



## Jean Monnet Module EU-GLOBACT



### Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats to common security, rule of law,** **and human rights**

#### SESSION I (10:00 AM)

### EU Crime Priorities, Global Emergencies and Judicial Cooperation for the Protection of Common Values

#### Chair

**FRANCO ROBERTI**

Member of the European Parliament

#### **BIOGRAPHY**

FRANCO ROBERTI, was born in Naples on 16 November 1947. Appointed judicial hearing officer with Ministerial Decree. 27 March 1975, he first carried out the functions of praetor of the Borgo San Lorenzo (Florence) district court from 15 September 1976, then those of judge of the Sant'Angelo dei Lombardi (Avellino) court from 18 September 1979 (dealing among others, as examining magistrate, the criminal proceedings on the so-called “*crolli facili*” of the Irpinia earthquake of November 1980), then those of deputy public prosecutor at the Court of Naples from 16 September 1982. In the latter office, he dealt with crimes against the public administration and mafia and terrorist-extortion organised crime, as part of the “Extortion and kidnapping” section until the establishment of the District Anti-Mafia Directorate. From 11 January 1993 to 26 August 2001 he was Deputy National Anti-Mafia Prosecutor at the National Anti-Mafia Directorate. Since 27 August 2011 he has been Deputy Public Prosecutor in Naples. Until 31 October 2005, he also acted as coordinator of the section responsible for crimes against the State and crimes committed for the purpose of terrorism, including international terrorism, or subversion of the constitutional order, as well as the section responsible for prevention measures. From 01 November 2005 to 15 April 2009 he was coordinator of the District Anti-Mafia Directorate of the Naples Public Prosecutor's Office. In this capacity he directed, in co-assignment with the substitutes, the main investigations into criminal organisations operating in the city of Naples and in the Caserta area. Particular attention should be drawn to the criminal proceedings against the “Casalesi clan”, which led to the complete disruption of the criminal organisation and the arrest and conviction of all fugitives. From 16 April 2009 he was Public Prosecutor at the Court of Salerno and personally coordinated the District Anti-Mafia Directorate. On 25 July 2013, the Superior Council of the Magistracy appointed him as National Anti-Mafia Prosecutor since 06/08/2013. With the entry into force of Law No. 43 of 17.04.2015, which converted the D.L. 18 February 2015 No. 7 “*Misure urgenti per il contrasto al terrorismo, anche di matrice internazionale...*”, Dr. Roberti has held the post of National Anti-Mafia Prosecutor and AntiTerrorism. At the end of his service in the Magistracy, at the age of 70, Franco Roberti was appointed Advisor to the Minister of the Interior for matters relating to terrorism and organised crime.



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#### Introductory Speaker

#### ANGELA DI STASI

Full Professor of International Law and EU Law, University of Salerno, Former JM Chair on “Judicial Protection of Fundamental Rights in the European Area of Freedom, Security and Justice”, JMM EU-GLOBACT Key Teacher

#### BIOGRAPHY

ANGELA DI STASI is Full Professor of International Law and European Union Law at the University of Salerno and UNISA Rector's Delegate for Equal Opportunities, as well as Key Teacher of the Jean Monnet EU-GLOBACT Module, where she is responsible for the “International Crime, EU Law and Area of Freedom, Security and Justice” area. She is a member of the Board of Professors of the Ph.D. in "Legal Sciences" and of the Scientific Committee for Research Activities, as well as of the Mobility Commission. Since 2012, she has been a member of the Board of Directors of the School of Specialization for the Legal Professions at the University of Salerno and Coordinator for the area of International and European Law; she was also responsible for the POF organization in European Law for the Salerno Bar Association. Founder and Director of the Observatory on the “European Area of Freedom, Security and Justice” (since 2012); Founder and Editor-in-Chief of the journal “Freedom, Security & Justice: European Legal Studies” ranked in Class A by ANVUR, Editoriale Scientifica, Naples (since 2017); Director of the “Freedom Security & Justice: European Legal Studies” series of books and research (since 2018 -). Prof. Di Stasi is also Secretary General of the Italian Society of International Law and of the European Union (SIDI).

#### Keynote Speakers

#### ANTONINO SESSA

Full Professor of Criminal Law, University of Salerno

**Title of the speech:** The Judicial Cooperation at the Criminal Law Test: The Challenge of the False Victim of Extortion

#### BIOGRAPHY

ANTONINO SESSA is Full Professor of Criminal Law and also holds the chair of Juvenile Criminal Law at the Department of Legal Sciences of the University of Salerno. as well as Criminal Procedure Law at the Pontifical Lateran University in Rome. Prof. Sessa is also Professor of Criminal Law at the School of Specialization for the Legal Professions of the University of Salerno and at the “Federico II” University



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of Naples. Since 2008 he has been a lecturer in charge of the continuing education of managers at the Higher School of Public Administration in Salerno and at the Ministry of the Interior, Department for Internal and Local Affairs. He is a member of the Scientific Committee of the journal *“Diritto e Giustizia minorile”*, as well as a member of the review committee of the journal *“Critica del diritto”*.

#### SUMMARY OF THE SPEECH

Judicial cooperation to counter international corruption has experienced an undeniable moment of crisis both in the initiation of investigations and even more so in the taking of precautionary measures as conditioned by the principle of double criminality. The non-sanctionability of false bribery posed in the Rocco Code the well-known problems on the relationship between conventional legality and domestic criminal typicality that the Severino Law addressed and resolved with the introduction of art. 319-*quater* of the Criminal Code in force. However, on closer inspection, the very same problems still seem to persist in the void of protection against false extortion, i.e. for inductive conducts by the author that are not carried out in a constructive/productive way with another individual, but instead victimizing towards him/her. The speech will address the issue within the limits of a hermeneutical deontology, that is nonetheless orienting a certain dynamic normativity in which the rational balance between law and justice is definitively able to “free” the multilevel penal system from excesses of disvalue in the fight against corruption too.

