

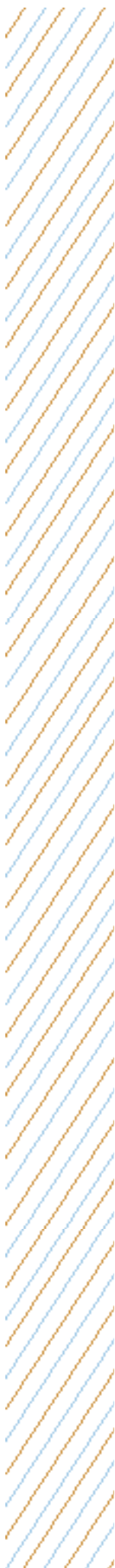
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**THE ARTIFICIAL BOUNDARY
BETWEEN LEGAL, INFORMAL
AND ILLEGAL MARKETS**

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INTRODUCTION

One of the main topics of WP5 was the relationship between the informal economy and, on the one hand organised crime, and on the other the formal economy. During the first three seminars we studied the informal economy phenomenon and more specifically the borders of the informal economy, the way it is related to organised crime and gender aspects in the informal market. It was mainly during these seminars that the close connection between the illegal, informal and formal markets became clear.



The “informal markets” concept is difficult to define. Some authors take the legal framework as the demarcation line. All business that exceeds the rule of law is informal economy. Others refer to the fact of not being registered in official registration systems or in tax paying systems, and others make a direct link between ethnic minorities and informal markets. The kind of definition is strongly related to the subject area in which researchers are working. And the move to more soft-law and private regulation of the formal market makes the demarcation more complex still. Does the fact that governments pass on their responsibility for regulating the overall conduct of the financial market to the private sector mean that we are talking about the informalisation of a formal market?

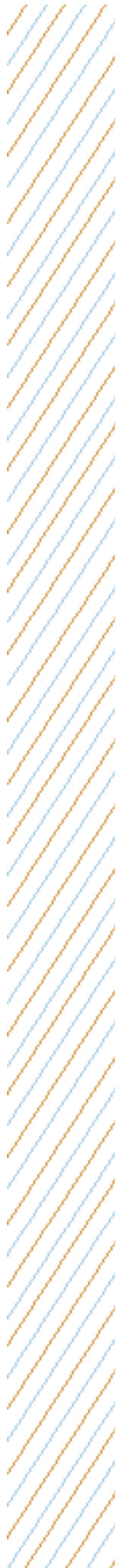
The work package promoters, Joanna Shapland and Paul Ponsaers, have consciously refrained from approaching the participants with a narrow, a priori definition of the informal economy. *It is important to question our own definitions and the ways in which we are looking at the informal economy* according to the initiators of the programme (Shapland, Ponsaers, 2007, 2). One aspect, however, was clear. An informal market differs from a formal market in that it is not regulated. Regulation has to be understood widely: there is no normative framework present, it deviates from existing regulation but it is not controlled, enforced nor registered in official records (Barbara Harriss-White cited in: Shapland, Ponsaers, 2007, 3). Since such an informal market has more latitude than a strictly organised economy, a regulated market or registered activities, it is a considerably volatile and flexible market. During the first three seminars of the WP, in Buxton, Ghent and Bologna, the presentations focused strongly on exploring the relationship between organised crime, informal markets and the formal economy.

I - BUXTON AND GHENT:

A PICTURE OF THE CLOSE RELATIONSHIP

The informal economy can only be understood in terms of its relationship to the formal economy, on the one hand, and organised crime on the other. If we were to depart from strictly separated markets carrying clearly recognisable features, we would have a legal market of goods and services, a market of illegal goods and services often labelled organised crime, and finally the informal market of legal goods and services. However, practice shows us that these markets meet in a variety of ways, that they share a common ground and often even merge into one another (Ruggiero, 2000; Dallago, 1990, 8-13).

