

Combating Italian Mafias

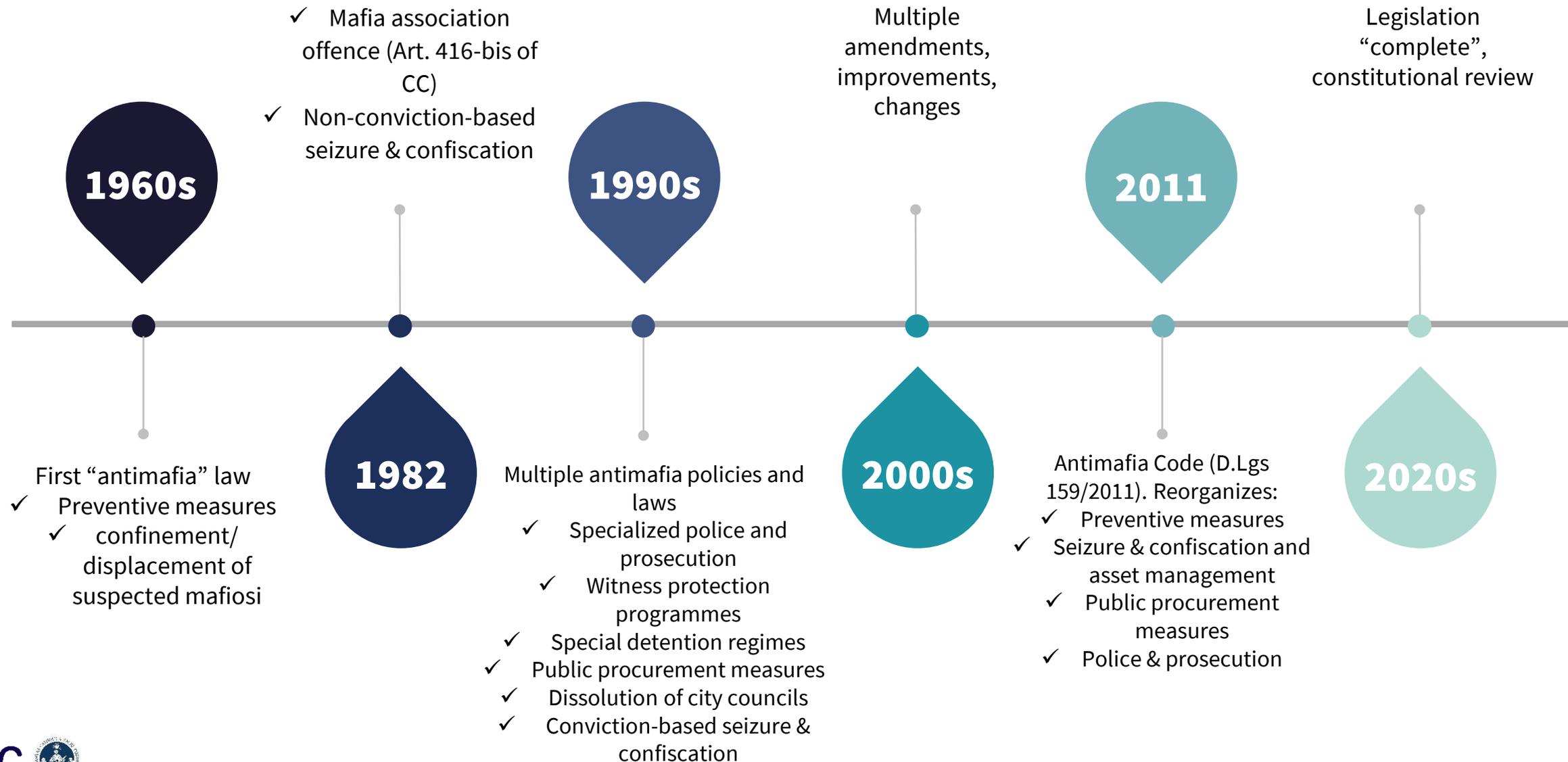
Lessons to be learned

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The evolution of Italian antimafia policies



Overview of current Italian antimafia policies

Preventive measures

- › Dissolution of city councils for mafia infiltration
- › Disqualification from public procurement and licenses
- › Supervised management for companies infiltrated by the mafia
- › Other police-administrative preventive measures

"Follow the money"

- › Non-conviction-based seizure & confiscation of unjustified assets
- › Post-conviction seizure & confiscation of unjustified assets
- › National agency for seized & confiscated assets
- › Social reuse of confiscated assets

Witness cooperation and protection

- › Special attenuating circumstances
- › Access to probation or house imprisonment
- › Special protection measures

Criminal law

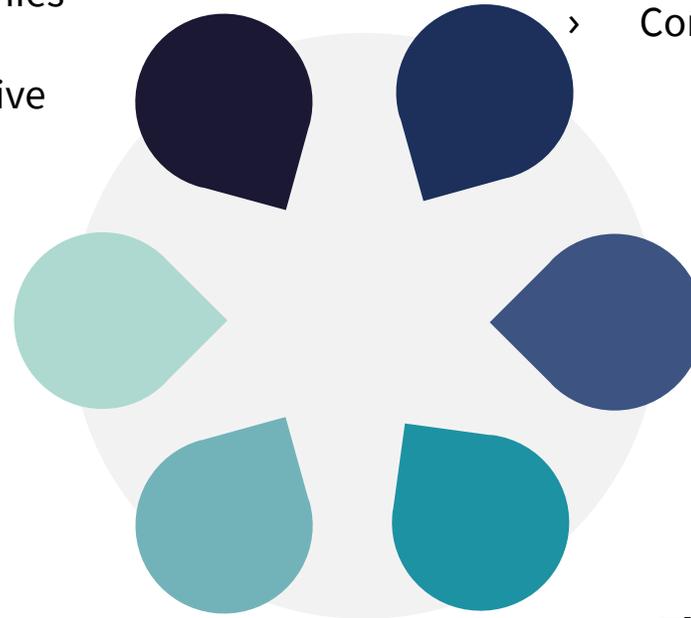
- › Specific offences (mafia association and others)
- › Aggravating circumstances (general and for specific offences)
- › Confiscation