#### **ROCCO ALFANO**

Deputy Public Prosecutor at the Court of Salerno

**Title of the speech:** Judicial Cooperation and Migrant Women: An Emergency Twice Exposed

#### BIOGRAPHY

ROCCO ALFANO is Deputy Public Prosecutor at the Court of Salerno, assigned to the Intersectional Group for the Investigation of Terrorism; former Deputy Public Prosecutor at the District Anti-Mafia Directorate (DDA); he has been a Public Prosecutor since 1999. During his studies, he obtained a Post-graduate Diploma in Administrative Law and Administration Sciences, discussing a thesis entitled “The judicial and administrative protection of the private contractor” at the Faculty of Law of the University of Naples “Federico II”. He was an honorary fellow in Constitutional Law at the University of Salerno.

#### SUMMARY OF THE SPEECH

Migrant smuggling represents the most topical and interesting case of the evolution of transnational crimes, for at least twenty years, in Europe. At the same time, it has become a well-established emergency, so much so that it can no longer be considered as such. The issue of the criminal fight against this phenomenon must and can only be addressed with the help of instruments at international level to



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implement coordinated, repressive and effective judicial action. Therefore, the solution is to be found in judicial cooperation between States, both at the level of the European Union and outside of it. In the second case, the level of cooperation becomes much more critical and difficult to implement. Within this general emergency, a special emergency must be noted: that of migrant women, who in the course of their “voyage of hope” become, first, “transit victims” and then “destination victims”. With migrant woman, on a purely juridical level, there is the possibility of configuring the hypotheses referred to in art. 600 of the Criminal Code (enslavement) and 601 of the Italian Criminal Code (trafficking in persons): therefore, they are subjects to be protected in a particular way. Hence, a sort of international “red notice” would be desirable.

#### FRANCESCO ROTONDO

Deputy Public Prosecutor at the Court of Salerno

**Title of the speech:** The Aggravating Circumstance in Transnational Crimes

#### BIOGRAPHY

FRANCESCO ROTONDO is Deputy Public Prosecutor at the Court of Salerno, currently assigned to the District Anti-Mafia Directorate. In the course of his professional experience, he has dealt with economic crime in particular. He was scholarship holder at the University of Munich and subsequently obtained a Ph.D in international law and domestic law in international matters (criminal law curriculum). He has been a decentralized trainer for the Salerno District of the Higher School of Magistracy and a speaker in numerous scientific initiatives, in particular in the field of economic crime and international judicial cooperation in criminal matters. He has also taught at the Schools of Specialization for the Legal Professions of Catanzaro, Naples and Salerno. Among his and co-authored publications: “*La giurisprudenza in materia di confisca e prescrizione dei reati tributari*”; “*Politica criminale e cultura giuspenalistica. Scritti in onore di Sergio Moccia*”; “*Note sulla tutela penale degli interessi finanziari dell’Unione Europea*”; “*Lo spazio di libertà, sicurezza e giustizia*”.

#### SUMMARY OF THE SPEECH

Introduced into our legal system by art. 4 of Law No. 146 of 2006, ratifying the UN Palermo Convention of November 2000 on transnational organized crime, then transfused into art. 61-*bis* of the Criminal Code, the aggravating circumstance of the so-called transnationality has fueled a lively doctrinal and jurisprudential debate, only partially ended with the Adami judgment by the United Sections (Italian Cassation). Indeed, the concept of an “organized criminal group” as an intermediate structure between the occasional participation in crime and the case of criminal conspiracy certainly remains challenging. Consequently, the applicability of the aggravating circumstance of transnationality to crimes for the purpose of criminal conspiracy presents particular complexity; which implies precisely the possibility of



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identifying, in the specific case, a real difference between the concept of an organized criminal group and a criminal association. It may be useful, therefore, to question – once again – the current state of the regulations dedicated to the repression of transactional crime, the critical issues that have arisen with the passing of time as well as the potential reforms.

#### ALESSANDRO ROSANÒ

Senior Researcher in EU Law, University of Valle D'Aosta

**Title of the speech:** The Mutual Admissibility of Evidence between EU Member States as a Further Element of Judicial Cooperation in Criminal Matters

#### BIOGRAPHY

Alessandro Rosanò is Assistant Professor in European Union Law at the University of Valle d'Aosta. Previously, he received his PhD in Law from the University of Padua and was a postdoctoral research fellow at the Universities of Turin and Florence. He has held visiting periods at the Jagiellonian University of Krakow (Poland), the University of Szeged (Hungary) and the University Côte d'Azur of Nice (France). His research focuses on judicial cooperation in criminal matters, with a focus on the European Arrest Warrant, the transfer of sentenced persons and the search for evidence abroad.

#### SUMMARY OF THE SPEECH

The Treaty of Lisbon provides that the European Parliament and the Council may, by acting by means of directives in accordance with the ordinary legislative procedure, lay down minimum standards on the mutual admissibility of evidence between Member States. To date, this potential has not been exploited. To this end, three interest profiles are taken into account. The first concerns Regulation (EU) 2017/1939 on the implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO). The second relates to a proposal for a Directive drawn up by the European Law Institute and published in May 2023. The third concerns the case-law of the European Court of Human Rights.



