true. He was wanted for membership in a mafia-type criminal association, for murder, for weapons and drugs trafficking and was arrested in Madrid in 1996. Six years after confiscation, his villa became the property of the city council of Reggio Calabria. The decision was taken to create a social center. But the bureaucracy once again slowed everything down, the building remained unfinished and unused. Finally, in 2009, the Museo della 'Ndrangheta opened its doors in the villa as a place for research, analysis and activities against the Mafia, created through the collaboration of the association Antigone with a number of political and cultural institutions (the Prefect of Reggio Calabria, the Regional Government of Calabria, the Province and City Council of Reggio Calabria, as well as the Chair of Eth-

nology of the University La Sapienza Rome and the Faculty of Philosophy of the University of Calabria). The Museum organizes conferences to analyze and subsequently combat the phenomenon of the Mafias *(la Ferita, l'Area Grigia)*. It works as a training centre, very often in collaboration with schools as well as with the social service of the Ministry of Justice, and produces cultural and artistic work. In 2014 the Museo changes its name to *Osservatorio sulla 'Ndrangheta* (Observatory of the 'Ndrangheta). The villa which was once to be a symbol of Puntorieri's poweris today the opposite: children and young people from the neighborhood go there to play and learn. They are not roaming the streets, there are seminars, workshops, cultural projects to attend – and everything takes place directly under the eyes of Puntorieri's relatives who live in the building opposite. It is a form of close neighbourliness the consequences of which had certainly not been foreseeable. Antonella Bellocchio, a member of the Osservatorio who was born and still lives in the area, knows exactly how important the Osservatorio is even to the children from the neighbourhood: "Their parents are calm when they're with us", she says. "This is the greatest victory."

Scouts' Center Agesci 15, Reggio Calabria

"For the first two years, membership went down. The parents were afraid of reprisals. But today I can say that our presence here is considered as normal and beautiful by everyone." Luciano Cama lives and works in Archi, a neighborhood in the north of Reggio Calabria,the stronghold of two 'Ndrangheta groups who fought each other in the so-called 'Second War of the 'Ndrangheta' (1985-1991). As leader of the scout group Agesci 15, Baden Powell Luciano Cama led the scouts when they entered the so-called "Condello Fortress" in March 2010, ten years after the building had been confiscated from the 'Ndrangheta clan of that name. It is an imposing building of 300 sqm on each of its five floors, and a symbolically highly charged place. For years it was the base of the Condello-clan. It was just a few meters away that on 13 October 1985, the boss Paolo de Stefano was shot, triggering what was to become the second 'Ndrangheta war. It had been a highly-protected building before it was finally confiscated in 1997. Despite the confiscation, the members of the Condello family continued to live there for the subsequent nine years. The administration officials would have referred to bureaucratic difficulties, when asked by the prosecution services why the building had not been emptied. After years of bureaucratic foot-dragging, in March 2010 the old inhabitants were moved out and new ones moved in: four disadvantaged families and some associations, among them the scouts. It was a veritable revolution for Archi and for Reggio Calabria. Cama recalls: "This was the first confiscated building in Archi to be used for social purposes. It was clear that there would be fears and cultural resistances. People were afraid of acts of revenge. That's why it was so important to take up the challenge: we certainly needed a center for the scouts, but even more important was to send a signal to our scouts, to the families and to the whole neighborhood." The two apartments on the ground floor, once meeting place of criminals deciding over life and death, are now home to a colorful 'cave' for the young scouts, rooms for the older ones and a public library for the neighborhood; the spaces are also open to other associations and cultural initiatives from the area. "As soon as we got in here we immediately tried to make the spaces ours, with colors and drawings, with new furnishings. People should notice that something else was now happening here, a place of joy, of fun and of a healthy growing-up." It constitutes a radical change, it is a 'sign' which has not yet changed the outside though. "We have pointed this out to the local authorities on a number of occasions, including a partly crumbling roof that endangers our children. But so far nothing has happened." In fact, the planned renovation of the façade was over more quickly than it had begun: just as the scaffolding had gone up it became clear that the building company which had won the tender was unable to produce the required Anti-mafia certificate. So, the scaffolding was dismantled again. Nothing has happened since.

'Pino Puglisi' Center, Polistena

The house of the Versace brothers grew floor by floor in the 1970s – a symbol of their steadily increasing power in the town of Polistena. With all its imposing ugliness – six floors of 500 square meters each, the façade never finished – it communicated very clearly who was in command in the town above the plain of Gioia Tauro. And they didn't forget to look after their business: on the ground floor the brothers set up the 'Bar 2001', laundering money from their drug trafficking and extortion activities. For many young people from the Catena district, the bar formed a kind of attraction where they could learn about the 'beautiful life' mafiosi supposedly had to offer, between drugs and prostitution. On the first floor, a banqueting hall was arranged for weddings. And, even harder to believe, on the upper floors a teacher training institute for primary school teachers was housed, duly paying rent whilst waiting for the completion

of their own building. So, it was a symbolic place – and a very practical one: the clan did not forget to set up a beating room in which to quietly settle accounts with those who refused to pay protection money. In 1998, however, the complex in Via Catena was finally confiscated; in 2009, the town council decided to hand it over to the parish of Santa Maria Vergine. "We first had to take care of the façade to send a strong signal of change: The ugliness of 'Ndrangheta has been replaced by the beauty of goodness." says Don Pino De Masi, parish priest in Polistena and a long-term stalwart of the Calabrian Anti-Mafia movement. There is now a bright glass façade on the first two floors, making clear that there is nothing more to hide. All this has cost a lot of time and, above all, money, all of which came from private funds. The project *Liberamente insieme* (free together) resulted from thecooperation of different groups and organizations: the parish as lead partner, the funding bodies *Fondazione con il Sud, Enel cuore onlus* and *Il cuore si scioglie of Unicoop Firenze,* as well as the NGOs Libera, Emergency, Valle del Marro and il Samaritano. It was possible to invest EUR 440,000 into the 'palace of goodness'. The first three floors were renovated and the other three secured, thanks to free architectural work provided by Francesco Mammola from Polistena. The house was opened on September 15th, 2015. Inside there is now the youth center 'Gigi Marafioti' (the headmaster who liberated the Teacher Training Center from Palazzo Versace), an emergency treatment and support center for the migrant workers of the Gioia Tauro plain, and a 24-bed hostel.