Investigation and criminal procedure

- › Specialized police units
- › Specialized prosecution units
- › Expanded investigative powers
- › Special investigative techniques

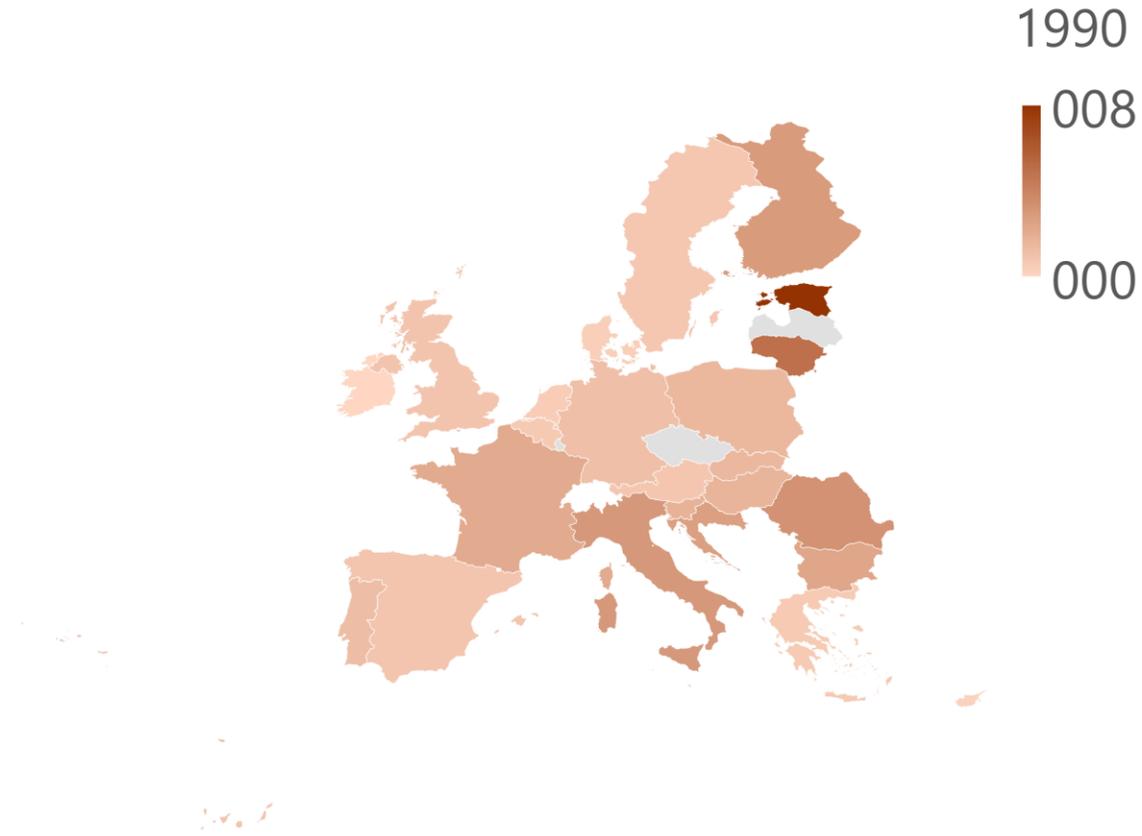
The application of penalties

- › Limitations to non-imprisonment penalties for non-collaborating convicts
- › Special detention regime to prevent contacts with the organizations