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#### Scheduled Speeches

#### STEFANO BUSILLO

Ph.D. Candidate in Legal Sciences, University of Salerno

**Title of the speech:** Brief Critical Remarks on the EU Proposal on the Transfer of Proceedings in Criminal Matters

#### BIOGRAPHY

STEFANO BUSILLO is a Ph.D. Candidate in “Legal Sciences” (International, European and Comparative Law) at the Department of Legal Sciences, University of Salerno. Honorary fellow and teaching assistant in European Union Law, European Union Migration Law, European and International Criminal Law and International Organization at the Department of Legal Sciences (School of Law), University of Salerno, as well as in International Law and Diplomatic and Consular Law at the Department of Business Sciences – Management & Innovation Systems, University of Salerno. Stefano Busillo spent a traineeship period in Bruxelles working for an Italian law firm dealing with European Law (more precisely Competition and Market Regulation Law). After that, he has started off as Lawyer at the Bar of Salerno. Having developed over the years a deep interest in International and EU Law, he actively serves as member of the EUVALWEB Legal Observatory as Young Researcher, as well as Editorial Assistant for the Scientific Journal EUWEB Legal Essays. Global & International Perspectives, as well as Researcher at the International and European Criminal Law Observatory on Cultural Issues, Human Rights, and Security (IECLOCUHRSE). He also is author of scientific publications on the topics of Digitalization of Criminal Justice, International Organizations and Migration Law

#### SUMMARY OF THE SPEECH

In April 2023, the Union appears to have given new impetus to the enhancement of the tools and rules to adjust judicial cooperation. Indeed, with the refiling of an initiative failed more than ten years ago, the European Commission presented its Proposal on the transfer of proceedings in criminal matters in the European Union (COM/2023/185). With a view to “improving the efficient and proper administration of justice within the common area of freedom, security and justice”, the Proposal aims to introduce new canons for streamlining the exercise of jurisdiction by Member States, innovative provisions regarding the waiver, suspension or discontinuation of criminal proceedings, as well as a peculiar procedure for requesting transfer of the latter. In the light of what has been outlined so far, the hereby speech has the purpose of giving an analysis of the Proposal – which, whether successful, is destined to meaningfully change the management of criminal transnational proceedings – and will do so by identifying its merits and challenges. Such brief remarks, for instance, will dwell on the legal nature of the Regulation and its relationship with the preexisting acts of judicial cooperation, on the protection of fundamental rights of accused or investigated individuals, on the real capability of the Proposal to reach its set goals.



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### Transnational Crime and EU Law: towards **Global Action** against **Cross-border** Threats to common security, rule of law, and human rights

#### SESSION II (11:45 AM)

### EU Values and Interests Facing Economic Dimension of Transnational Crime in Time of Global Emergencies

#### Chair

**ANDREA CASTALDO**

Full Professor of Criminal Law, University of Salerno, Key Teacher JMM EU-GLOBACT

#### Introductory Speaker

**MICHELE NINO**

Full Professor of International Law, University of Salerno, Key Teacher JMM EU-GLOBACT

#### BIOGRAPHY

MICHELE NINO is Full Professor of International Law at the Department of Legal Sciences of the University of Salerno; holder of the International Law Course and the International Protection of Human Rights Legal Clinic; Key Teacher of the Jean Monnet EU-GLOBACT Module, where he is responsible for the area “Transnational Crime, EU Law and New Technologies”. Over the course of his career, he has carried out numerous research activities and has participated in various specialization courses in international law and European Union law. He has participated, as a speaker, in conferences, seminars and study meetings held in Italy and abroad. He is the author of two monographs “*Terrorismo internazionale, privacy e protezione dei dati personali*” and “*Land grabbing e sovranità territoriale nel diritto internazionale*”, as well as of numerous articles published in legal journals of international prestige. Ordinary member of the Italian Society of International Law and European Union Law (SIDI) and member of the European Society of International Law (ESIL), his research activity focuses on both international law and European Union law, including: the European arrest warrant and pre-trial detention; the phenomenon of immigration offences in the European Union; the relationship between the fight against terrorism and the protection of human rights; the protection of privacy and personal data in the fight against terrorism, the application of international conventions on the fight against international corruption in the Italian legal system.



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#### Keynote Speakers

#### **COSIMO RISI**

Ambassador, Professor of European Policies, University “Federico II” of Naples

**Title of the speech:** EU Values and Asymmetric Conflicts

#### BIOGRAPHY

COSIMO RISI has held various positions in Italy and abroad and on three occasions has been assigned to the Permanent Representation of Italy to the European Union in Brussels. He served as a diplomat until 2016. Most recently, he was Ambassador and Permanent Representative to the Conference on Disarmament in Geneva; Ambassador to the Swiss Confederation and the Principality of Lichtenstein in Bern. Specialized in European affairs and Euro-Mediterranean relations, he teaches International Relations at the European College of Parma and European Policies for Research and Innovation at the "Federico II" University of Naples. He is also a lecturer at the Luiss “Guido Carli” University in Rome and at the University of Salerno. He is Deputy Director of the Interdepartmental Research Centre on European Affairs at the University of Brescia, as well as the author of numerous books and articles on international law. He’s also a commentator on foreign affairs for various newspapers. He was bestowed the title of Commander of Merit of the Italian Republic and has been awarded the Golden Laurel of the Republic of Bulgaria.

#### SUMMARY OF THE SPEECH

The uncertain definition of terrorism: a very controversial item in the international debate. Terrorism as a threat to order or resistance? European Union has a pragmatic approach by recognizing as terrorism any threat to its own security. The case of Islamist terrorism is emblematic: see the attacks in Paris and Brussels. Like US and other third countries EU considers Hamas as a terroristic organization. Furthermore, there is no possibility to cooperate with them. Hamas is the acronym of *Harakat al-Muqawanna al-Islamiya* (movement of Islamic resistance), it was founded in 1987 by Sheikh Ahmed Yassin, very close to Egyptian Muslim Brotherhood. In 2006, Hamas wins the elections in Gaza, in 2007 gets the absolute power against Palestinian National Authority and al-Fatah Party. In 2023 the dramatic action against the Israeli *kibbutz*, Israel’s reaction, the victims, the demolitions, the crisis of hostages, the mediation by Qatar.

#### **LAURENT SAENKO**

Full Professor of Private Law and Criminal Sciences, University Aix-Marseille



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**Title of the speech:** *La lutte contre la délinquance financière au service des droits humains: une réalité européenne?*

#### **BIOGRAPHY**

LAURENT SAENKO is Full Professor of Private Law and Criminal Sciences at the University of Aix-Marseille. During his academic career he has carried out a number of research activities in the field of criminal law and commercial criminal law, which he has covered in several contributions and articles. Laurent Saenko is also in charge of the “*Master 2 lutte contre la criminalité financière et organisée*” which aims to provide the appropriate means to diagnose the misuse of management, legal, economic or financial techniques to commit a crime.