Headquarters of the Municipal Police, Rosarno
The former villa of Giuseppe Iannace can be found in the middle of the town center of Rosarno a few meters away from the Piazza dedicated to Giuseppe Valarioti, a young party secretary of the Communist Party murdered on 11 June 1980. There is the post office, schools, the old headquarters of the municipal police, the heart of the town. In June 1995, Iannace was arrested for membership of a Mafia-type criminal organisation with the intent of systematic fraud: according to the prosecutor,s he had infiltrated the 'Caoor' agricultural cooperative in order to embezzle public subsidies forfor the construction of his villa. His interest in agriculture, especially citrus fruit, never subsided. Agriculturewas also at the centre of the anti-Mafia battles of Giuseppe Valarioti – Iannace's brother-in-law was later accused of his murder, yet never convicted. In any case, Iannace's agricultural interests seem to have been worthwhile, judging by the value of the properties confiscated in 2002 (amongst them the villa in the centre of town), in stark contrast to his income declared to the tax authorities. On 28 November 2014, ownership of the building was passed to the city council, and on 12 April 2016, the new headquarters of the municipal police were opened there. This was the conclusion of what had been a rather tormented path towards a new home for the local police. Previously, in 2010, building work had already started on a different property (Via Maria Zita 37, confiscated from Savino Pesce) when it became clear that the quality of the cement that had been used in the construction of the building did not meet the standards for police buildings. The local administration had to therefore change plans, making use of the building as accommodation for migrants. The police had to wait for another six years. Strange bureaucratic delays followed to the very end: the police had to wait for months for the keys, and the ones they did finally get were false! The new police commander had to finally break down the door to his own station and the long-awaited moment of inauguration could follow soon. ●●

Examples and starting points in Germany
Berlin-Schöneweide, Zossen, Dortmund, Berlin-Köpenick, Eberswalde, Güstrow, Anklam and Saxony-Anhalt

By **Benno Plassmann**

Introduction

As per the previous articles in this publication, there is no system of social re-use of assets confiscated on the basis of criminal confiscation proceedings in Germany. There is no system of direct social re-use as defined by Frank Meyer. As this brochure goes to print, it cannot be predicted whether or not such a possibility will be introduced by the Bundestag into the currently debated reform of the system of criminal confiscation. However, other legal routes exist to proceed against right-wing or mafia-type groups in order to achieve civil society re-use of their buildings: the municipal right of pre-emption for real estate, as well as the Associations Act and the law governing political parties.

In order to grasp the great potential of civil society re-use of spaces it is important to take other examples into consideration, quite detached from the specific legal path chosen to achieve the goal of social re-use. When widening the perspective in such a way other examples come into view, not only in Italy but especially in Germany, namely examples where an explicit historical connection can be made. Finally, in this contribution we will briefly discuss the possible function of spaces as a 'means of production' for democratic civil society. This makes it possible to create links to other areas such as urban or social planning, as well as cultural themes, and possible future civil society alliances can be sketched out.

« Spaces are an important 'means of production' of democratic civil society: they can create possibilities of participation and cultural expression for all; space for cultural activities in a former Nazi-building in Dortmund. © Lêmrich

**Civil society alliances and municipal
pre-emption rights:** *examples in
Berlin-Schöneweide, Zossen and Dortmund*

When dealing with property used by right-wing extremists, the founding of a civil society alliance (often involving the local administration) is often the first means of choice. Thus, public attention is created for the anti-human rights activities taking place there, or from there. At best, this first leads to a social stigma for the place. When the properties in question are rented out, the stigma can then be converted into social pressure on the landlords to dissolve the corresponding contracts.

An example of a successful approach of this kind is the work of the *Berliner Beirat für Schöneweide* (Berlin advisory committee for Schöneweide). After initially self-organized antifascist campaigns against the stronglocal presence of Nazis in the Berlin neighbourhood of Schöneweide (district Treptow-Köpenick), e.g. the campaign *Schöner weiden ohne Nazis* ('Grazing more beautifully without Nazis', which in German works as a pun on the name of the area) the Berlin regional government also saw the need for action in 2013, and the advisory council was founded. Under the auspices of the Senator for Labour, Integration and Women, and of the district mayor, the advisory council, on behalf of the Berlin Senate, devoted itself to the problem of right-wing extremism.

With the aid of *Mobile Beratung gegen Rechtsextremismus* (MBR, Mobile counseling service against right-wing extremism Berlin, a Berlin-wide NGO) and the *Zentrum für Demokratie* (ZfD, Center for Democracy), locally integrated strategies were developed and successfully implemented for Schöneweide. At the end of the legislative period in the summer of 2016 the advisory council was able to hold a press conference in a re-used property, exactly "where Nazi-rock concerts and comrades' meetings once took place, and where families of different roots [now sit and eat together in the pizzeria *Anima e Cuore*]."

A further means, which can be used, is the right of municipal pre-emption for the sales of properties. In the German Code of building laws *(Baugesetzbuch, BauGB),* a general right of pre-emption for municipalities is anchored in Article 24, and in some federal states this is defined even more broadly. This gives municipalities the opportunity to intervene in cases of attempted sales to Nazis or mafia-type criminals, regardless whether this is planned in bad faith, or not. Of course, as this is a general provision not linked to any specific aims (such as crime prevention) this can also be applied to hamper democratic initiatives. In the Brandenburg city of Zossen, for example, the mayor used the municipal pre-emption right to make it impossible to reconstruct the headquarters of the democratic initiative *Zossen zeigt Gesicht* after their first 'house of democracy'was been burnt down by Nazis in 2010.