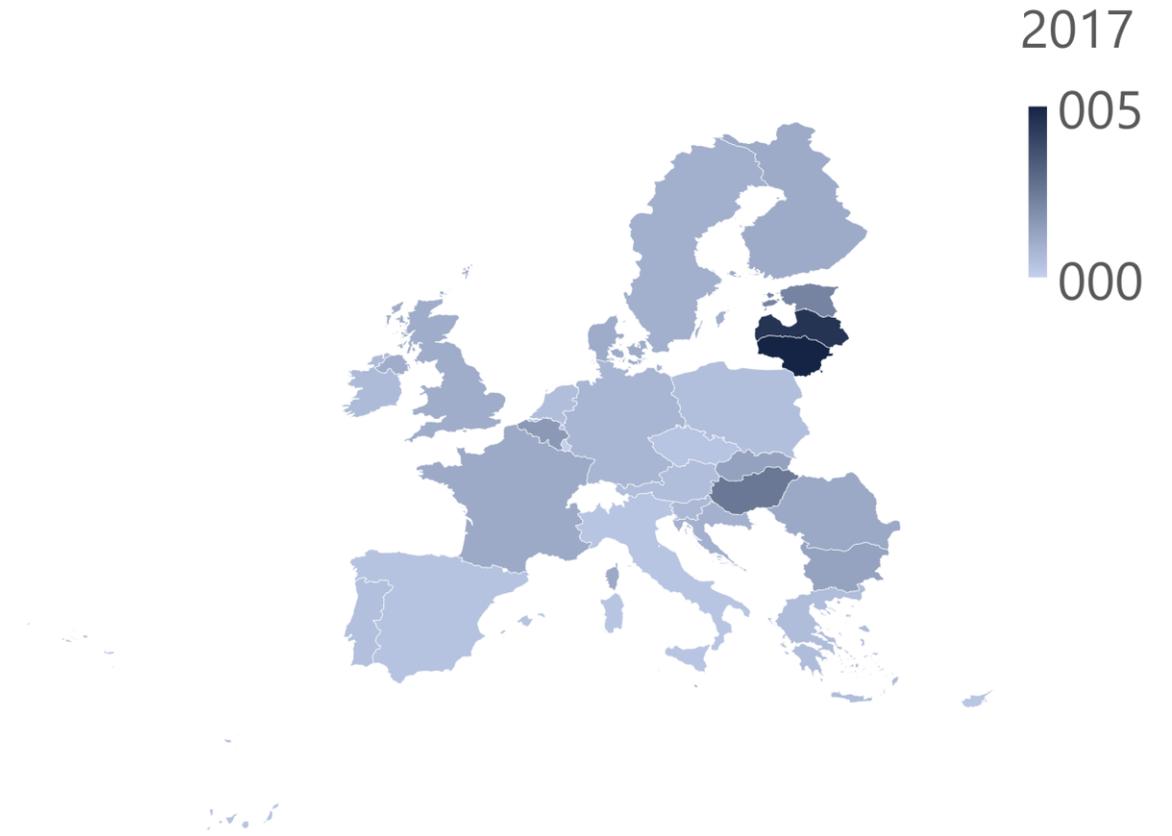
Homicides in Europe

Homicide rates in Europe 1990 (UNODC data)



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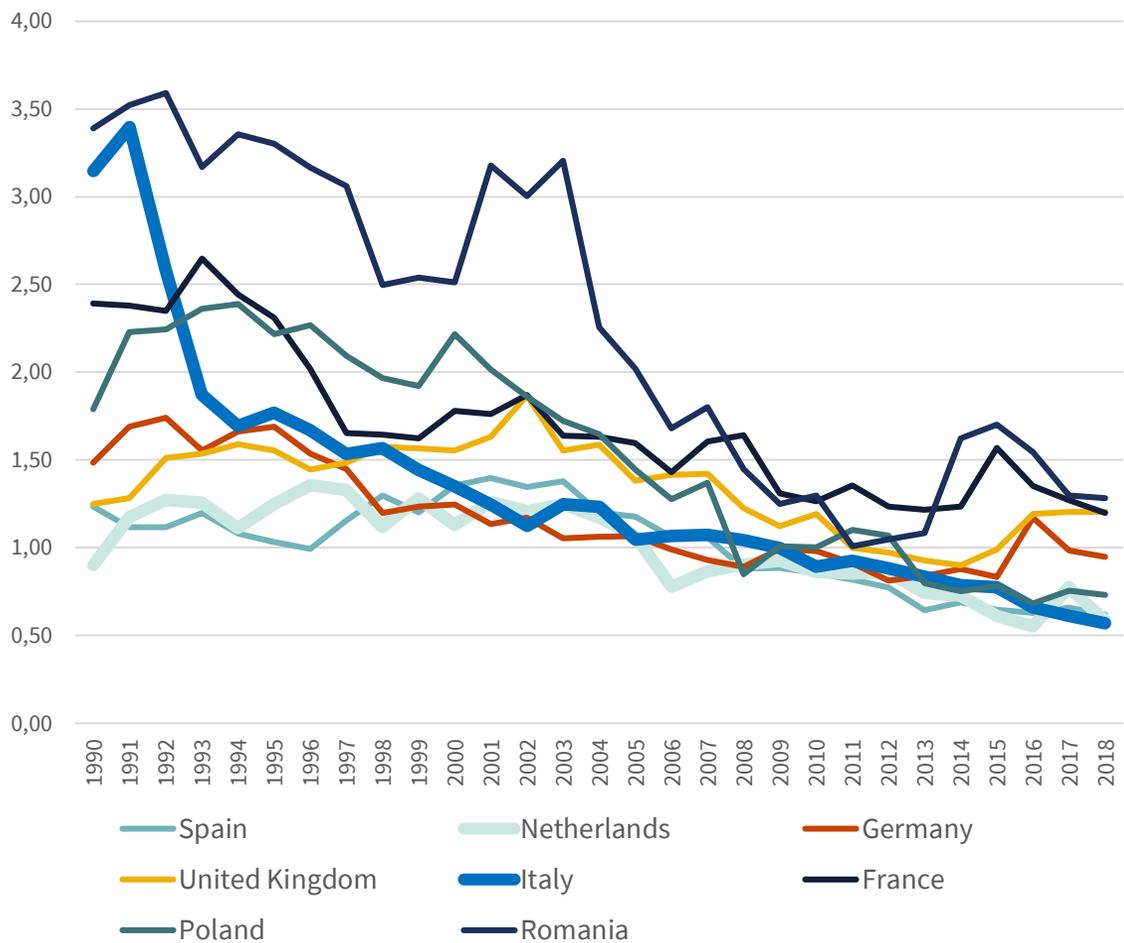
Homicide rates in Europe 2017 (UNODC data)