#### **SUMMARY OF THE SPEECH**

European law very early placed the protection of human rights at the centre of its concerns, while the fight against financial crime later appeared as one of its main objectives. However, the relationship between them is not obvious: how can the fight against economic crime serve to protect human rights, in Europe and in the world? Is this goal a realistic ideal or, on the contrary, an unattainable goal?

#### **MARIA ELENA CASTALDO**

Senior Researcher in Criminal Law, Link Campus University of Rome

**Title of the speech:** Economic Crime, Human Rights and EU

#### **BIOGRAPHY**

MARIA ELENA CASTALDO is a Senior Researcher in Criminal Law at the Link Campus University of Rome and holds a PhD in “International Law and Domestic Law in International Matters” at the then Faculty of Law of the University of Salerno. In 2006, she won the competition as a Researcher in Criminal Law at the Faculty of Law of the University of Salerno. In 2010 she was confirmed as a Researcher and in 2016 she moved to the private Link Campus University, where in 2018 she became Coordinator of the Law Degree Course. In 2019, she was appointed Rector's Delegate for Legal Affairs and member of the Board of Directors of Link Campus University and in 2023 Delegate for Institutional and Scientific Promotion of the University. In 2022, she was appointed a member of the University's Scientific Committee for the Gender Equality Plan. She is a lawyer in Rome, Naples and Milan, since 2017, she has been qualified to work before the Court of Cassation and other higher courts; since 2019 she has been a member of the Human Rights Commission of the Rome Bar Association. In 2016, she was appointed National Sports Prosecutor at the CONI General Prosecutor's Office for Sport and in 2020 she was reconfirmed for a second term. Expert in economic criminal law, she provides assistance



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and advice on M&A profiles, services and corporate transactions and acquisitions, including in the financial and utilities sectors.

#### **SUMMARY OF THE SPEECH**

Data retention is a very delicate and controversial issue and brings with it the constant need to balance, on the one hand, the prevention and repression of crime, especially economic and transnational crime, and, on the other, the protection of fundamental rights, in particular, the protection of privacy, with regard to communication systems. In the domestic legal system, its *sedes materiae* has been reworked by the legislator on eleven occasions, most recently with the reform of September 2021. These were opportunities for intervention that made clear a “pendulum attitude” of the public decision-maker. The intervention on telephone records of Decree-Law No. 132 of 30 September 2021, later converted into Law No. 178 of 23 November 2021, focused on the legal requirements that allow data retention, setting precise criteria on the basis of the case law rendered by the Court of Justice of the European Union, as well as introducing detailed rules for all those data acquired before the entry into force of the new set of rules. Considering the developments of the past discipline through corrective interventions by the legislator and the rulings of the Supreme Court, it could be maintained that the domestic system has finally conformed to the guidelines expressed in the European Union. Yet, such a conclusion appears to be only partially true. In fact, there has been plenty of subsequent rulings by the CJEU on the issue of data retention, and the fact that emerges, despite the good intentions of the 2021 legislator, is that of a significant – and unfortunately enduring – asymmetry between the discipline currently in force in the domestic legal system and the principles affirmed by European jurisprudence, now consolidated.

#### **LORENZO BERNARDINI**

Postdoctoral Researcher in Criminal Law and Criminal Procedure, University of Luxembourg

**Title of the speech:** When Criminal Justice Meets Restrictive Measures

#### **BIOGRAPHY**

LORENZO BERNARDINI is a Postdoctoral Researcher in Criminal Law and Criminal Procedure at the University of Luxembourg. He holds a Master's Degree in Law and a Ph.D. in Global Studies – Economy, Society and Law from the University of Urbino ‘Carlo Bo’ (Italy). As of 2022, he is actively participating in two DG JUST Action Grants funded by the European Commission – the first focused on the mutual recognition of freezing and confiscation orders, and the second on the digitalization of defense rights – contributing as part of the University of Luxembourg's scientific unit. Since January 2024, he also serves on the Management Committee of the GLITTS COST Action, an EU-funded multidisciplinary research project dedicated to globalization, illicit trade, sustainability and security. Concurrently, he has joined the Network of Analysts at EU Law Live. His research interests relate to



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European criminal law and criminal procedure, particularly concerning fair trial rights, substantive and procedural issues of freezing and confiscation orders in the European legal framework, mutual recognition and judicial cooperation in criminal matters, and the implementation of (EU) restrictive measures through administrative and/or criminal law tools. Furthermore, his research interests encompass EU migration law and the substantive and procedural intersections between criminal and administrative law, particularly in the context of deprivation of liberty. He has disseminated his research findings through publications in various Italian, European, and international academic journals, as well as through participation in international conferences and workshops.

#### **SUMMARY OF THE SPEECH**

Addressing the exigency of combating transnational crimes is paramount to the EU's goal of strengthening and preserving its Area of Freedom, Security and Justice (AFSJ). This endeavor is intrinsic to the ongoing process of European integration, placing the Union at the forefront of global actors promoting fundamental rights and the rule of law. In response to the Russian military invasion into Ukraine, the EU has acknowledged a novel category of transnational crime – the infringement or circumvention of EU restrictive measures. These measures, typically encompassing both sectoral (e.g., commercial and trade restrictions) and individual sanctions (e.g., asset freezes, travel bans), have been imposed to Russia in order to hold the latter accountable for its actions and diminish its capacity to sustain the military offensive. However, the heterogeneity in the conceptualization and penalization of these breaches and/or evasion conducts across EU Member States, however, has resulted in divergent enforcement levels. This disparity clearly hinders the EU's objectives of preserving international peace and security and upholding EU common values, ultimately compromising the effectiveness of the sanctions' regime. Classifying the violation/circumvention of restrictive measures as an "Euro-crime" has consequently empowered Member States to deploy criminal law instruments, notably freezing and confiscation orders (FCOs), as primary tools to address the matter. These instruments are deemed pivotal in penalizing Russia and impairing its economic capabilities, thereby deterring further military aggression. considerations, the proposed contribution posits that while FCOs may be effective in depriving Russia of its assets definitively (thereby holding it accountable for its actions and potentially aiding in Ukraine's reconstruction), their application might probably not constitute the optimal approach compared to administrative measures like fines or administrative freezing orders, especially when considering, on the one hand, the fundamental rights of affected parties and, on the other hand, the swifter and relatively easier implementation of administrative measures compared to FCOs..