In the Westphalian city of Dortmund, however, the city was able to buy the property Rheinische Straße 135, which had been central to the local space of Nazi dominance. It was bought with the aim of dissolving the existing rental agreement. The city council found the necessary funds in its budget because there was a need for a youth services centre in the area. The house was bought in 2011 without needing to have recourse to the municipal pre-emption right. Subsequently, the tenants were forced to move out, or rather, the police cleared the building on 23 August 2012. This was an important result of long-term efforts starting with antifascist activities which had pointed out, and protested for years, the increasing Nazi settlements in Dortmund. An alliance of civil society, local politicians and administrators was then launched in 2006. In some cases it was possible to convince landlords to not rent to members of the Nazi scene or to dissolve existing rental agreements. The city of Dortmund's purchase of the Rheinische Strasse 135 property should therefore be seen as part of a multi-layered strategy. After the house was cleared, the city council made it partially available for social re-use: a youth and cultural café was established there, as well as the Respect Office of the City of Dortmund Youth Department, supporting local participation, democracy and tolerance. At the inauguration of the project in March 2015, Dortmund's Mayor Ullrich Sierau (of the Social Democratic Party, SPD) explicitly referred to the role of buildings in strategies to establish territorial dominance and spaces of fear: "Rheinische Straße 135 was a symbolic address of the Neo-Nazis and part of their spatial struggle. It was the anchor they wanted to throw into the city. (…) They are gone. And that is a model for the whole city. The house is nazifrei (free of Nazis) – and so shall be the city."

Associations Act and the law governing political parties:
example of Berlin-Köpenick
Elsewhere in this brochure, the German Associations Act is mentioned. This regulates the dissolution of anti-constitutional or criminal organizations such as Nazi groups, but also of mafia-type organizations such as so-called 'Rocker Clubs' (but even the so-called 'Islamic State' was prohibited in Germany under these provisions!). Said Act includes the possibility of seizure and confiscation of assets including real estate, stipulating explicitly their subsequent charitable, not-for-profit use. To assess the practical relevance of these regulations it must be pointed out, however, that between 1 January 2014 and 31 December 2016 a total of 21 dissolutions were announced, only three of which involving the confiscation of property: *Farben für Waisenkinder e.V.*, dissolution order of 19 November 2015; *Freies Netzwerk Süd,* dissolution order of 2 July 2014; and *Schwarze Schar MC Nomads Germany,* dissolution order of 8 January 2014. According to information obtained from the the Federal Ministry of the Interior, legal proceedings surrounding the *Farben für Waisenkinder* building continue. They are therefore unable to provide more information. The property confiscated from the so-called *Schwarze Schar* (a Nazi Rocker MC) in the state of Mecklenburg-Vorpommern is "to be sold as soon as possible", according to the regional government's management agency of properties (BBL, Rostock). According to the agency, "remaining financial means will be passed to charitable organisations". In this case, at least, a form of indirect social re-use is planned. Only in the case of the property seized from the Freies Netz Süd (a so-called Nazi 'comradeship') in Oberprex did the Bavarian Minister of the Interior commit to establishing a direct social re-use. Elsewhere in this brochure, more information is provided on this case, including pertaining problems.

The German law governing political parties stipulates that, in the event of the prohibition of a party by the Federal Constitutional Court, the handling of its assets takes place in accordance with the provisions of the Association Act. On 3 December 2013, the *Bundesrat* (the second chamber of the German parliament, the chamber of the federal states) presented an application to the Federal Constitutional Court demanding the prohibition of the so-called National Democratic Party of Germany (NPD). Judgement was passed on 17 January 2017, and the party was not prohibited. The federal headquarters of the NPD is located in the Berlin district of Köpenick, and it is owned by the party. Had the constitutional court pronounced a ban of this party, a confiscation of the building would have followed suit and in accordance with the regulations of the Associations Act a social re-use of the property could have come about.

One of the activities of the project *Creating public spaces* in preparation of a possible prohibition was a pilot project of planning for a possible future of that building. As is described in the article on spaces of fear, the building in Berlin-Köpenick plays an important role in strategies to establish a Nazi-dominated space. Press reports on racist demonstrations in the eastern part of Berlin also suggest that the local Nazi scene and mafia-type CMC (Criminal Motorcycle Clubs) are structurally linked. A democratic re-use of the building by civil society organizations, following a ban on the party by the Federal Constitutional Court, would have not only sent a strong symbolic message: rather, it would have 'indemnified' the local social space for the harm it has suffered at the hands of Nazis for many years. Ideas for the not-for-profit and social re-use of the property sought to benefit a mix of local and nation-wide groups, organizations and institutions: trade union organizations, groups of voluntary and professional civil society, self-organized groups of refugees and LGBTQI* people.