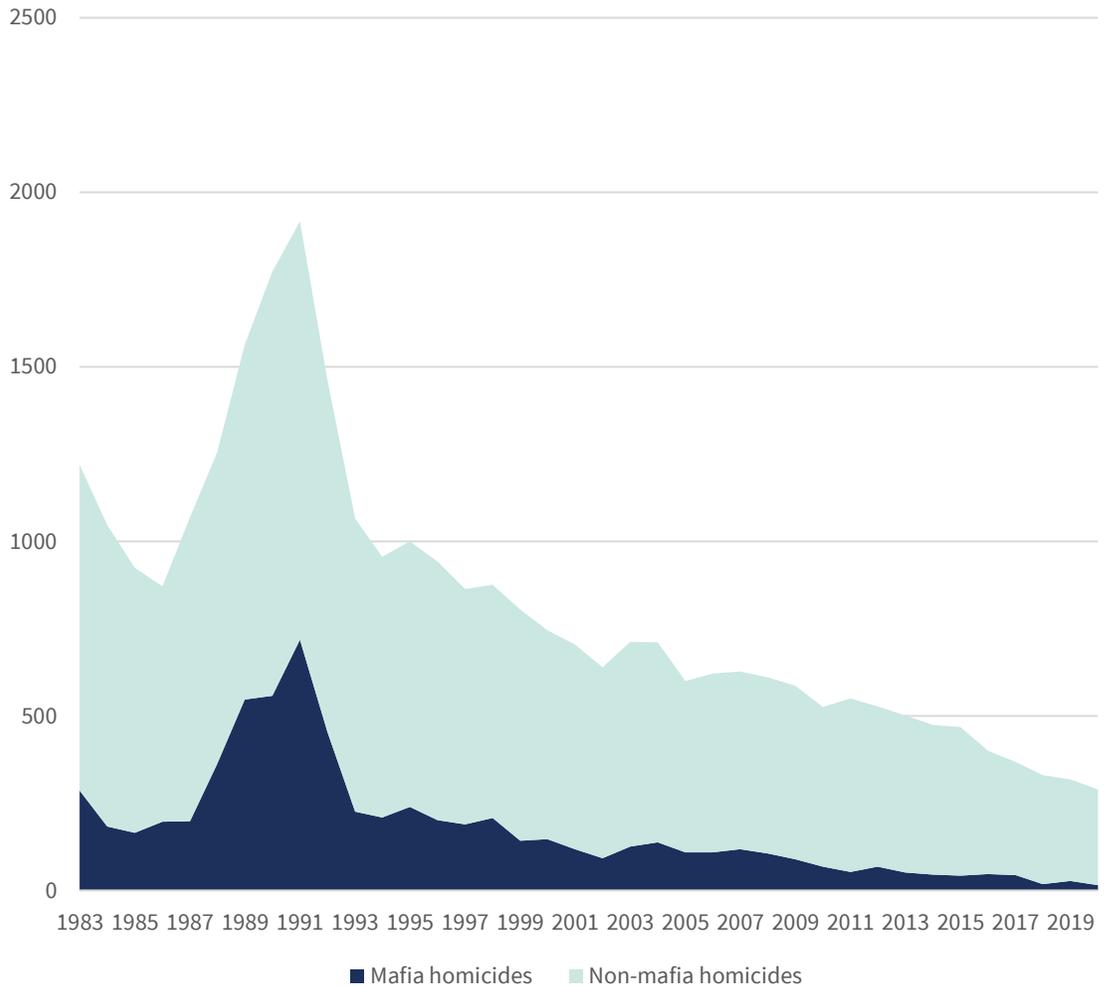
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Homicides and mafia homicides in Italy

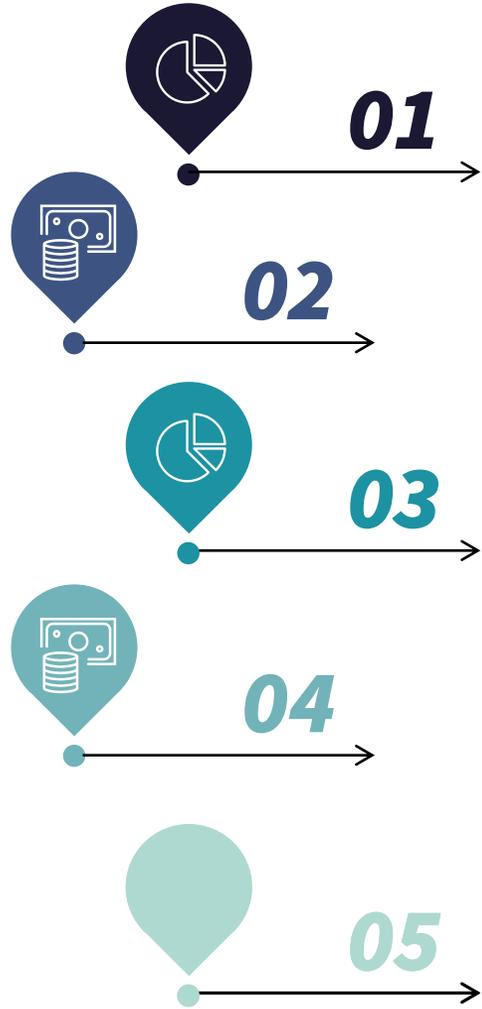
Homicide rates, 8 largest European countries 1990-2018
(UNODC)



