

ID 1703 | CORRUPTION AND ORGANIZED CRIME IN THE FIELD OF URBAN PLANNING

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1 ILLICIT FORMS OF URBAN DEVELOPMENT AND GOVERNANCE

Although corruption and organized crime are the focus of a great many recent studies published in political science, sociology, and criminology, very few of these studies pay much attention to the spatial dimension and urban scale of these phenomena (Hall, 2013; Weinstein, 2008). For example, the inquiries that pivot specifically on the problems of corruption and organized crime in the domain of urban planning are a handful¹. This omission is somewhat bizarre given the extent of the phenomena in question. For instance, according to Transparency International (2013), some 21% of people interviewed in countries all over the world admitted they had paid bribes for “land services”, and another 21% had greased palms for “registry and permit services”, which includes land registry and building permits. In fact, many researchers have noted that corruption is particularly rife in the planning sector (Chiodelli & Moroni, 2015; Cullingworth, 1993; Gardiner & Lyman, 1978; Murray & Frijters, 2016). Moreover, the research available at present entirely lacks in-depth case studies that would provide greater insights into the real mode of operation of corruption in a specific political-institutional system.

The present paper is a first attempt to fill this gap. In particular, it conducts a detailed study on some recent episodes of corruption in the field of urban planning in the municipality of Desio, close to Milan (Italy). These episodes took place in an environment characterized by the rooted presence of a mafia-type organization known as the ‘Ndrangheta². The analysis aims to shed light on the various types of corruption that prevail in the planning field related to the case in question. It outlines the main issues at stake, the key public agents involved, and the stages of the planning process most vulnerable to corruption. This makes it possible to formulate some general hypotheses about the main institutional factors determining corruption in the planning domain, and about the role of mafia-type organized crime within this framework.

To be noted is that this inquiry provides also new input to the ongoing discussion regarding the “dark side” of planning. Several authors have dwelled upon the regressive aspects of planning and its use as a tool to consolidate the political agenda of dominant groups (see for instance: Chiodelli, 2017; Gunder, 2003; Flyvbjerg; 1996, 2015; Yiftachel, 1995, 1998). To date, however little or no research has sought to ascertain how planning is employed (and the incentives that it generates) for unlawful ends, such as favoring real estate operations by organized crime, or enabling certain individuals in positions of power to obtain special personal benefits through corrupt practices.

For this reason the present paper is divided as follows. The first section provides some background details, in particular those linked to the presence of organized crime in Desio. The second section gives a detailed report on various instances of corruption related to the local master plan of 2009. The next section enquires into the particular kinds of corrupt practices which have taken place in the case studied. It also presents some general hypotheses as to the factors determining corruption in the planning domain. The last section is devoted to the conclusions.

¹ The most comprehensive study currently available on corruption in the planning field is by Gardiner and Lyman (1979); among recent theoretical contributions to the discussion, see Chiodelli and Moroni (2015). Other research concerns specific countries: for Spain, see García-Quesada, Jiménez, & Villoria (2013, 2015), Jiménez (2009), Jiménez, Villoria, & García-Quesada (2012); for Italy, see Cappelletti (2012), Granata and Salvoldi (2012).

² On the specific features that distinguish mafia-type organized crime from mere organized crime, see Sciarone and Storti (2014). For an overview on the ‘Ndrangheta, see Sergi and Lavorgna (2016).

2 THE CONTEXT: ORGANIZED CRIME, CORRUPTION, AND URBAN DEVELOPMENT IN DESIO

2.1 THE 'NDRANGHETA IN LOMBARDY AND DESIO

Since the 1990s several judicial investigations have brought to light a phenomenon that is new to Italy: the infiltration and settlement (Sciarrone and Storti, 2014) of mafia-type organized crime in various regions of northern Italy (Sciarrone, 2014)¹. The north was for long considered off-limits to mafia-type organized crime, a phenomenon generally associated with the south of the country. However, Lombardy has been infiltrated, and the kind of organized crime currently most common in this region is the 'Ndrangheta, which originates in Calabria (the "toe" of Italy) (Sergi & Lavorgna, 2016). The 'Ndrangheta in Lombardy is conspicuously present in Milan, and in boroughs scattered across the city's metropolitan area (Chiavari, 2011; Ciconte, 2010; Rossi, 2015; Storti, Dagnes, Pellegrino, & Sciarrone, 2014).

The most extensive judicial investigation so far conducted on the 'Ndrangheta's presence in Lombardy goes by the name of "Endless" [Infinito]. The investigation was conducted over a span of several years, and in 2011 led to the conviction at first instance of around 160 individuals. The Infinito probe revealed the presence of various 'Ndrangheta locali (cells)²

The municipality of Desio has around 40,000 inhabitants, and lies some ten kilometers north of Milan³. It sits in an extensively built-up area with many factories and production units, all closely connected with Milan from an economic and functional point of view.