The historically widened perspective on social re-use:
example of Eberswalde

In the Brandenburg city of Eberswalde, local Nazi groups in the 1990s pursued a clear strategy of intimidation and violent establishment of space of dominance and fear; just as described in the secondarticle in this brochure. The cultural and youth association Exil e.V. was part of a local movement of democratic civil society actively opposing this strategy of the Nazis. Since the end of the 1990s, that association together with supporting organizations, groups and individuals endeavored to preserve two barracks remaining in Eberswalde, formerly part of an external forced-labour satellite camp of the concentration camp of Ravensbrück. Some time after the demise of the GDR, the Federal Assets Agency *(Bundesvermögensamt)* became the owner. Many years of various and wide-ranging arguments ensued about a possible use for the buildings. In the end, the City Council of Eberswalde supported the idea of a civil-societal re-use of the area by Exil e.V., negotiated hard with the Federal Assets Agency and was able to buy the area for the symbolic price of 1 EUR. The very same day, the City Council sold it to the association. They have now turned the barracks into a place of remembrance and active struggle against all forms of racism, past and present. They house the permanent exhibition *Wiedersehen mit Eberswalde – Hier gibt es keinen Hass mehr* (Seeing Eberswalde again – there is no more hatred here), a seminar room and smaller workshops. In addition, since 2013, the *Kanaltheater* group has developed theatre productions under the motto 'radically colorful' and 'testimonies meet utopians' involving local punk-rockers and people from Eberswalde. They work on different relevant socio-political themes intertwining history and visions for the future. Themes and aesthetic qualities coming from the local punk culture are mixed with the approaches of professional theatre makers together striving to deal with central issues of all social life: Where do we come from? How do we want to live together, today and tomorrow?

A closer look at the topic of civil-societ re-use of buildings in Germany cannot do without this kind of historical widening of perspective. Research of the United States Holocaust Memorial Museum has brought to light 42,500 Nazi ghettos and camps throughout Europe, a staggering number. This includes 30,000 forced-labour camps, 1,150 Jewish ghettos, 980 concentration camps, 1,000 prisoner-of-war camps, 500 brothels for forced sexual labour and thousands of other locations used for euthanizing the elderly and infirm, performing forced abortions, "Germanizing" prisoners or transporting victims to killing centers. The website www.deutschland-ein-denkmal.de assiduously documents a non-exhaustive list of 3,600 places of injustice in today's Germany, Austria and Poland. The former forced-labour camp in Eberswalde (part of the wider structure of the concentration camp of Ravensbrück) is listed there. The handling of these Nazi sites and their preservation in the attempt to re-interpret them in a democratic and pedagogical manner should be seen as a form of state or civil society re-use of compromised property. It has become a central component of German memory culture and politics.

Thus the discussion of civil-societal re-use of property used formerly for criminal ends must be carried forward with sensitivity for a historical perspective. This holds just as true for Germany as it does for Italy, particular with regard to the activities of the *Ente di Gestione e liquidazione immobiliare* (Agency for the Administration and Liquidation of Real Estate) founded by Royal Decree on 27 March 1939. It was the central agency for dealing with property and companies confiscated from Jewish citizens of Italy following the pronouncement of racial laws in 1938. German security forces, the judiciary, social and fiscal offices, banks and many individuals have rich historical experience in organizing state legalized robbery. As is well known, the Nazi regime existed to rob entire groups of the population, persecute them and, finally, to murder them. The ever-more-elaborate German system finally led to the 11th Execution order to the *Reichsbürgergesetz* (Citizenship Act) of 25 November 1941; from a Nazi point of view, one could call it a logical conclusion: all Jewish emigrants had their German citizenship revoked. All their remaining property was to fall to the state, i.e. all their assets were confiscated. This regulation was also applied to all deportees and to everyone later murdered in the extermination camps, faithfully executed by the tax and revenue services and with the active organizational support of the German banks. The two German states of the post-war period pursued different paths in the attempt to make reparations. As a limited example, in the case of West-Berlin alone, there were more than 25,000 claims for reparations on land and mortgages between 1945 and 1990, according to the historical research institute Facts & Files (Berlin).

However, such a historical perspective must not be used to fundamentally reject any form of governmental confiscation policy. The historical perspective rather underlines the necessity for a detailed argument to defend the state's existential task of safeguarding justice – negotiating the balance between perpetrators and victims of individual criminal acts, as well as defending against contemporary movements threatening human rights and, thus, the very basis of our democratic societies.

Spaces as a 'means for production of civil society': *examples of Güstrow, Anklam, projects of the LKJ Sachsen-Anhalt*

The region around the city of Güstrow in Mecklenburg-Pomerania is one of several areas in Germany where human rights are threatened by a strong presence of Nazi groups in their various contemporary forms, such as 'comradeships', right-wing extremist parties, Nazis organised as Criminal Motorcycle Chapters, the Nazi settler movement, the infiltration and subversion of social environments and the right-wing populist legitimation or trivialization of such developments. One of the places where democratic civil society has organized itself is the *Villa Kunterbündnis*, in the center of Güstrow. It sees itself as an autonomous socio-cultural meeting place where all groups can have their own protected space and work together. A 'time bank' is used as an internal financial structure, whereby 1 hour of activity of any kind being of the same value of another hour of activity of a different kind. This means that people can also benefit from *Villa Kunterbündnis* who would otherwise not be able to afford its services. Specific partnerships between groups or individuals serve to promote the principles of mutual help and self-empowerment. It is a place with an appreciative atmosphere where members of all kindswalk in and out, be they single parents, people with addictions, queer people, refugees, or people communicating with gesture language.

Anklam, another city in Mecklenburg-Pomerania, must also come to terms with a strong presence of Nazis in various forms. There one can find the 'democratic railway station'. It is another example for how much space is a resource to promote democratic culture, social participation and the maintenance of social and political human rights also for minorities – provided it is used consciously with a democratic attitude. After a municipal housing association acquired the site from Deutsche Bahn, rights of use were transferred to a project group, including the Greifswald youth association and the scout assocation of Mecklenburg-Pomerania. With basic funding from "Experimental Housing and Urban Development" of the Federal Institute for Building, Urban and Regional Research a variety of activities could be implemented. The Cultural Youth Centre 'Democracy Station' was successfully established through activities such as a self-managed youth club, an intercultural garden, a bicycle workshop, a charity shop operating on a barter system, as well as a series of democratic events and discussion forums. Despite a strong Nazi presence in the town, Anklam now has a space dedicated to marginalized democratic young people, as well as for refugees who suffer particularly from racist exclusion. From there they can look for ways of interacting with the city's, and the region's, mainstream society. This brochure's article on spaces of fear by Tobias Scholz, Tahera Ameer and Stella Hindemith describes Anklam station as an example for a former space of fear. This shows that a process of combating spaces of fear must always be seen as a gradual process during which empowerment of civil society on the one hand, and continuously existing threats on the other, can exist in parallel.