Homicides in Italy 1983-2020 by type



Lessons to be learned



- › **Time**
- › Developing effective antimafia policies took decades
- › **Bumps and scrapes along the way**
- › Few policies failed or required substantial reforms
- › Error, inefficiency, abuses may be part of the process
- › **Know your target**
- › It took years to acknowledge the nature of the mafias
- › Nowadays, while peculiar, the concept of mafia is now sufficiently clear. The media, academia, policymaker contributed to the understanding of the mafias
- › **Politics matter**
- › Antimafia policies often required to overcome traditional practices and establish new powers
- › Political will and support are essential
- › **Institutionalization and inertia**
- › Once the policies are established, it is hard to criticize and reform them
- › The establishment of units and powers favors self-fulfilling prophecies

Pentiti or cooperating witnesses in Italy

The antimafia penalty system

So called double track system

1. Harsh penalties for mafia-related prisoners :

- High penalties
- No probation or alternatives to detention
- In specific cases, a “special detention regime”

2. Leniency and protection for offenders who cooperate with the CJS

- Attenuating circumstances
- Access to prison permits, conditional liberation, semi-detention and home detention
- Protection for offenders and families

Harsh penalties for mafia-related prisoners

Harsh penalties for mafia-related prisoners

› Penalties for mafia-related crimes

- **Mafia association (Art. 416-bis CC)**

- **In 1982: participation 3-6 yrs | bosses 4-9 yrs**

- If the association is armed 4-10 and 5-15, respectively

- **Today: penalty increases in 2005, 2008, and 2015**

- Participation 10-15 years | bosses 12-18 yrs. If armed 12-20 and 15-26, respectively

- **Aggravating circumstances for all offences (now Art. 416-bis 1 CC)**

- Penalty increase between 33% to 50%, for offences committed

- using the “mafia method”, or

- for the benefit of a mafia association

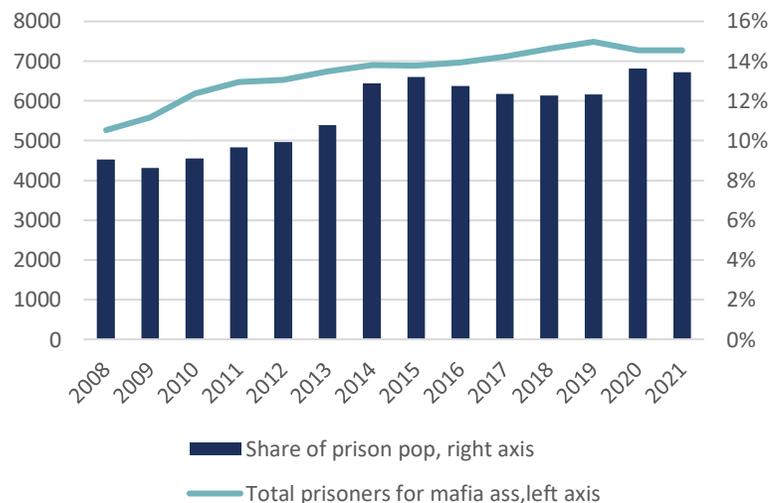
› Imprisonment is imprisonment (Art. 4 bis prison law, *not only on mafia prisoners*):

- No work outside prison, no permits, no probation, house detention

- *Unless prisoners cooperate with the CJS*

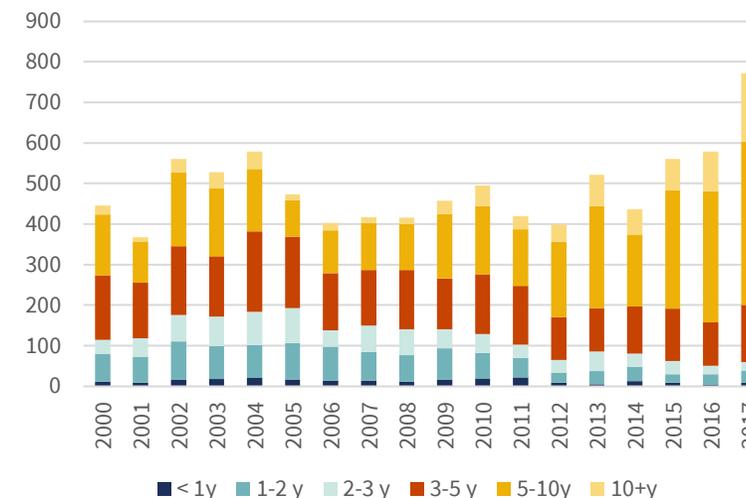
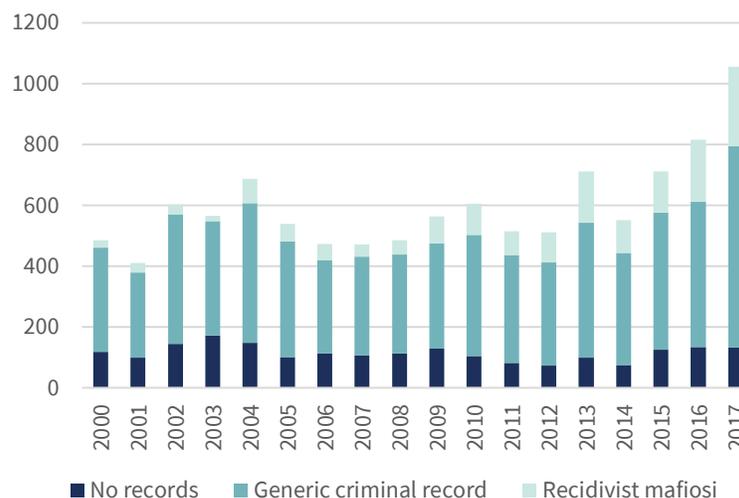
- High security detention regime as a default detention regime