Desio was one of the first cases of 'Ndrangheta's infiltration in northern Italy (Tribunale di Milano, 2010b). In fact, the Desio cell had already begun its activities in the 1970s (Storti, Dagnes, Pellegrino, & Sciarrone, 2014), extending its tentacles into various fields, both legal and illegal. It operates also in the real estate sector, where its returns are guaranteed through close contacts with politicians and bureaucrats in the public administration⁴. According to the magistrates involved in the Infinito inquiry, in fact, the Desio cell has managed to "permeate the nerve center of the local political system [...] to such an extent that we can readily state that members of the local 'Ndrangheta cell can rely on several important figures in public office to avoid obstacles and achieve their aims within the public administration" (Tribunale di Milano, 2010b, p. 688).

Following the publication of assorted material evidence (photographs and wiretaps) linked to the Infinito investigation, in November 2010 most of the members of the Desio council handed in their resignations, causing the collapse of the local government.

'Ndrangheta, corruption and town planning in Desio

An inquiry carried out after the Infinito investigation revealed widespread corruption in the field of urban planning and development in Desio. It was particularly linked to the 2009 local master plan [Piano di governo del territorio, PGT]. Among those involved in this system of corruption were politicians, municipal civil servants, and entrepreneurs.

Note that the inquiry into the PGT of Desio is separate from the Infinito investigation, and not explicitly linked to the activities of the 'Ndrangheta cell in Desio. There are two points, however, that should be stressed.

¹ On the factors that occasioned the transplantation of mafia-type organized crime to northern Italy, see Varese (2006, 2011).

² The term "cell" [locale] refers to an offshoot of the core 'Ndrangheta group that usually comprises one or two 'ndrine (families) from the same district of the Calabria region in the south of Italy. A cell operates in a distinct area (e.g., in one or more council constituencies) on a practically 'exclusive' basis, which means that there are no other competing cells in that area. Although each cell has autonomy in its activities, there is a higher-level structure that coordinates the various cells (Gozzoli, Giorgi, & D'Angelo, 2014).

³ In 2009 Desio passed from the Province of Milan to the newly-created Province of Monza and Brianza.

⁴ For an explanation of why criminal activity is rife in the building sector, see for example Lavezzi (2008).

Firstly, the judicial inquiry revealed that several key figures in the PGT investigation were in touch in various ways with individuals linked to the 'Ndrangheta. One of them was Rosario Perri, at the time director-in-chief of the planning office of Desio Municipality. According to the judicial inquiry, he had been “leaned on” by members of the 'Ndrangheta cell of Desio (Tribunale di Milano, 2010b, p. 697). Massimo Ponzoni, the then regional alderman for environment affairs and a local real estate entrepreneur, reportedly on several occasions came in contact with members of the 'Ndrangheta in Lombardy (Tribunale di Milano, 2010a). The latter, again according to the magistracy, channeled votes to Ponzoni during the regional elections of 2005 (Tribunale di Monza, 2012). More in general, as Ricchiuti observes (2013), “from the wiretaps, videos, and photographs, it has come clear that numerous political exponents and individuals in the administration have close relations with figures linked to the 'Ndrangheta.”

Secondly, to be noted is that the cases of misconduct uncovered by the magistracy form part of an array of illicit dealings connected with Desio's urban development (which suggests that the incidents identified by the inquiry are probably only the tip of the iceberg) (L. Fregoni, the current director-in-chief of the planning office in Desio, personal communication, 8 April 2016). This context of widespread illegality is part and parcel of the climate of intimidation, omertà (code of silence) and impunity that the presence of the 'Ndrangheta has generated in Desio (Storti, Dagnes, Pellegrino, & Sciarrone, 2014), whose existence, in fact, was well known to anyone living and working in Desio long before the Infinito inquiry was launched (D. Cassanmagnago, alderman for urban planning in Desio from 2011 to 2015, personal communication, 3 March 2016).

Therefore, even though nothing emerged to prove any direct interference by organized crime in the formulation of Desio's PGT, as we shall see in Section 5, the presence of the 'Ndrangheta most likely indirectly fostered the instances of corruption analyzed here.

3 THE CORRUPT PLAN

3.1 INSTANCES OF CORRUPTION RELATED TO THE 2009 LOCAL MASTER PLAN

In April 2014 the Monza court issued a judgement at first instance in the trial concerning several matters linked to the 2009 Desio PGT¹.

The trial pivoted on three people – Massimo Ponzoni, Antonino Brambilla, and Rosario Perri – all sentenced in the first degree to several years in prison. At the time of the events, Ponzoni was the regional alderman for the environment, and regional coordinator of the Forza Italia party². Brambilla was the alderman for urban planning in Desio. Perri was director-in-chief of the planning office in the Desio municipality. In many cases, the corruption mechanism worked as follows: Massimo Ponzoni applied pressure on Antonino Brambilla and Rosario Perri so that certain decisions were taken in favor of specific people or companies, from whom Ponzoni received various benefits (such as money for himself or funds for his political activities). Meanwhile, in exchange for their services – and thanks to Ponzoni's intervention – Brambilla and Perri obtained consultancy posts for both public bodies and private companies, and even public offices (both were appointed aldermen for the Province of Monza and Brianza), together with money and material benefits of other kinds (Tribunale di Monza, 2014).