As a first example we could take the 24 hour convenience shops - a research project presented by Michael Dantinne in Buxton. Even if the project was in an early stage at that time, it became obvious that the stereotype of the night shop that is related to criminal organisa-

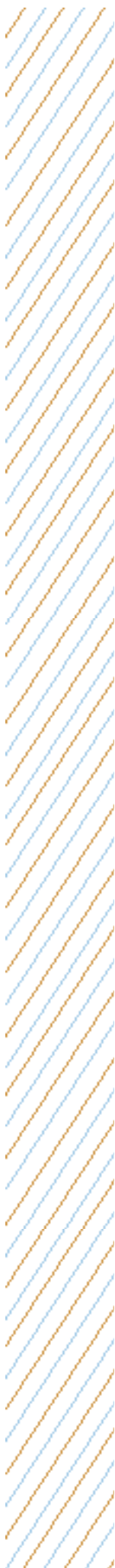


tions doesn't apply. Some of these informal or irregular economies are set up as a survival economy, while others have a direct relationship with illegal traffic. Some shopkeepers are not aware of their irregular practices out of ignorance, whereas others are consciously breaking the law. In her presentation 'Art market: between licit and illicit' Laurence Massy illustrated both the legal and illegal aspects of the market in antiquities, specifically of cultural objects which are transported from source countries to countries where they are sold or auctioned. The analysis showed how many different participants are involved in the market globally. *The status of the piece undergoes a transformation that takes it from having the status of an illicit piece through a staging post or legitimisation process to finally having the status of a legitimate piece* (Massy, 2008, 736).

As an illustration of the ambiguous and fluid divisions between illicit and legitimate activities Phil Hadfield gave a description of the night-time economy in different UK cities. The modes of interrelationship during the night vary between a control mode, a parasitic mode and a host-facilitation mode. For example, bouncers have a (sometimes violent) control and access function for illicit markets; illegal minicabs have a parasitic relationship to the night-time traveller because they depend on that kind of consumer; and the illicit drug market has an easy answer for the night-time party dancer who needs dancing drugs. The night-time city is blurring these modes and the boundaries between the illicit and the legitimate.

The seminar in Ghent that was specifically oriented to the meeting points between organised crime and the informal economy ended with the same conclusion: the boundaries are an artificial representation of the complex reality. Teela Sanders and Phil Hadfield presented the results of their empirical research of the informal taxi industry and showed how it is related to another informal market: the prostitution sector. Gudrun Vande Walle and Paul Ponsaers came to the same conclusions for the medicine market in third-world countries. The link between the market for legal pharmaceutical products and the local informal distribution of medicines can range between a synergetic, symbiotic or even parasitical relationship (Vande Walle G. and Ponsaers P., 2006). Henk van de Bunt gave the example of hawala banking¹, an informal economy that is basically not criminal but offers an opportunity for criminal as well as legal organisations to avoid official regulation and taxes. Hans Nelen explained how the real-estate sector in the Netherlands has strong connections with organised crime. Tom Vander Beken presented the relationship of legitimate businesses with organised crime and more specifically the vulnerabilities of the legal market to infiltration by criminal organisations.

¹ Hawala banking refers to financial service providers who carry out financial transactions whereby cash, cheques or other valuable goods are accepted at one location and a corresponding sum in cash or other remuneration is paid at another location. These transactions happen without a licence and therefore without any kind of state control (van de Bunt, 2008, 691).



These are some examples of the blurring of boundaries between legal markets, the informal economy and criminal organisations that was presented during the seminars in Buxton and Ghent.

II - INFORMAL MARKETS, MIGRATION AND GENDER IN BOLOGNA

The seminar in Bologna was titled *The informal economy and its links with migration, ethnic and family ties and gender*. The presentations on migration gave a more complex picture of the informal economy. The migration policy of Western European countries forces people to enter illegally. Searching for a survival income and being confronted with the bureaucratic system, most of the time they start to work in the informal economy. This position of being a citizen without protection makes them vulnerable to organised crime. Toby Seddon gave the example of “drug trafficking and female drug mules”. Valeria Ferraris presented the interdependence of illegal migration and the illegal market as a first step to legalisation. Italian immigration law tends to institutionalise irregularity. First of all, the admission channel is based on a quota and people are only allowed to migrate if they have found a job before entering the country. In practice it is an exclusive system involving a long bureaucratic procedure that blocks migration and ignores labour-market demand. Because of Italian immigration law the Italian government forces migrants to enter illegally, find a job in the underground economy and then try to sort out their papers once in Italy. Pietro Saitta described the experience of North-African immigrants in two Italian regions, Sicily and Marche. Based on ethnographic research he found that it is easier to survive as an immigrant in the informal economy than it is in the formal economy, because of the lower costs and the higher flexibility. But when he looked at the mechanisms of exclusion and inclusion, migrants said that working as a migrant is not a guarantee for being accepted into the Italian community. Even if the formal and informal economies are closely related, it is harder for migrants to take the step of getting a job in the formal economy.

If we take into account aspects such as gender and ethnicity when studying the informal market, the reality becomes still more complex. The experience of a North-African member of the informal economy differs from that of an Eastern-European member; the experience of prostitutes with minicabs differs from the police’s perception of this illegal economy.