Convicted mafia offenders in Italian prisons



Prisoners for mafia association (number and % of total prisoners) 2008-2021

Convictions for mafia association by prior criminal records 2000-2017



Convictions for mafia association by length of sentence 2000-2017

The special detention regime

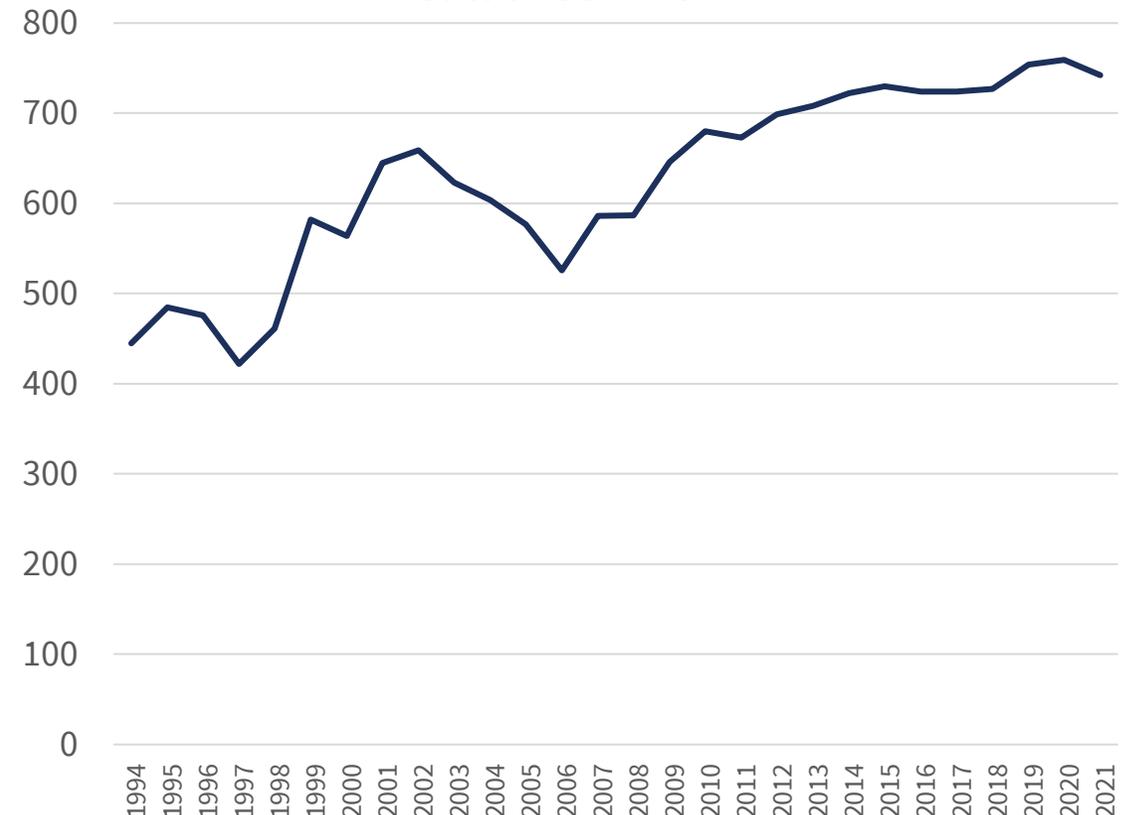
- › **Special detention regime (Art.41-bis of the prison law)**
 - For prisoners:
 - charged/convicted of serious crimes (not only mafia) and
 - who may maintain contacts with the criminal association.
 - Suspension of standard regime and measures to prevent contacts.
 - Security measures to **prevent contacts with other prisoners**
 - Single-person cell, 24/7 surveillance
 - Limitation of socialization/open-air time. Max 2h/day, max 4 ppl. For top bosses, only one person.
 - No participation in the bodies representing detainees
 - Security measures to **prevent contacts with non-prisoners:**
 - Reduced visits (family-only), audio video surveillance (not for lawyers), no sharing of objects (1h/month, with glass barriers)
 - Limitation of goods from outside
 - Control of communications (not for lawyers)

The special detention regime

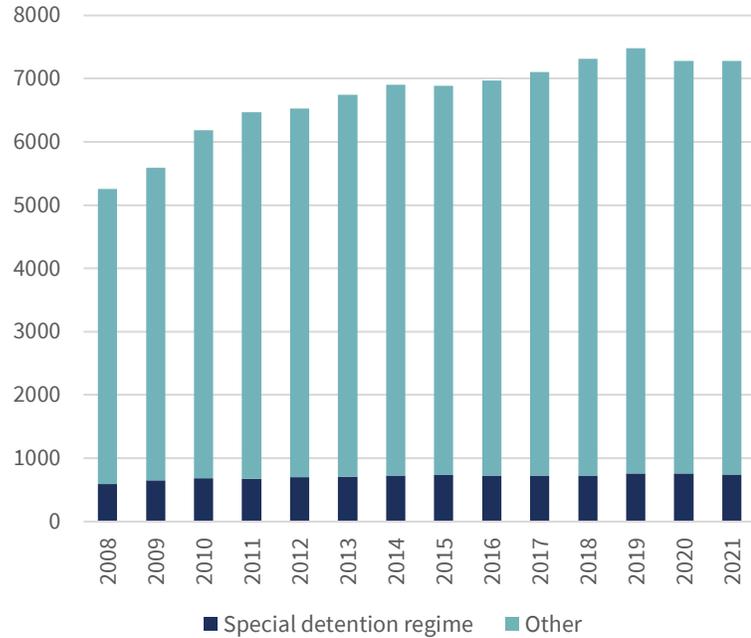
› Special detention regime (Art.41-bis of the prison law)