A comparable democratic and democratizing approach to the theme of social space has been followed by the regional cultural youth association (LKJ) of Saxony-Anhalt. Their five-year project *dehnungsfuge* (expansion joint) takes place in several federal states with funding from the federal government's program *Demokratie leben!*, the funding stream of the Federal Ministry for Family Affairs, Senior Citzens, Women and Youth supporting initiatives against right-wing extremism and violence. The individual projects in Saxony-Anhalt, Mecklenburg-Pomerania and Brandenburg all take place within the framework of local co-operation agreements, for instance with local theatres and cultural associations, aimed at developing strategies in areas which for many reasons are marked by emigration and emptiness. The projects seek to develop young people's creative and cultural strategies in their space, linking this to political education and the strengthening of democratic culture. Their perception of surrounding physical spaces is sharpened by creative means such as photography, graffiti workshops, theatre- and film productions or other forms of visual mapping. After selecting a specific location or building, they receive support for their ideas for how to revitalize the place, mainly through cultural activities. The participatory and democratizing potential of this kind of community planning work has long been known. In many countries it is promoted through government programs (see the German program *Soziale Stadt,* Social Cities). Remarkably, however, *dehnungsfuge* is the only project within the framework of the broad federal program *Demokratie leben!* which is based on such a decidedly socio-spatial approach.

Conclusion

Civil-societ re-use of buildings, especially when coupled with a clear democratic attitude and historical interest, facilitates significant symbolic social communication. A powerful example of this is the pedagogic 're-use' of former Nazi sites, which have become a mainstay of German memory culture. In addition, civil-society re-use of buildings creates serious potential for direct community activation. Even from the few examples cited here it should be evident that social re-use can contribute significantly to the strengthening of democratic culture, particularly in areas where it is threatened.

If, then, a civil-societal re-use took place on the basis of a criminal confiscation or other form of state 'non-conviction-based-forfeiture' (e.g. through the German Associations Act), then this potential of symbolic communication and social activation would combine with the state's core task to protect and enforce justice – and the social contract could be (re-)confirmed directly in the local social space. ●●

An artistic vision for democratic spaces

By **Luca Ruzza** and **Benno Plassmann**

The very concept of *social* re-use of confiscated *assets* highlights the central importance of two nodes: firstly, there is the strong relationship between social and physical space; secondly, there is a distinction between 'before' and 'after' with a time dimension coming into play, including the aim of improving something in the course of passing from 'before' to 'after'. In this short essay, we look to highlight the central role that artistic-creative processes can (and often have) played in dealing with these two nodes, the spatial and the temporal.

The dialectic relationship between physical space and artistic vision

Many artists, both in the theatrical and the fine arts, begin their work with an initial examination of physical spaces. Their artistic vision or dramaturgical concept is developed on the basis of this confrontation. In the course of the subsequent creative process, this relationship between space and artistic vision can often be described as a dialectic relationship. There are, of course, great differences between artists' first confrontation with space and in how the subsequent dialectical process takes place. A wide range of possibilities can be observed: the results of research of local stories or even local news are themselves sometimes put directly on the stage, and sometimes even intensive research work influences the final form in a much more indirect or associative manner.

In all the artistic works with space as a constitutive part, we see a strong attraction to such spaces which in themselves are not usually spaces of art. That is, the 'found' space contextualises the intervention, and the intervention infuses the space with an imagined reality. With physical space as an accepted part of creative processes, an element is present which is less mobile than human beings; it becomes a "limitation to which we must react" (Eugenio Barba, on a core aspect of creative training). It is possible to see space as a veritable generator of collaborative processes.

« What in the past was the villa of a Camorra boss is now a cultural and educational centre, *A voce d'e creature*, Naples. © Adelaide di Nunzio

Upon entering a space that is not usually a space for the arts, it is clear that all the technical and organizational aspects of the 'machinery' of the theater will have to be re-invented and/or adapted to the chosen space. In the theater of theater buildings, in museums or in art galleries, the organizational pattern of functions and timetables is largely defined, often without great scope for change. In 'found' spaces, however, the usual patterns are not directly applicable and – though there may be organizational constraints such as event security or times of use (especially when the space's original function is continued during its time of artistic use) – the artists have much more freedom to invent new functional structures or schedules for their processes. Thanks to this freedom (and need) to re-invent work organization, new possibilities open up for creative cooperation with technical experts outside of usual artistic processes. Alternatively, logistical elements of the chosen space can immediately lead to new, concrete ideas for the work, as long as it is understood as a possible creative relationship. There might be a wall which cannot be moved, and as a result the choreography or lighting plan must be adapted. Or you may first have to understand the acoustics of the space before the musical approach canbe defined. In this way, the original dramaturgical concept changes and is enriched by unforeseen elements.

The democratic potential of re-connecting social and physical space

The interrelationships and the collaborative structures of cultural-artistic action working in and with a space not intended for art will, understandably, not be limited to professionals from artistic fields. Such collaborations will also include a large number of different social groups not comprised of professionals in the arts. These may take place out of necessity, e.g. co-operation with experts from public administration (transport, security, electricity, etc.) or from other professional groups (architects, masons, cooks, etc.). But when an intervention works on a democratic basis, these (artistic) collaborations can also involve persons and groups of persons less visible in normalized social spaces, which are always also an expression of an existing power system. Cultural-artistic projects of this site-specific type can explicitly aim to increase the visibility and the possibilities for action of persons or groups who are usually sidelined as a minority. These projects may challenge the visibility of women's presence compared to men's, or examine the mobility of migrant populations or populations of colour. They may investigate the spatial self-determination of people with special needs. A project that starts from the deconstruction of the physical and social normality of a given space has the possibility to re-invent that space and to bring about a (re-)connection of the social and the physical spaces from a democratic point of view.