The most salient instances of corruption in the investigation concern similar occurrences whereby, broadly speaking, the 2009 PGT allowed building on land that had previously been assigned to agriculture, with

¹ The inquiry was dubbed “Pellicano” (Pelican) by the newspapers, which borrowed the name of one of the real estate companies at the centre of the investigation. This was one of the few recent cases in which the Italian magistracy has focused its inquiries exclusively on corruption in the planning sector. Given the methodological difficulties of studying corrupt practices (Ades & di Tella, 1997), the documents of the magistracy are therefore extremely useful: the wiretaps, interrogations, and reports made available furnish a detailed picture of the entire affair that would otherwise have been impossible to reconstruct. The judicial material was integrated with detailed investigations in the field conducted by the author from May 2015 to September 2016.

² Forza Italia is the political party created by Silvio Berlusconi in 1995. The party governed the Lombardy Region from 1995 to 2013, through the presidency of Roberto Formigoni.

various advantages accruing to the indicted trio or persons associated with them. An example is provided by the events regarding the so-called “Transformation Area No. 2” [ATR No. 2] (see fig. 1)¹.

The ATR No. 2 concerns a portion in the northeast of the Desio council area, which is prevalently farmland and hosts a rural hamlet dating to the seventeenth century with several historic buildings. The 2009 PGT envisaged a change in zoning from farmland to development, for which two large building projects were proposed: a scheme of residential units next to the historic hamlet, and a mixed shopping and office complex in the northeast segment of the area (Comune di Desio, 2009a, pp. 183–84). The change in zoning land-use alone would have netted the owners some 16 million euros (Tribunale di Monza, 2012, p. 97) – on top of which we can add the value generated by the sale (or rent) of the buildings constructed on the parcel of land in question.

To be noted is that the PGT authorized this transformation of the zone even though the same plan elsewhere acknowledged the unique value of the area as one of the very few remaining stretches of Desio’s territory with significant environmental and historical value (Comune di Desio, 2009a, pp. 145–47). This, moreover, is the reason why the Milan Provincial Authority [Provincia di Milano] – which by law was empowered to express judgement on the Desio master plan and the compatibility of its contents with the broader Provincial Territorial Scheme [Piano Territoriale di Coordinamento Provinciale] – issued a detailed report strongly advising against the transformation of the area in question, and urging that the planning decision be rescinded.

The situations of the other three ATRs in the plan followed a similar pattern: the zones switched from farmland to residential, commercial, or tertiary areas. Overall, the value of the land of the four ATRs in question rocketed from 8.7 million euros before the PGT to 62.3 million after (Tribunale di Monza, 2012, p. 97). According to the judicial report, in all the cases mentioned the reason why the local master plan allowed the building development of these green areas can be traced back to corruption practices and illicit pressures.

That said, illicit behavior and corruption were not exclusive to the manipulation of land-use for these four areas. For instance, in the case of the ATR No. 4, the areas ceded by the real-estate developer to the Municipality in exchange for the reallocation of end-use were less than the amount required (54,000 sq.m instead of 72,000); urbanization levies were far less than those envisaged by law (2.7 million euros instead of 5.7); and the gross surface area of paving effectively awarded by the Municipality for development was around 3,000 sq.m more than the quota required. Note that these figures were not established in the PGT, but specified in the detailed scheme [Piano di attuazione] and in the planning agreement [Convenzione urbanistica] relative to the transformation area in question – according to Italian law, in fact, the development of a plot zoned as a building area in a local master plan requires the drafting and approval of a detailed scheme and a planning agreement that provide all the specifics of the project.² To this back-story we should add that a portion of the area scheduled (amounting to around 2,000 sq.m) was purchased by the real estate company from the Municipality for a sum below the market price (i.e. 160,000 euros instead of the likely market value of around 400,000 euros); furthermore, certain bureaucratic problems regarding the ownership of the development area were sidestepped by the Municipality so as not to slow down the planning procedure of the area scheduled (amounting to around 2,000 sq.m) was purchased by the real estate company from the Municipality for a sum below the market price (i.e. 160,000 euros instead of the likely market value of around 400,000 euros); furthermore, certain bureaucratic problems regarding the ownership of the development area were sidestepped by the Municipality so as not to slow down the planning procedure of the area scheduled (amounting to around 2,000 sq.m) was purchased by the real estate company from the Municipality for a sum below the market price (i.e. 160,000 euros instead of the likely market value of around 400,000 euros); furthermore, certain bureaucratic

¹ According to the regional by-law on urban planning, the “Strategic Plan” [Documento di Piano] must contain clear indications of the transformation areas [Ambiti di trasformazione], i.e. areas of considerable size on which significant transformations are intended to take place. The Strategic Plan is one of the three documents that compose the local master plan, together with the “Public Services and Facilities Plan” [Piano dei Servizi] and the “Regulatory Plan” [Piano delle Regole].