- Imposed with a motivated decree of the Minister of Justice
 - Also upon request of the Minister of Interior
 - Assessment of the prosecutor or judge in charge of the case
 - Assessment of the National Antimafia Directorate (prosecution) and of national antimafia police units
- Duration up to 4 yrs. *Renewable for 2 years each time*

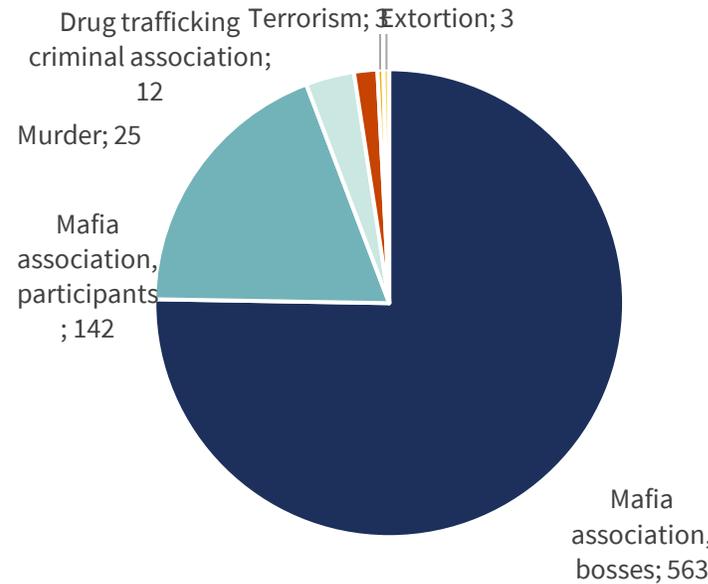
Prisoners under special detention regime, total 1994-2021



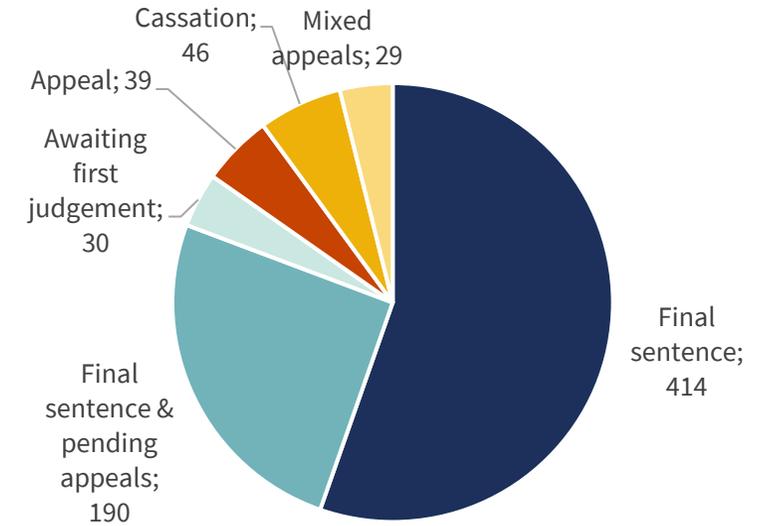
The special detention regime



Prisoners under special detention regime, by most serious offence 2021



Prisoners for mafia association by detention regime 2008-2021



Prisoners under special detention regime, by legal position 2021

Leniency and protection for offenders who cooperate with the CJS

Attenuating circumstances

- › Attenuating circumstance for cooperating witnesses (Art. 416 bis 1 CC):
 - For mafia association and offences aggravated by mafia method/benefit
 - For suspects who dissociate from the association
 - Provides the authorities with decisive elements to reconstruct the facts, identify and arrest the authors.
 - Life imprisonment is replaced with 12-20 yrs imprisonment
 - Other penalties reduced by 33% to 50%

Lighter detention regime

- › For collaborating witnesses convicted of offences:
 - Permits, probation, house detention are admissible
 - No minimum served time to access work outside prison, permits, conditional release, house detention and semi-detention
 - At least $\frac{1}{4}$ of the sentence must be served, for life imprisonment at least 10yrs

Protection for cooperating witnesses

- › **Standard protection**, adopted by the Prefect (when free) or by the Ministry of Justice (when in prison)
 - Surveillance of the protected persons
- › **Special protection measures**, adopted by a Ministerial Commission
 - Surveillance and security detail
 - Technical security measures for homes and premises
 - Transfer to different locations
 - Security detention in prison

Protection for cooperating witnesses

- › **Special protection programme**, adopted by a Ministerial Commission
- › Includes all the measures above and:
 - Transfer to protected locations
 - Cover identification document (health system card, ID card, driving license)
 - Change of identity
 - Security detention in prison

The management of the protection

› **Ministerial Commission**

- Chaired by an undersecretary of state from the Ministry of Interior
- 2 judges, 5 police officers
- Decides on the adoption and cancellation of the special protection measures and special protection programme