This effect of the (re-)connection of social space and physical space can not only be noticed by participants in the work process, but it also represents one of the parameters of the relationship with the audiences of such site-specific events. It is not easy to define the audience of this kind of site-specific interventions, but such audiences are usually less socially determined than audiences in traditional 'art spaces' (museums, galleries, theaters). The personal contact of artists and participants with the surrounding social space plays an important role for the success of any such project. Audience members can feel a sense of 'belonging' to a place they feel is 'theirs'; this can help reduce their hesitation when visiting an artistic event in that place. However, this can also lead to strong rejection if the artistic intervention is perceived as too 'shocking'. If the artistic work respects this sense of belonging – including the many emotional, social, historical or imagined connotations a place may have for the persons and groups associated with it – while retaining a basically democratic approach, a veritable dance of associations, of poetic and new connotations, can come about, including positive 'estrangement' effects in a Brechtian sense. Site-specific artistic projects can thus create a situation in which people perceive the social space around themselves with different eyes--perhaps in a more democratic way, and with more attention to the human rights of all.

The time dynamic

If artists or cultural workers get to work in and with spaces that are not usually intended for art, they find themselves in a situation which is fundamentally characterized by everyday physical and social given circumstances[1], and at the same time they aim to go beyond everyday life towards a horizon of the imagination. Even if site-specific theater and site-specific art always operates with a 'before' and 'after', the effects of the work can occur on different temporal levels. Work processes in site-specific theatre or visual installations, such as the 'Tour of Legality', one of the project activities of *Creating public spaces* in Rome in June 2015, can be quite short. Such an intervention does not leave any lasting physical traces. The effect of the (re-)connection of physical and social space thus exists during the work process itself and during the event, but then remains in the social or individual memory of the persons making up the social space. In other artistic projects of public sculptural work or participatory architecture, however, there is usually a much slower development of interactions, relationships, and social consensus. (This can also apply to theatrical projects such as the one-month residences 'Imagine …' of the X-Project network of the *Swedish Institutet för Scenkonst*). In such cases, the overall concept of the intervention usually includes the permanent physical transformation of a place with the aim of a more lasting (re-)connection between social and physical space; in fact, such interventions should also be understood according to parameters of social geography or urban renewal. The work on the re-use of confiscated assets, of course, has more to do with such long-term temporal dynamics.

It remains of essential importance that the reality of the imagination and its memory no longer remain secluded in the places normally intended for art, such as theater buildings, museums or galleries. Rather, the artistic mindset and the idea of democratic culture permeate a new space, and this will be reflected in the social memory and memory of individuals. It is often possible to observe how, after artistic or cultural interventions, a process of social and / or architectural urban development takes place. This often follows a direct cause-and-effect relationship, sometimes motivated by profit. Either way, this represents a complex interplay of important strategies from artistic-cultural and planning-urban-political fields (or of regional development).

If a cultural work takes place in a physical and social space that is usually not intended for the arts, then the everyday connotations of this space are overwritten with poetical, historical, democratic, artistic and non-everyday connotations and a positive kind of 'estrangement' effect occurs for the public or the social space. The success of the 'hyperreality' of cultural interventions in confiscated and re-used assets can only be achieved if there is a co-presence of everyday life (or the memory of a 'before') and the "non-everydayness" of cultural intervention carried forward by the vision of a better, more democratic future.

The role of artists

Among the artists who work site-specifically, there are also those (amongst them the initiators of the project *Creating public spaces*), who consciously assume responsibility for the further legacy of their work beyond its creation. In a very practical way, this responsibility can also be related to areas that are seemingly far from the core of the actual artistic work: architecture and urban planning, social and economic development of the surrounding society, or political activism for democratic culture and human rights.

[1]   The term is used here with explicit reference to Stanislavski.

There are many different ways that artists take responsibility for their interventions and take care of the legacy of their work. This can go so far as to take over the responsibility for the re-use of a confiscated building in the land of the 'Ndrangheta, as the cultural operators did who founded the *Osservatorio sulla 'Ndrangheta* in Reggio Calabria. Others work in the field of human rights and democratic activism against Nazi movements, as one of the authors of this article did and does in Mecklenburg-Pomerania and elsewhere. Others have a deep understanding of planning processes and their corresponding power structures, and dedicate themselves to the concept of 'cultural planning', a way of approaching urban and regional planning that puts culture at the center of any planning process (http://en.unesco.org/creative-cities/home).

It is instructive to compare this kind of activism and political commitment in a historical perspective of the *longue durée* with the interaction between public cultural spectacle and the development of the modern concept of the European city in the Italian Renaissance. At the time, public cultural cultural events were mostly concerned with the presentation and legitimation of the (new) political figure of the Renaissance prince as a mythical figure. This was followed by a corresponding urban transformation (stage sets in the public sphere turned to renaissance architecture made of stone) according to the image the society of the time had of the mythical 'ideal city' of Rome. The cultural planning approach of today tries to work with the same dynamism of culture and urban renewal, but conscientiously, and according to democratic ideals. Such processes begin with a mapping, that is to say, a survey of the resources and social, cultural, physical potentials of a given social space: the perception of the given circumstances of this space is the first step. Such a survey should highlight the potential of marginalized groups to best follow the standards of democratic culture. The road beyond the given circumstances and beyond everyday life does not need to laud the powers that be, like the Italian Princes of the Renaissance, to the exclusion of the many. Rather, a participatory process can emerge that gives equal rights to all members of the local social space, with particular emphasis on those who are usually marginalized. This means it is possible to combine measurable results with an equitable cultural process.