² For instance, the exact location of each building unit, the layout of the streets, the areas that the private party must cede to the Municipality, the sums that the private party will disburse as a contribution to public works.

problems regarding the ownership of the development area were sidestepped by the Municipality so as not to slow down the planning procedure¹. (Tribunale di Monza, 2014)

The judicial inquiry uncovered further illegal business regarding other urban developments, albeit of less magnitude than those cited above. This concerns, for instance, some other cases of change of end-use ad personam: specific areas were assigned with building rights for the main purpose of benefiting specific landowners, who had ties with the three figures indicted in the trial. Another instance is the deliberate delaying of the necessary joint signing of a planning agreement between the Municipality and a developer so as to exert pressure on the latter to sell a building to one of the indicted parties for a lower price.

Generally speaking, as the court itself wrote, all these operations were “openly in contrast with the principles of impartiality, standard procedures, and proper conduct of the Public Administration [...]”. The only logical explanation for such conduct lies in the presence of a set of private interests served by public officials, and in the relative ‘payoffs’ that those public officials received in exchange” (Tribunale di Monza, 2012, p. 70).

3.2 THE REST OF THE PLAN

The judicial inquiry concerned a limited number of the land transformation cases envisaged by the PGT (mainly the four ATRs) (see fig. 1). And yet one gains the impression – despite the lack of substantiating evidence – that other sections of the PGT may also have been subject to illicit pressures. This impression is given by various factors.

The 2009 PGT foresaw the urbanization of around 1.4 million square meters of council land. A small portion of these transformations (some 400,000 sq.m) concerned the four ATRs involved in the judicial inquiry; the rest regarded the so-called “Infill zones” [Ambiti di completamento]. These were lots which, on paper, ought to be fairly small in size and located within the built-up area, and which were hence presented as “filler” schemes for the existing urban fabric (Comune di Desio, 2009b, p. 51). In practice, however, a fair number of these appointed infill zones included empty parcels of land outside the built-up area, some of considerable size, others in actively cultivated farmland (see fig. 1).

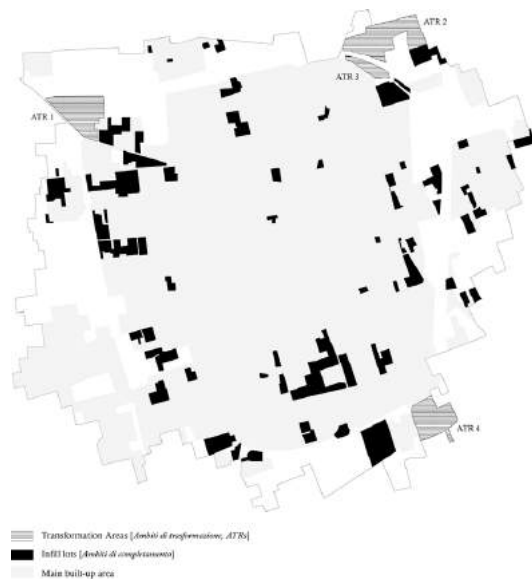


Fig. 1 – Areas of urban expansion (Transformation areas and Infill zones) envisaged by the 2009 Desio PGT. Source: Comune di Desio (2009a) (elaborated by the author).

¹ Planning laws impose that a prerequisite for the approval of a detailed plan is that the subject proposing the transformation must effectively be the owner of all the areas in question. In the case of the ATR No. 4, when the detailed plan was approved, the private company did not yet own a land parcel involved, which was instead still owned by a public subject.

It is very unlikely that the decision to convert all these tracts of land into buildable areas took place without any form of illicit maneuvering. Indeed, accusations of assigning building permits “on the basis of surnames” were voiced on various occasions during City Council meetings on the PGT (Comune di Desio, 2009c, 2009d). Note, for instance, the words of a professional close to the municipal administration (D.C, personal communication, 17 May 2016): “Rumor has it that in many cases the business of marking out areas for infill operations was done systematically: if you wanted a given plot to be zoned as a building area, you had to pay someone off. And, in fact, if you look at the plan, there are some glaring cases of atrocious decision-making.” Similarly, during the draft phase of the plan, there was widespread talk of property shifting hands, basically plots of agricultural land that soon afterwards were relabeled as buildable in the 2009 plan (R. Corti, Mayor of Desio from 2011 onwards, personal communication, 28 May 2015). Some of these rumors were confirmed by the judicial inquiry (Tribunale di Monza, 2014).