#### **Scheduled Speeches**

**GIOVANNA NADDEO**

Ph.D. Candidate in Legal Sciences, University of Salerno



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**Title of the speech:** The CFSP Sanctions to Target Corruption Affecting the EU's Fundamental Values and Interests

#### **BIOGRAPHY**

GIOVANNA NADDEO is a Ph.D. candidate, International-European-Comparative Curriculum, at the University of Salerno. Since 12 February 2021 she has been registered in the register of trainee lawyers of the Salerno Bar and carries out internship activities at the “Montella Law” firm. She is a member of the Active Members Committee of MSOI Napoli (youth section of the Italian Society for International Organization – SIOI) and a member of ELSA Italy. She combines the scientific interest in the protection of fundamental rights in the European area of freedom, security and justice with specific issues such as privacy and data protection, IT law and new technologies. She is also a freelance journalist registered at the Association of Journalists in Campania.

#### **SUMMARY OF THE SPEECH**

Over the last years, EU restrictive measures (commonly referred to as “sanctions”) have become an increasingly used instrument of EU autonomous foreign policy to respond to the most pressing security challenges in its neighbourhood space and further afield. Among the problems that threaten security, corruption poses a critical risk regarding the reduction of the development of a country, the enjoyment of human rights, the respect for democracy and the rule of law. Corruption, in fact, undermines the trust of civil society in institutions and facilitates the development of organized crime. The anti-corruption package presented by the European Commission in May 2023 reaffirms the priority given to combating corruption in the EU's internal and external policies. Beyond the implementation of existing international anti-corruption legal instruments, the new proposal for the establishment of a horizontal CFSP sanctions framework addressing corruption in non-EU countries when this corruption seriously affects the EU's fundamental values, interests and security would add an extra dimension to the Union's sanctions toolbox: so far, the EU has occasionally imposed targeted sanctions for the misappropriation of public funds in third countries (e.g., in response to the Ukrainian crisis in 2014 or the Arab Spring events in Tunisia). In light of these brief considerations, the proposed contribution addresses the evolution of the ECJ case law on these crucial legal aspects that are of importance for the EU's sanctions future actions to fight corruption. After all, the EU is «a Union based on the rule of law» in which the safeguard of individual rights must be guaranteed. An important tool of that protection is the judicial review of the ECJ. This requires that a balance must be struck between the EU's political objectives and full respect for human rights.



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**SESSION III (3:00 PM)**

***EU Values, Global Emergencies  
and Corporate Responsibility for Transnational Crime***

**Chair**

**MONICA AMIRANTE**

President of the Surveillance Court of Salerno

**Introductory Speaker**

**ANNA ORIOLO**

Associate Professor of International Law and EU Law, University of Salerno, JMM EU-GLOBACT Leader

**BIOGRAPHY**

ANNA ORIOLO, Scientific Coordinator of EU-GLOBACT project, is Associate Professor of International at the Department of Legal Sciences (School of Law), University of Salerno (Italy) where she also teaches EU Law and International & European Criminal Law. Professor Oriolo is Founder and Director of International and European Criminal Law on Cultural Issues, Human Rights, and Security (IECLO), based at the same University, where she is also Professor International Law and Diplomatic and Consular Law at the Department of Management and Innovation Systems. She was also Lecturer of International Law & European Union Law, at University of Cagliari (2014) at Université Lumière Lyon 2 (2016-2019), and she's currently Visiting Professor at the Université Aix-Marseille. She is also Scientific Director of several research programs funded by the University of Salerno (2006–2023) and her works (in Italian, English, and French) cover a wide range of subjects in the field of international law and EU law, i.e. international criminal law and *crimina juris gentium*, human rights and fundamental freedoms, cross-fertilization, cybersecurity, environmental protection and water resources, global law and policies, cultural heritage, ethics in international and EU Law, corporate social responsibility, and post-conflict justice



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#### Keynote Speakers

#### **VIRGINIE MERCIER**

Full Professor of Economic Environmental Law, Université Aix-Marseille

**Title of the speech:** Transnational Crime, Environmental Emergencies and Sustainability: Corporate Due Diligence in the EU

#### **BIOGRAPHY**

VIRGINIE MERCIER is Full Professor of Economic Environmental Law and Member of the Centre for Economic Law at the Faculty of Law and Political Science at the Université Aix-Marseille (France); She is Director of the Institute of Environmental Law and Sustainable Development (IDEDD), as well as of the Master in Banking Law and Asset Management. She has recently won a selection for Visiting Researcher at the Department of Legal Sciences of the University of Salerno. Prof. Mercier's research focuses on environmental law, the obligations and responsibilities of entities arising from environmental law, corporate social responsibility, as well as civil liability in connection with environmental law and sustainable development. Among his international academic activities, there is the cooperation with the Center for Business Law and International Trade of the University of Montreal (Canada): in connection with this partnership, he directs the Summer School “*Sustainable Business Law and Practice – European Approach*”, which annually allows Canadian and French students to discuss the issues of sustainability and the evolution of commercial law.