III - AFTER THE FP6 - CRIMPREV-PROGRAMME : SOME SUGGESTIONS FOR FUTURE RESEARCH

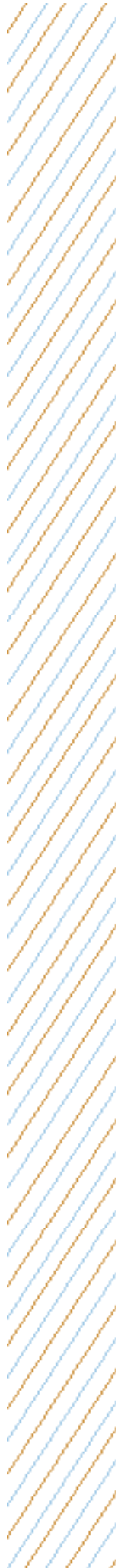
The formal economy-informal economy-organised crime continuum raised questions about research methodology for exploring the informal market.

First of all, the blurring of boundaries between the formal market, the informal economy and organised crime led participants to the conclusion that the old concepts of *organised crime* or *corporate crime* are failing to understand a new market reality. It is time to search for new concepts which better represent the meeting points between the legal and illegal markets, and the formal and informal markets. Vincenzo Ruggiero made a strong attempt, by introducing the new concept of “crimes of power”.

Secondly all the participants agreed that too much policy concerning the informal market is based on perceptions without really knowing the reality of the market. It is necessary to start with empirical research. Because of the hidden and unexplored character of most informal economic activities, it is best to opt for qualitative research. The French, and more generally all Latin cultures, have a strong and rich tradition of ethnographic research in specific regions or neighbourhoods. Because of the dynamic character of today’s informal markets, such research can no longer be limited to one specific locality, but must be conducted on an international scale by an international network of researchers. One example is the study of what has been happening in Eastern and Central Europe. Until now Western European criminology has been trying to produce a vague picture of dynamics in Eastern and Central Europe after the end of the communist regimes and their impact on the legal and illegal market in Western Europe. Most of the time this explanation was based on stories and assumptions, without the researchers having been in these parts of Europe. We were very glad to have representatives from Central Europe such as Bojan Dobovšek of Slovenia, and from Eastern Europe such as Almir Maljevic, to present the results of research on informal economy in their countries.

A third concluding debate concerned the methodology required if we are to gain greater insight into the informal economy, and more specifically the continuum. A calculation or even an estimation of specific crime phenomena related to the informal economy remains a precarious exercise. Friedrich Schneider presented some models to calculate the damaging implications of money laundering at national and international level, and referred to the weaknesses of this kind of quantitative research.

A final conclusion could be that our research needs to emphasise the diversity of people who are involved in the informal economy.



Aspects of ethnicity and gender do matter, first of all if we are to understand the informal market, but also in order to explain perceptions. Is a survival economy related to gender? Are women more easily criminalised when they work on the irregular circuit? Are ethnic minorities not too easily seen in connection with the informal economy?

With these final conclusions in mind, we consider it as challenge to explore the informal market, to overcome the stereotypes, but also to break down the perception that the formal and the informal market are two separate worlds.

Bibliography

Most of the presentations of the first two seminars have been published in:

Ponsaers P., Shapland J., Williams C. (eds), The informal economy and its links to organised crime: parts 1 and part 2, *International Journal of Social Economics*, 2008, 35, 9-10.

Other useful references related to the CRIMPREV seminars are:

Ruggiero V., Welch M. (eds), Power Crime, *Crime, Law and Social Change*, 2008, 50, 4-5.

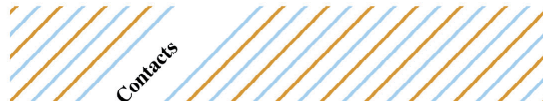
Lippens R., Ponsaers P. (eds), Revisiting the informal economy, *Crime, Law and Social Change*, 2006, 45, 4-5.

Other literature used here in the newsletter:

Dallago B., *The irregular economy*, Dartmouth Publishing Company, Aldershot, 1990.

Shapland J., Ponsaers P., *New Challenges of Crime and Deviant Behaviour: the Informal Economy and Organised Crime in Europe*, Paper presented at the first general CRIMPREV conference “Assessing Crime, Deviance and Prevention in Europe”, Brussels, 8-10 February 2007 and to be published by CRIMPREV.

Van de Bunt H., A case study on the misuse of hawala banking, *International Journal of Social Economics*, 2008, 35, 9.



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