Moreover, the sheer size of the buildable areas inserted in the 2009 PGT is striking when seen in light of the fact that the Desio Council’s territory is already densely urbanized: in the year 2012 that area amounted to 67% of the council’s total surface (9.84 sq.km out of 14.66) (PIM, 2015). At the same time, within the town itself there are various pockets where revitalization and densification projects are possible (Comune di Desio, 2015; A. Lanzani, planner in charge of the new PGT of Desio, approved in 2015, personal communication, 3 March 2016). The 2009 plan, in fact, makes repeated reference in the clearest of language to the importance of limiting the urbanization of new land, and conserving the scant agricultural land still pertaining to the community: “The consumption of land has reached levels of serious alarm. [... We are facing a] process of ongoing assault and rampant consumption of the territory and natural amenities. [...One] of the main issues that planning must tackle is the urgent need to retrieve, regenerate and conserve our agricultural land” (Comune di Desio, 2009b, pp. 137–38). In spite of such outspoken declarations of principle, the plan itself has enabled the urbanization of no less than 1.4 million square meters of vacant land, equal to 10% of the council’s entire territory (a third of its unbuilt surface area). Paradoxically, this choice is justified by its proponents by the need to protect green areas (Comune di Desio, 2009a, 2009d): in exchange for the building permits conceded, the Administration has apparently had the opportunity to obtain significant areas of land which it would subsequently safeguard or transform into greenspace amenities. However, in the eyes of the Monza Court, these justifications are hardly defensible (Tribunale di Monza, 2014). In fact, the conservation of unbuilt spaces of land may be easily accomplished without having to convert spare terrain into buildable land, the simplest way being to re-zone (or to keep the end-use of) these areas as greenspace.

Note that these contradictions between the declarations of intent in the plan and the technical choices effectively made recur in several other passages of the document. Take for example the question of heritage conservation. Here and there the plan proclaims the need for Desio to safeguard the meagre remaining testaments to its past (Comune di Desio, 2009b, p. 25). This heritage is declared to be in need of special conservation schemes aimed at preserving “its fundamental original features” (Comune di Desio, 2009b, p. 29). Among the few heritage sites that the plan identifies (a total of four), one is the rural hamlet lying alongside the ATR No. 2 cited earlier. Nevertheless, as noted above, despite the clarion call for conservation of the said area, in the same breath the plan advances a scheme for a massive building program that would utterly disfigure the area’s original nature. The Tribunale di Monza (2014) is outspoken on the matter: for the Court, the declarations of the planners regarding the “technical reasons” for such planning choices are “seriously disconcerting” and betray “professional incompetence or dishonesty”.

Consider that the 2009 PGT was actually drawn up by some noted planners currently holding positions at one of Milan’s main public universities. So far the magistracy has excluded them from any legal liabilities, while underlining the fact that their modus operandi “does not honor the profession, given that these technicians merely accepted the requests of the politicians involved in the procedures and drew up the plan according to those requests” (Tribunale di Monza, 2012, p. 71). One of the planners involved in the PGT admitted to receiving heavy political pressure not to oppose the urbanization of certain areas; so heavy, indeed, that she was forced to reach a “compromise” (Comune di Desio, 2008). What emerges from all this is that the PGT provided a sort of “technical cover” for the background operations (some of which were wholly illicit) that certain political figures aimed to actuate in order, for example, to keep the political parties opposing their strategies quiet (Corti, personal communication, 28 May 2015; Lanzani, personal communication, 3 March 2016).

4 DISCUSSION: FORMS AND DETERMINING FACTORS OF CORRUPTION IN THE PLANNING DOMAIN

4.1 FORMS OF CORRUPTION

The instances of corruption in the Desio case concern two distinct phases in the planning process (see Table 1).

Phase	Planning Documents	Object of the corrupt transaction	Main figures with decisional power and/or influence
Drafting the local master plan	Local master plan [PGT]	- assigned end-use of the land - building quotas	Political bodies (e.g., Local Planning Commission, executive committee of the Municipality, City Council) and town-planners
Implementing the decisions of the local master plan	Detailed scheme [Piano di attuazione]	- buildable surface area - ratification of developer's requirements prior to plan approval	Technical bodies (planning office, and its director-in-chief)
	Planning agreement [Convenzione urbanistica]	- urbanisation taxes - amount of areas ceded by the real-estate developer to the Municipality in exchange for authorized development - procedure timeline	
	Other	- price of public areas to be purchased from the Municipality	

Table 1 – phases, types, and parties involved in planning corruption

The first is the phase in which the PGT was drafted and approved, and during which the crucial factor was the assignment of land-use and building quotas. What the corruptors wanted was to have specific areas designated for building development and to obtain high building quotas. Decision-making on the PGT was largely in the hands of the political branches of the Municipality and the planners assigned to drafting the plan; hence, we might suppose that, in this phase, the person most involved in maneuvering things behind the scenes was the alderman Brambilla. The planners themselves admitted that many choices were largely expressions of political intent, and were not based on a specific technical rationale. Similarly, Brambilla was credited as being the “artificer and inspiration” behind the plan (Comune di Desio, 2009d). It must be stated that in all the cases cited, the planning decisions followed the formal procedures to the letter: they remained within the legitimate bounds of political involvement, and were carried out in compliance with the procedures prescribed by the law. Nonetheless, the magistracy deemed that, despite the formal respect for the legal procedures, the decisions were made for illicit ends, i.e. in favor of specific private interests – for instance, those of the owner of the land now re-assigned as developable, and those of the politician who gained private rewards in exchange for his role in the decisions taken (Tribunale di Monza, 2014).