Similarities between artistic work processes and those of cultural planning are obvious, but there are also important differences. In creative and artistic processes, one must continually work to keep them open and to ring-fence any planned, utilitarian motivations. Urban and regional planning, social and distribution policy, on the other hand, are guided by predetermined, utilitarian goals. Thus, a an ever-present challenge is the linking of intrinsically open, creative and artistic work processes (including their relational feedback processes) with an essentially antithetical, linear kind of work aimed at achieving specific pre-defined goals.

Dealing with this challenge is not always easy. We believe, however, that this is important work in a society that is increasingly guided by the purely utilitarian goals of a powerful social mainstream. Part of these utilitarian goals seems to be to promote de-localization, thereby diminishing public space as understood as a direct equitable and democratic social interaction in physical space.

We want to strengthen forms of artistic and creative work, based on a lived vision of democratic culture with equitable social relations, and permeating places with imaginary realities. We speak of an artistic work, therefore, which sets itself apart both from the ideal of the 'white cube' of the places intended for the arts, and from the purely utilitarian ideals of a social mainstream. For they not only flatten the social spaces of our societies, but they are far too dangerous for the future of democratic culture and our democratic constitution.

Let us work to strengthen the very old relationship between cultural-artistic visions and politics as a democratic action in the *πολις*. How great it is when artists do not limit themselves to working in the spaces provided for them by others, but actively participate in society! ●●

About the Authors
(in sequence of their contributions to the publication)

Dott. Enzo Ciconte

Following studies at Turin University he starts political work within the Italian communist movement. He is elected Member of the Italian Parliament in the X legislature (1987-1992) and is official Consultant to the Anti-Mafia Parliamentary Select Committee 1997-2012. He publishes the first ever historical book on the 'Ndrangheta in 1992, and follows this with a long list of further publications on topics of the mafias. He teaches history and cultural studies of the Italian mafias at Universities of Rome Three, L'Aquila and Pavia.

Jürgen Roth

Since the 1970s he has been publishing his freelance investigative work in books and television. One of the main focusses of his work is international organized crime and corruption. A selection of his publications in this field include (translation of the German titles, not available in English): A criminal holding company. United Europe in the grip of the Mafia, 1993; Investigation prohibited. Why police has abandoned the fight against crime, 2004; The Germany Clan. The unscrupulous network of politicians, top managers and lawyers, 2007; Mafialand Germany, 2009; The deep state: the subversion of democracy by secret services, political complices, and the rightwing mob, 2016; and his latest work Dirty Democracy - hollowed out - exploited - deleted?.

Dr. Tobias Scholz

Previously assistant lecturer in sociology at the John-F.-Kennedy-Institute for North America Studies at the Freie Universität Berlin, since 2015 project co-ordinator with Amadeu Antonio Stiftung and Senior Researcher in the project Creating public spaces. Author of the publications Distanced sympathy – media images, emotions and solidarity in the face of catastrophes (available only in German, Frankfurt am Main, Campus, 2012) and with Stefanie Lohaus Daddy can breast-feed, too: how couples can deal with kid, job and housework at the same time (available only in German; München, Goldmann, 2015).

Tahera Ameer

She studied comparative literature, philosophy and Hispanic Studies at Tübingen, Barcelona and Berlin. She has been working on current and historic anti-semitism and racism since 2004 with Amadeu Antonio Stiftung and other organisations such as the union Ver.di, the large Paritätische network of social NGOs in Berlin, and the Berlin-based Institut für Neue Soziale Plastik (Institute for a new social sculpture), and the association BildungsBausteine. She directs the Amadeu Antonio Stiftung's project Aktion Schutzschild (shield of protection action programme) since 2016.

Stella Hindemith

Following North America Studies at Freie Universität Berlin she has been working with Amadeu Antonio Stiftung since 2012, at first with the project Region in Aktion (funded by the federal programme for democratic culture Zusammenhalt durch Teilhabe). Since 2015 she is the CEO of the not-for-profit organisation Lola für Demokratie in Mecklenburg-Vorpommern e.V. and co-ordinates the federal pilot project Un_Sichtbar – Lesben, Schwule und Trans* in Mecklenburg-Vorpommern (In_visible – lesbians, gays and tran* people in Mecklenburg-Western Pomerania, funded by the federal programme for democratic culture Demokratie leben!) which works with historic and current experiences of gays, lesbians and trans*people. She also works as a freelance curator of cultural projects in the fields of gender and antisemitism, for instance with the Berlin-based Institut für Neue Soziale Plastik (Institute for a new social sculpture).

Dott. Claudio La Camera

Project manager and co-ordinator of cultural projects in emergency situations in collaboration with civil society organisations, amongst others in Brasil, Ivory Coast and Mexico. In 1995 he founded the theatre network Linea Trasversale with which he organized more than 30 meetings and working sessions throughout the world. From 1996 to 2010 he co-ordinated the working sessions of the University of Eurasian Theatre with Eugenio Barba's Odin Teatret. He was director of the Osservatorio sulla 'Ndrangheta (civil society observatory of the 'Ndrangheta) in Reggio Calabria from 2007 to 2013. During this period he was responsible for the renovation of Casa Memoria di Felicia e Peppino Impastato (House of memory) and the re-foundation of the historic radio station Cento Passi in the villa which formerly belonged to the mafia bass Gaetano Badalamenti, both in Cinisi, Sicily.