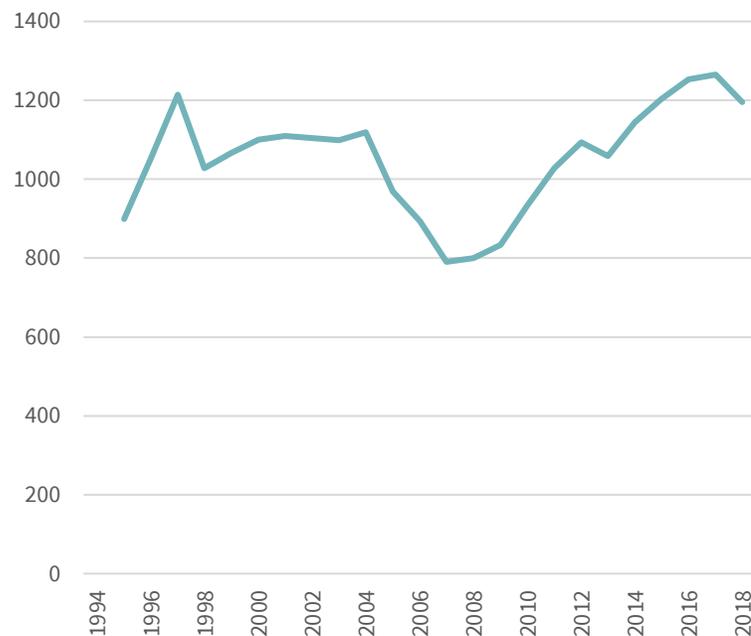
› **Central Protection Service**, Ministry of Interior

- One central unit
- 19 Operational Units

The management of the protection

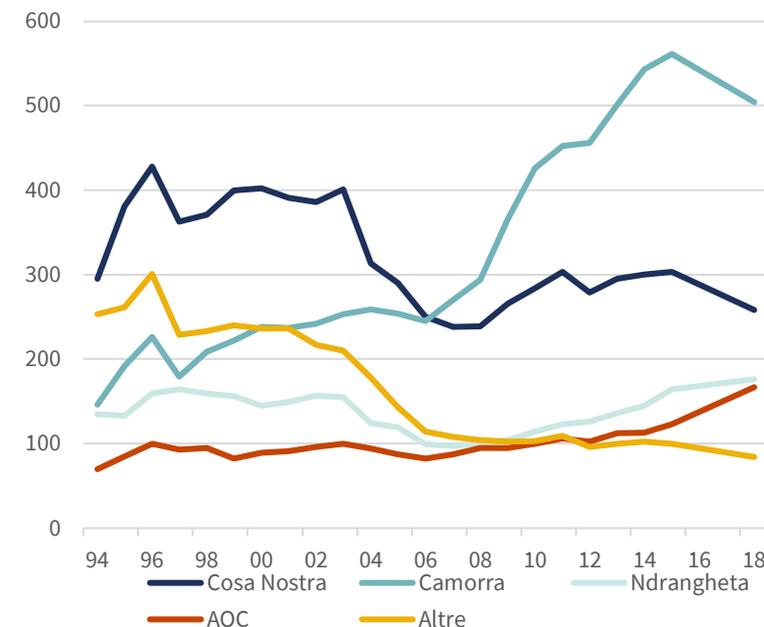
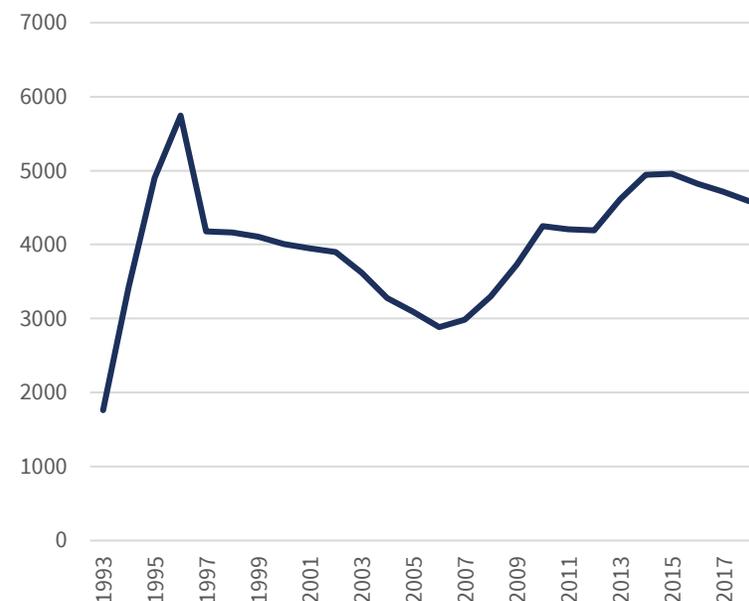
- › Preparation and issue of cover documents and change of identity
- › Transfer to court hearings and video conferences
- › Health care
- › Psychological assistance
- › Social and work reintegration
- › Economic assistance, including:
 - Monthly payments
 - Rent
 - Health care costs
 - Legal expenses
- › The total costs are in the range of 80-90 €m per year. Main costs in 2018:
 - rent (about €40 m per year)
 - monthly payments (about €20m per year)

The evolution of the protection system



Total collaborators with justice under protection 1994-2018

Total family & relatives of collaborators with justice under protection 1993-2018



Collaborators by organized crime group 1994-2018

THANK YOU

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