A second phase of the corruption process in Desio concerned implementation of the general decisions taken in the master plan. In this case the situation is more complex than in the previous one, owing to the complexities of implementing a master plan decision in Italy. The stakes were also varied. The main technical documents involved in the illicit pressures were the detailed schemes and the planning agreements.

In some cases, this illicit pressure was applied to obtain fraudulent benefits, such as a reduction of the standard urbanization levies disbursed to the Municipality by the private developer. This kind of operation works by bending the interpretation of planning regulations, or through outright fraud. This is made feasible by two factors. The first is the ambiguities of Italy's planning regulations, which leave a certain margin for interpretation in several instances. The second is that those who deliberately bend these interpretations are probably well aware that the sheer mass of intricacies, complex procedures, and myriad technicalities that characterize the Italian planning system ensure that scrutiny is very difficult and the fraud will almost

never come to light. Although many planning decisions are in fact submitted to democratically elected bodies – such as the Local Planning Commission, the Executive committee of the Municipality and the City Council^{second} is that those who deliberately bend these interpretations are probably well aware that the sheer mass of intricacies, complex procedures, and myriad technicalities that characterize the Italian planning system ensure that scrutiny is very difficult and the fraud will almost never come to light. Although many planning decisions are in fact submitted to democratically elected bodies – such as the Local Planning Commission, the Executive committee of the Municipality and the City Council^{second} is that those who deliberately bend these interpretations are probably well aware that the sheer mass of intricacies, complex procedures, and myriad technicalities that characterize the Italian planning system ensure that scrutiny is very difficult and the fraud will almost never come to light. Although many planning decisions are in fact submitted to democratically elected bodies – such as the Local Planning Commission, the Executive committee of the Municipality and the City Council¹ – their supervision covers only the basics of a given decision, and approval is often almost automatic. In fact, the political bodies in question are either pressed for time or lack the qualifications necessary to assess the technical details of the planning procedures that they are required to vote upon. These technicalities are entrusted to the municipal planning office, and they are the responsibility of the office’s director-in-chief, who is therefore a key figure in the entire cycle of planning procedures.

In other cases, illicit forms of pressure take advantage of the margin of discretion legally permitted by the decision-making system. This can happen for instance during the negotiations of terms for a planning agreement. Here too no formal procedures are actually violated; and yet, according to the law, any public decision to make special concessions to a specific private citizen is unlawful if it is not ultimately in the public interest: witness the case above in which a parcel of public land was sold for far less than its market price. It is worth stressing that an illicit special treatment can also be geared to work against a private individual: for instance, the above-mentioned threat to delay a planning procedure is a form of illegal pressure that can be exerted on a building developer. As in the preceding case, once again the director-in-chief of the municipal planning office is a key figure, since he is directly in charge of these procedures.

4.2 THE FACTORS DETERMINING CORRUPTION

There are various theoretical models to explain the emergence of corruption in the public sector. Each of them emphasizes a particular aspect of the phenomenon (see Jain [2001] and Johnston [1996] for a review of different models). For example, certain approaches focus on the socio-cultural characteristics of a specific context (such as ethical norms and social values); other models stress the rational calculation of the costs and benefits brought by a certain illegal transaction.

Particularly interesting for the purposes of this study is the “neo-institutional” model, which emphasizes the burden of the internal dynamics and characteristics of a given institutional system. According to Vannucci and Sberna (2014, pp. 202–4), the spread of corruption in a specific period of time within a given political-institutional system (Ct) may be expressed with the following formula:

$$Ct = f (R; D; I; -A; -MC; Ct-1, t-2, \dots)$$

where R represents the economic returns generated by a public decision; D is the degree of discretion allowed to the public authority in creating, distributing and expropriating those returns; I is the potential of reserved information available to public officers to use for corrupt transactions; A is the degree of accountability within the public bodies; MC stands for the “moral weight” of the illicit transaction; C t-1, t-2, ... is the backlog of corrupt practices, and how this inheritance fosters further involvement in corrupt dealings (ibid.).

What emerges from our study of the Desio case is that both the presence of organized crime and certain features inherent to the planning system itself influence the variables contained in the above formula.

¹ In Italy, the Planning Commission is composed mainly of the councillors; also the alderman for urban planning and the director-in-chief of the planning office usually attend the meetings of the commission. The commission analyses all planning decisions in detail, and expresses non-binding assessments on them. The Executive Committee is chaired by the Mayor and it is composed of appointed aldermen. The City Council consists of the elected councillors.