Dott. Ottavio Sferlazza

Entrance into the Italian legal service in 1977. During his professional training period at Palermo law courts in 1978 he is assigned to the team of judge Paolo Borsellino. Following some years of service at the court of Trapani, transfer to Caltanisetta, where he works for seven years as prosecutor. In 1992 he is named President of the jury courts (Corte di Assise) of Caltanisetta. In this function he chairs a number of important cases on organised crime, such as the proceedings against the heads of Sicily's 'Cosa Nostra' Mafia for the murders of judge Giovanni Falcone, his wife and his bodyguards in Capaci, as well as the murders of Palermo prosecutor Rocco Chinnici and that of the President of the Palermo jury courts, Antonino Saetta. He is named assistant head to the Prosecution Service of Reggio Calabria in 2009. Since 2015 he heads the prosecution service of Palmi in Calabria (with territorial competence also for the container terminal of Gioia Tauro) in the function of 'Procuratore della Repubblica'.

Dott. Federico Alagna

Born in Messina (Sicily), he is an independent researcher, mainly on the themes of transnational organized crime and migration. After studying International Relations, he specialized with an LL.M. in International Criminology and Law at the UNICRI of Turin. He is currently a PhD candidate in International and Global Studies at the University of Bologna e and at Radboud University Nijmegen, researching EU policies regarding human trafficking of migrants. He has participated in a number of international research projects, also in collaboration with international organizations, and has been co-operating for some years with the Ndrangheta Observatory in Reggio Calabria, currently a researcher in the project Creating public spaces. He has published several articles and essays, amongst others in the European Journal of Criminal Policy and Research.

Prof. Dr. Martin Heger

Martin Heger studied law at Tübingen University, where he received his doctorate in 2002 and presented his habilitation in 2005 on the topic of "The Europeanization of German environmental penal law". Since 2005, he holds the Chair of Criminal Law, Criminal Procedural Law, European Criminal Law and Modern Legal History at the Humboldt University of Berlin. He is a member of the Academic Council and Academic Senate of Humboldt University, of the Faculty Council and is spokesperson of the legal department. Numerous books, textbooks, commentaries and editorships, especially in the field of environmental criminal law and criminal procedural law.

Sajanee Arzner

She studied law in Berlin, New York and Rome, graduating in 2015. She was research assistant with the chair of Prof. Dr. Martin Heger at Berlin's Humboldt University between 1 September 2015 and 30 June 2016. She currently completes her state law apprenticeship with work experiences in the German parliament, the Bundestag, the Berlin law courts, as well as a Berlin-based legal firm.

Prof. Dr. Frank Meyer
He studies law at the universities of Hamburg and New Haven (Yale Law School), completing his PhD in 2002. Based on his research periods at the Max-Planck-Institut for foreign and international criminal law in Freiburg and at Bonn University, he finishes his habilitation treatise in 2011. In the same year he takes on the professorship in criminal law and criminal procedural rules, including international criminal law at Zurich University. His main research areas are the constitution of transnational spaces of governance through e.g. anti-trust provisions or UN-sanctions law, as well as the implications of transnational-integrated criminal law for human and civic rights.

Benno Plassmann
Founder and President of the Berlin-based association Echolot – projects for democratic culture, against mafias, senior researcher in the project Creating public spaces. After studying history, Italian studies and theatre studies in Edinburgh, Bologna and Malta he worked as theatre director, project developer and freelance cultural politician in several countries. Since 2006 he is based in Berlin, working amongst other functions as head of the Berlin participatory arts fund (Projektfonds Kulturelle Bildung), and as co-founder and first spokesman of the democratic grassroots alliance Vorpommern: weltoffen, demokratisch, bunt!. Together with the alliance he received the Johannes Stelling Award of the SPD parliamentary group in the state council of Mecklenburg-Vorpommern in 2013 for his committed work in support of courage and democratic culture.

Francesca Chirico
Born in Reggio Calabria, she is a journalist and author working from Calabria. She was co-founder of the multi-media archive www.stopndrangheta.it where she continues to work. She has collaborated with numerous organisations on themes of the Calabrian mafia, such as Narcomafie, Linkiesta and Vice.com. She is author of the investigative books Io parlo, 2013 (I speak, rebel women in 'Ndrangheta country) and La 'Ndrangheta davanti all'altare, 2013 (The 'Ndrangheta at the altar). She has published the novel Arrovescio in 2011 and the play Teresa. Un pranzo di famiglia in 2016.

Prof. Luca Ruzza
Following his studies of architecture in Rome and Copenhagen since 1983 he works as a freelancer in the fields of architecture, scenography, installation and digital art. He is lecturer for scenic arts at the University La Sapienza, Rome since 1988. Since 2012 he offers courses on the social re-use of confiscated buildings within the department of history of scenic and fine arts (DAMS), collaborating closely with the Osservatorio sulla 'Ndrangheta.

» The educational foundation for children and young people *A voce d'e creature*, Naples; since 2007 it is based in a villa confiscated from a Camorra boss.

Democratic culture of equal human rights for all is based on a public space free of fear. Public space can be destroyed by discriminatory or mafia-type groups that exclude minorities and have an anti-democratic claim to power. This leads to a disintegration of the democratic society of all of us.

The German-Italian project *Creating public spaces – best practice in the re-use of confiscated assets* researched whether and how assets confiscated from criminal groups can be used by civil society organisations to strengthen democratic public space with equal rights for all. The pioneering Italian system of confiscation and social re-use of mafia assets provided a rich experience to build on. Moreover, EU Directive 42/2014 of April 2014 obliges Member States to examine the Italian model.

So-called 'spaces of fear' or even territorial dominance by anti-democratic groups and organizations can be found in Italy and Germany, just like in other countries. Buildings used by criminal groups and organisations are of great importance for the production of such dominance. However, there are examples of successful social and cultural approaches to reverse these threatening developments and to change the practical relevance and symbolism of such properties. Possibilities to strengthen democratic culture should be promoted by changing the law on confiscation and social re-use where required, and by co-operative administrative practices.

www.creatingpublicspaces.org