#### **SUMMARY OF THE SPEECH**

The EU is developing corporate sustainability policies for companies with the aim of strengthening the protection of the environment and human rights in the EU and around the world. On 23 February 2022, the Commission presented to the European Parliament and the Council a proposal for a Directive on corporate sustainability due diligence and amending Directive (EU) 2019/19371. The proposed Directive, based on arts. 50 and 114 TFEU, lays down obligations with respect to adverse impacts on human rights and adverse environmental impacts, whether actual or potential, incumbent on companies in the context of their activities, the activities of their subsidiaries and the activities in the value chain carried out by entities with which the company has an established business relationship. It also lays down rules on liability in the event of a breach of these obligations. On 14 December 2023, the Council and Parliament reached a provisional agreement on the directive, defining its scope and clarifying the responsibilities of non-compliant companies, better defines the various penalties and completes the list of rights and prohibitions that companies should comply with.



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## Jean Monnet Module EU-GLOBACT



### Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats** to common security, rule of law, and human rights

#### FELICE PIER CARLO IOVINO

Associate Professor of Criminal Procedure Law, University of Salerno

**Title of the speech:** *Transnational Crime and Corporate Criminal Risk*

#### **BIOGRAPHY**

FELICE PIER CARLO IOVINO is Associate Professor of Criminal Procedure Law at the Department of Legal Sciences of the University of Salerno, in charge of the courses of Criminal Procedure, Procedural System and Corporate Crime Liability and Institutions of Law; his academic curriculum also includes the teaching of Penitentiary Law. Before teaching, he had the opportunity to deepen the subject-law issues as a researcher at the Universities of Naples and Salerno. He is the author of numerous publications, both in the field of Criminal Procedure Law and Penitentiary Law: in this case he has published “*Contributo allo studio del procedimento di sorveglianza*” (1995), “*La liberazione anticipata*” (2006) and “*L’introduzione della semilibertà nell’ordinamento penitenziario*” (2008). He has been in charge of numerous research projects, especially in the field of penal execution and penitentiary law: for example, “*La tutela della salute in ambito penitenziario*” and “*La mediazione penale e l’esecuzione della pena*”.

#### **SUMMARY OF THE SPEECH**

At the turn of the last century, a long series of international scandals such as Watergate and Lockheed, General Electric, highlighted the risk associated with illegal activities carried out by companies. The phenomenon involves not only companies that were born as illegal, but also companies with a lawful purpose, which implement internal policies prone to illegal activities, e.g. damage to public property interests, financial scams and corrupt acts. With the Italian regulation of the administrative liability of legal persons, companies and associations, including those without legal personality, the motto *societas delinquere non potest* is overturned, regulating the phenomenon as other countries such as France, Germany, Spain, Switzerland, England and the USA had already done or will do shortly thereafter. The decision to qualify the legal nature of the entity’s criminal liability as administrative proves to be functional in avoiding, especially in Parliament, constitutional perplexities, which would not have been lacking if it had been expressly qualified as “criminal”. Therefore, as stated in the Explanatory Report to Legislative Decree no. n. 231/2001, a *tertium genus*, which “*combines the features of the penal and administrative systems*”, without disregarding the “*obvious reasons of contiguity with the criminal system due to the connection with the commission of a crime, the severity of the sanctioning apparatus, the procedural methods and its ascertainment*”. In 2014, Law No. 67 introduced the new institution of probation which, from a substantive standpoint, is configured as a cause of extinction of the crime and. from a procedural standpoint. as a special procedure. But, when some judges begin to deem probation applicable to entities, things start to get complicated....



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#### Scheduled Speeches

#### **GRAZIA BRUZZESE**

Ph.D. candidate in Financial Criminal Law, University of Luxembourg

**Title of the speech:** Socially Responsible Investing: Creating an Investment Ethic Based on Criminal Law

#### **BIOGRAPHY**

GRAZIA BRUZZESE After having obtained a Master of Law Degree (LL.M), with highest honours, in European Economic and Financial Criminal Law at the University of Luxembourg in July 2022, started her academic journey at the same University. Having worked for almost a year as a Research Assistant under the supervision of Prof. Silvia Allegrezza, she is currently a Doctoral Researcher pursuing a PhD at the University of Luxembourg, under the supervision of Prof. Isabelle Riassetto, on the interaction between the use of new technologies in financial law, with a focus on Investment Funds, and the fight against money laundering and the financing of terrorism. She is also Editorial Board member of the *Revue pénale luxembourgeoise*. With several publications, in English and French, on the broad subject of European Criminal law, her research interests include the fight against financial and economic crimes, particularly AML, but also the new challenges that criminal law will face at the dawn of the use of new technologies such as AI.

#### **SUMMARY OF THE SPEECH**

The terms “socially responsible/sustainable finance” have become a hot topic. Especially the 21<sup>st</sup> century witnessed the increasing understanding that economic profits, resulting from investments, cannot come at the cost of human rights violations or environmental catastrophes. This new movement towards a more responsible economy seems confirmed by the regulatory treatment given by the EU legislator, who adopted a package of EU legal instruments to harmonize sustainable financial practices, notably the ‘Sustainable finance disclosure regulation’, which specifies how to disclose information on the sustainability of a financial product, and the ‘Taxonomy regulation’ which defines the latter. Yet, new trends go hand in hand with new challenges, among which one stands out from the crowd: how will the Environmental, Social and Governance (ESG) criteria, intrinsic to sustainable finance, be effectively enforced in this EU regulatory framework? Without underestimating the significance of the mentioned regulations, disclosure and information are not necessarily good proxies for compliance. Nonetheless, the current regulations do not directly impose sanctions for breaches of disclosure obligations. Furthermore, they seem to neglect the scenario where financial actors would falsely advertise a sustainable product or disseminate false information, i.e., so-called ‘greenwashing’ practices. How should such behaviours be corrected? Is sustainability a *Rechtsgut* that deserves protection via criminal law? And if yes, should financial actors be held responsible for direct and indirect damages? Also, should non-disclosure



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be considered as a breach of duty to be handled through administrative sanctions? Or should we assimilate it to market manipulation through false/misleading information opening the doors to criminal law? Consequently, the debates on the horizontal relation between administrative and criminal law will lead to rediscussing the current *status quo* of financial criminal law, where prevention is mainly conferred to the first while repression to the second.