In our case, the presence of the 'Ndrangheta appears to contribute to the proliferation of corrupt practices in the planning field especially because of its influence on the moral costs (MC) and the mounting backlog of corruption (C t-1, t-2,...). In fact, the cell's presence in Desio has probably fostered the spread of many kinds of illicit dealings within the council administration for several decades, generating a climate of lawlessness and impunity in the town (Storti, Dagnes, Pellegrino, & Sciarrone, 2014). In this way, the cell has managed to lower the "moral cost" of fraudulent behavior in Desio, greatly increasing that "inherited backlog" of corruption in the building and urban development sectors. For example, Cassanmagnago (personal communication, 3 March 2016) speaks of a well-tested mechanism to control and share out building programs and real-estate operations in Desio: "there was a well-oiled mechanism in place whereby several political figures steered the planning decision-making processes, aided by technicians within the planning office and the collusion of estate agents." Likewise, Fregoni (personal communication, 8 April 2016) mentions numerous shady deals in Desio's planning sector over the past decades, particularly ones aimed at speeding up the issue of building permits, or reducing the risk of site controls.

While the presence of organized crime weighs on the moral costs (MC) and the backlog of corruption (C t-1, t-2,...) contained in Vernucci and Sberna's formula, the remaining variables seem to be linked mainly to the characteristics of the planning system. Let us consider these one by one.

Economic returns (R). In a great many cases, the economic returns generated by the planning field through public decision-making are considerable. A simple line drawn on a planning chart can determine whether or not a lot is developable, exponentially affecting its value¹. In the case of the four ATRs of the 2009 PGT for Desio, the mere identification of those areas as buildable land increased their value by over 50 million euros. A similar added value, obtained simply by the stroke of a municipal decision, becomes a huge incentive for landowners to put pressure – legal or otherwise – on those within the public administration with clout in the decision-making process.

Discretionary margin (D). These planning decisions, with their promise of huge returns, are characterized by a high degree of discretion. This is due to both "internal" and "external" reasons.

One of the internal reasons is the fact that the technical rationale of planning is particularly weak; the consequences are that, in many cases, it is subordinated to a political rationale, meaning that the main reasons for a great many planning decisions are of a political nature (Alexander, 1981; Chiodelli, 2012; Flyjberg, 2002, 2003; Mazza, 1995, 1999; Reade, 1987). Put briefly, there is no decisive technical basis to the planning choice made; that is, there is no "natural necessity" to determine whether a certain area is zoned as residential (and in what ratio) or left as farmable land. Obviously, this gives a great deal of discretionary power to the decision-makers. As said, during the drafting phase of the Desio PGT, for example, the planners commissioned admitted that some of the crucial choices related to land-use were of a distinctly political nature; for one, no technical factors were decisive in pinpointing the ATRs.

Among the external reasons is the fact that, at least in Italy, the public officials involved have few constraints in terms of their decisions on planning issues, for instance in terms of land-use and building quotas assignments (Moroni, 2007). To this we may add the fact that in Italy – as in other Western countries – during certain phases of the planning process, urban planning regulations explicitly allow a margin of discretionary negotiation between public and private. This refers, for instance, to the contents of the detailed scheme and planning agreement.

The Desio case reveals that there is also another type of discretionary power, which comes into play with the interpretation of the planning regulations: some of these norms allow a margin of discretion, because they are either incomplete or ambiguous. Consider for example when the schedule for signing the planning agreement is largely at the discretion of the municipal officer in charge: this kind of broad margin can clearly be used in an unlawful manner, as indeed happened in Desio. To sum up, as Epstein (2005, pp. 12) states, "The amount of discretion built into the [planning] system is simply inconsistent with the rule of law".

¹ 13 Due to the current crisis in Italy's building sector, today the economic returns from changes in land-use have diminished drastically; consequently one would expect the incentives for corrupt practices of this type to have diminished accordingly.

Reserved information (I). For certain planning decisions, the municipal officials can use their inside knowledge of confidential details as bargaining chips for personal gain in the course of illicit transactions. For example, they may have information on which areas will be assigned as developable in a local master plan. Here too, the case of Desio is instructive: it was rumored at the time that several properties changed hands in the run-up to the plan's approval (Corti, personal communication, 28 May 2015). The judicial inquiry confirmed those rumors: for instance, individuals later implicated in the inquiry purchased certain areas of ATR No. 1 a few years prior to the approval of the PGT on the basis of Ponzoni's promise to them that those lots would become developable. As indeed they did with the 2009 PGT.

Accountability (A). The degree of accountability in planning matters is often remarkably low. This is the result of two internal factors¹.

The first is linked to the aforementioned fact that many planning decisions (e.g., land-use assignments) are not based on an ineluctable technical necessity; in many instances, they are the result of discretionary power of a political nature. It is therefore extremely difficult to wind back and determine whether such decisions were made by means of unlawful pressure, also considering the fact that, from the outside, they are often procedurally correct – what is illicit is the motive behind the decisions made. This is exactly the case of several instances reported in the judicial inquiry on the 2009 PGT. Again, it is hard to prove the true motive behind a given planning decision, and this can only come about through lengthy and complex judicial investigation. “The background standards – shared benefit, public interest, convenience, necessity and so on – are so nebulous that even where there is a system of judicial review it is difficult to work out the grounds on which decisions have been made and whether they are right or wrong” (Esptein, 2005, p. 11).

The second factor is tied to the fact that, in certain phases of the planning process, the issues at stake are highly technical and complex. Take for example the calculation of the fees owed for urbanization, or the areas to be ceded to the public domain. It is therefore difficult, not only for the citizenry but also for the town councilors who vote on such decisions, to recognize choices that may have been made under illegal circumstances. Here the Desio case once again offers a useful yardstick: several choices cited regarding the detailed schemes for some of the ATRs turned out to be illegitimate; but, despite the fact that all these choices were submitted to the Local Planning Commission, which included several honest and scrupulous councilmen, nobody managed to detect the grave legal problems that were later detailed by the magistracy.

5 CONCLUSIONS

It is likely that criminal activities such as corruption and operation by organized crime groups exact a heavy toll on the spatial development and governance of a great many of cities worldwide. Despite the gravity of this fact, there is a glaring lack of empirical study on this phenomenon, and how it affects the urban planning domain in particular. With this in mind, the present paper hopes to start filling this gap. The analysis of what took place in the town of Desio (Italy) provides a particularly interesting illustration of the mechanisms involved: it has brought to light various aspects of how corruption manages to infest Italy's planning machinery. In particular, the Desio case enables us to pinpoint the critical moments in the planning process in which illicit dealings take place, and it illustrates which are the main public actors involved and what in particular is at stake.

For example, we have illustrated how corrupt practices can impact on both the local master plan, and the detailed schemes for implementing the master plan's decisions. The stakes change, however, depending on the phase, and likewise the kind of individual involved also changes, as well as the forms that corruption takes. In short, with reference to the draft phase of the master plan, the illicit activity aims principally at influencing the allocation of land-use and the relative building quotas allowed. This takes place mainly through operations that are formally correct yet driven by illicit motives, namely to ensure directly and specifically the advantage of both the corruptor and the corrupted (at the public's expense). The role of the political component (in this case, the alderman in charge of planning) is fundamental in enabling illicit operations of this kind of to work. With reference to the implementation of the master plan

¹ It goes without saying that the meagre level of accountability for planning decisions in Italy is linked also to factors not inherent to the planning system, such as, for instance, the sluggish and inefficient judicial system.

choices, the planning decisions become involved in more complex and nuanced forms of corruption. The latter affect various phases and documents pertaining to the implementation schedule (e.g., the detailed schemes and the planning agreements); they aim to obtain illicit benefits of different kinds (e.g. a reduction in development taxes, greater areas for building, fast-tracking the bureaucracy); and they assume various forms (including both directly illegal dealings, but also formally correct ones driven by illegitimate motives). During this phase, a key role is played by the technicians in the municipal planning office, particular the director-in-chief.

Generally speaking, analysis of the Desio case seems to corroborate the claim that corruption in the planning field is “in part due to certain features of the existing planning systems that offer various ‘incentives’ that encourage corrupt practices” (Chiodelli & Moroni, 2015, p. 451). The presence of organized crime – which forms the shadowy backdrop to the scenario discussed here – is a constant enabler of these illicit practices, for instance, because it fosters a climate of basic impunity and exemption within the political and institutional spheres. However, it is probably not their main and direct cause.

The above hypotheses concerning the incentives to corruption offered by the features of a planning system require further in-depth study and verification. However, if these hypotheses prove to be true, they can provide critical input for institutional expedients (e.g., an overhaul of planning procedures) that may hopefully reduce the incentives that the current planning system offers to corruption. Of course, this would not eliminate corruption entirely from the planning field (a fundamental role is played by the ethics of planners, politicians, and public officials; along with mechanisms of oversight and sanctions for wrongdoing); nor is it by any means the only way to combat corruption. But it would be a great improvement on the current situation, with its pervasive corruption in areas of urban governance and development, about which we still know very little, and to which few solutions can therefore apply.

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ID 1732 | THE EFFECT OF LEGISLATIVE FRAMEWORK IN CONSERVATION PRACTICES: EXAMPLE OF TURKEY

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1 INTRODUCTION

In the last decade, site conservation and ideas against site conservation such as transformation and renewal have become considerably contradictory subjects in Turkey. The implementation on these subjects and new projects are also taken into consideration as research studies. Along with these implementations about conservation and renewal, it is important to think what is expected for cities in near and distant future.