#### EMANUELE VANNATA

Ph.D. Candidate in Legal Sciences, University of Salerno

**Title of the speech:** Climate Change, Environmental Crime and the European Union between Criminal Protection of the Environment, Ecocrimes and the "Euro-Centric" Judicial Area

#### **BIOGRAPHY**

EMANUELE VANNATA is Ph.D. candidate in “Legal Sciences” (International, European and Comparative Law) at the Department of Legal Sciences (School of Law) of the University of Salerno (Italy). At the same University, he is also Honorary Fellow and Teaching Assistant in International Law, Diplomatic and Consular Law and International Law and Cyber Security at the Department of Management & Innovation Systems as well as in European Union Law, European Union Migration Law, International Criminal Law, International Organization and Law of the European Single Market, International Trade and New Technologies at the Department of Legal Sciences (School of Law). Furthermore, he is member of the Research Staff of the multidisciplinary observatory IECLO (*International and European Criminal Law Observatory on Cultural Issues, Human Rights, and Security*) and of the Jean Monnet Module EU-GLOBACT (*Transnational Crime and EU Law: towards Global Action against Cross-border Threats to common security, rule of law, and human right*), as well as Senior Member of the Legal Observatory of the Jean Monnet Module “EUWEB” (*EU Western Balkans Cooperation on Justice and Home Affairs*). His post-graduation formation has seen him participating to Jean Monnet high specialization course and Masterclass courses. He has collaborated in several research initiatives, including a number of research projects funded by the University of Salerno. He has coordinated important scientific and editorial initiatives carried out at national and international level and has also dedicated, together with his research activity, to the scientific production in the field of International Law and EU Law.

#### **SUMMARY OF THE SPEECH**

Climate change is perhaps the phenomenon that more than others is able to express the (irreversible) connection between environmental degradation and the Anthropocene. The progressive and increasingly rapid global warming calls the whole of humanity to its responsibilities. Adaptation and mitigation of climate change also pass through the criminal protection of the environment. Indeed, crimes affecting the environment – including, *inter alia*, illegal deforestation, marine pollution, wildlife trafficking and



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crimes in the fisheries, waste and mining sectors – contribute to ecosystem degradation, hindering the ability of natural ecosystems to mitigate or adapt to climate change, contributing to the decline of biodiversity and the release of carbon dioxide and other harmful gases into the atmosphere. Given the current growth of environmental crime – and, in particular, transnational and organised environmental crime – a more effective response of the justice system is needed, one that is able to take climate change into account in its decision-making processes and address the impact of crime on biodiversity. These considerations also apply in the narrower framework of the European Union, although the EU legislator has made considerable efforts in the direction of strengthening and harmonising the criminal response and others appear on the horizon. *Ex plurimis*, the consolidation of the idea of a “Euro-centric” judicial area – a key element in the creation of the European Area of Freedom, Security and Justice – has had a decisive driving force in the establishment of the European Public Prosecutor's Office and the extension of its competences can be a useful tool in the fight against environmental crime and, therefore, against climate change, from a global and multidimensional perspective.



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**Transnational Crime and EU Law:**  
towards **Global Action** against **Cross-border**  
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**SESSION IV (4:30 PM)**

***EU Global Actorship in the Fight against Crimes of General Interest: The Emergencies of Criminal Justice***

**Chair**

**VIRGINIE MERCIER**

Full Professor of Economic Environmental Law, Université Aix-Marseille

**Introductory Speaker**

**ANNA ORIOLO**

Associate Professor of International Law and EU Law, University of Salerno, JMM EU-GLOBACT Leader

**BIOGRAPHY**

ANNA ORIOLO, Scientific Coordinator of EU-GLOBACT project, is Associate Professor of International at the Department of Legal Sciences (School of Law), University of Salerno (Italy) where she also teaches EU Law and International & European Criminal Law. Professor Oriolo is Founder and Director of International and European Criminal Law on Cultural Issues, Human Rights, and Security (IECLO), based at the same University, where she is also Professor International Law and Diplomatic and Consular Law at the Department of Management and Innovation Systems. She was also Lecturer of International Law & European Union Law, at University of Cagliari (2014) at Université Lumière Lyon 2 (2016-2019), and she's currently Visiting Professor at the Université Aix-Marseille. She is also Scientific Director of several research programs funded by the University of Salerno (2006–2023) and her works (in Italian, English, and French) cover a wide range of subjects in the field of international law and EU law, i.e. international criminal law and *crimina juris gentium*, human rights and fundamental freedoms, cross-fertilization, cybersecurity, environmental protection and water resources, global law and policies, cultural heritage, ethics in international and EU Law, corporate social responsibility, and post-conflict justice.



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### Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats** to common security, rule of law, and human rights

#### Keynote Speakers

##### **PAOLO BARGIACCHI**

Full Professor of International Law, University “Kore” of Enna

**Title of the speech:** The EU as a Global Judicial Hub to Tackle Criminal Justice Emergencies

#### BIOGRAPHY

PAOLO BARGIACCHI is Full Professor of International Law at the “Kore” University of Enna. He taught International Law, European Union Law, Human Rights at the Universities of Palermo and Messina and, since 2008, he has held the Chair of International Law at the Faculty of Economic and Legal Sciences of the “Kore” University of Enna, where he also teaches International Law of Armed Conflicts. He teaches Masters and Specialization Courses at various institutions, such as the SIOI (Italian Society for International Organization), the School of Specialization for Police Forces and the International Institute of Advanced Training for the Prevention and Fight against Organized Crime. He is a member of scientific committees of legal journals, a member of Doctoral Boards, as well as of the SIOI Human Rights Committee, and is also Corresponding Editor for the journal International Legal Materials. In particular, he is the academic coordinator of the university research unit “Kore” for the POWERS project - Jean Monnet Networks (2018-2021), co-funded by the European Union.

#### SUMMARY OF THE SPEECH

The presentation will examine the contribution of the EU, in particular through Eurojust, to the investigations on the international crimes committed in the armed conflict in Ukraine. By strengthening tools and techniques already existing and enforced against transnational crime and by implementing new ones (such as the database CICED), the EU is transforming Eurojust in an important judicial hub, even for the future and beyond the conflict in Ukraine, for the purpose of enhancing the international cooperation among States and supporting investigations and prosecutions of the International Criminal Court. Eurojust will play a crucial role in tackling the new global emergency, i.e. the commission of international crimes, and fulfilling the need to prosecute and punish the perpetrators.

##### **ANJA MATWIJKIW**

*Professor of Ethics & Human Rights at the Indiana University Northwest*

**Title of the speech:** *Value Test of “Global Europe” in the context of United Nations Law*

#### BIOGRAPHY

ANJA MATWIJKIW is Professor of Ethics & Human Rights at Indiana University Northwest and the Institute for European Studies, IU Bloomington, USA. In addition, she served as vice chair of the Shared



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Ethics Advisory Commission (SEAC) for Northwest Indiana, where she worked to promote accountability in local government. He is a member of editorial boards, international advisory committees and scientific committees for various journals. These include the *Global Community Yearbook of International Law and Jurisprudence*, *International Criminal Law Review*, *Journal of International Criminal Law*, *International Studies Journal* and *EUWEB Legal Essays – Global & International Perspectives*. She has been a research fellow at Lucy Cavendish College, University of Cambridge, Visiting Lecturer at the Human Rights Program, University of Chicago; Visiting Researcher at Copenhagen Law School. He was awarded the prestigious Fulbright Distinguished Chair of Public International Law, Raoul Wallenberg Institute of Human Rights and Humanitarian Law & Faculty of Law, Lund University, Sweden. In 2020, she joined a research program in Colombia on corruption associated with transnational crime as chair of the U.S. Working Group.

#### SUMMARY OF THE SPEECH

The contribution endeavors to critically scrutinize – in a multidisciplinary perspective – the emerging EU counter-crime policy as set forth in recent EU regulations. To the extent that the emerging EU policy relies on the same values as those promulgated under the auspices of the United Nations there is room for a range of philosophical stakeholder formulations of fundamental human rights, of security, and of the rule of law. “Global Europe” is value-aligned with the “European Perspective” and other key policies designed by the European Union. Ironically enough, however, “Global Europe” may – as a policy for international relations and cooperation – block its own future path to solidarity by adopting the way of the United Nations. Indeed, “Global Europe” is also value-aligned with United Nations rule of law developments, including the 2012 Declaration on the Rule of Law at the National and International Levels. The only specialized convention on corruption, *viz.*, the United Nations Convention Against Corruption (UNCAC) makes no provisions for macro strategies, meaning that grand corruption is *not* covered by applicable law at the international level. In turn, this means that *unless the EU takes the reins* as regards law-making that conforms with the aspirations expressed in “Global Europe” and in accordance with the United Nations Sustainable Development Goals defined in the 2030 Agenda for Sustainable Development the goal of “*ensuring policy coherence for sustainable development*” probably cannot be achieved in practice.



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#### Scheduled speeches

**VITTORIO CAMA** (collegamento da remoto)

*Dottorando di ricerca in Diritto penale presso l'Università degli Studi di Trento (Ph.D. Candidate in Criminal Law, University of Trento)*

**Title of the speech:** *Is All That Glitters Gold? Scrutinizing the EU's Revised Global Approach to Transnational Crime in the Context of Migrant Smuggling (È tutto oro quel che luccica? Un'analisi del rinnovato approccio (globale) dell'UE alla criminalità transnazionale nel contesto del traffico di migranti)*

#### **BIOGRAPHY**

VITTORIO CAMA è Dottorando di ricerca in Diritto penale presso l'Università degli Studi di Trento. Come assistente, tiene corsi su “Associazioni di tipo mafioso e concorso esterno”, “Principio di offensività” e “Diritto penale europeo”. Prima di intraprendere il dottorato, ha arricchito la sua esperienza pratica con un tirocinio presso la Suprema Corte di Cassazione a Roma, affinando la sua comprensione dei processi giudiziari e della ricerca legale. Dopo la laurea, ha frequentato corsi in “Scienze penalistiche integrate” (Università di Napoli) e “Scenari internazionali della criminalità organizzata” (Università di Milano). Recentemente ha intrapreso la pratica forense.

I suoi interessi di ricerca lo hanno portato a confrontarsi con un'ampia gamma di argomenti attraverso conferenze e seminari internazionali e nazionali, e pubblicazioni, concentrandosi su temi come le fondamenta normative del Diritto penale europeo e nazionale, la relazione tra Diritti umani e Diritto penale, presso la *Geneva Academy* e l'*Essex Armed Conflict and Crisis Hub*, il *Siracusa International Institute for Criminal Justice and Human Rights*, le Università di Bologna, Liverpool, Palermo e Torino.

#### **SUMMARY OF THE SPEECH**

In November 2023, the European Commission announced a new package of measures to combat the crime of migrant smuggling. This package notably includes a proposal for a new Directive aimed at replacing the so-called “Facilitators Package”, and a new Regulation focused on enhancing police cooperation in the prevention, detection, and investigation of migrant smuggling and human trafficking. The Commission openly acknowledges the role played by transnational organized crime (TOC) in this context, concluding that action at the national level alone cannot effectively counter it. However, to fully evaluate the new proposals and their reach for countering TOC, it is necessary to assess the criticalities of the existing instruments also in the context of the contemporary poly-crisis and thus of a multitude of global emergencies.

#### Final Debate



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