



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

**Debate 28/11/2025**

**[Professor David Schultz]** We have a series of questions now. I've also learned something interesting recently: all of us end our presentations with asking "are there any questions?" and someone said to me that's a terrible way to end a presentation, because if people can't think of a question everything ends. So, instead, I would like to maybe end it in a different way and say what threats to free speech you see out there that perhaps I didn't talk about or do you see challenges to free speech in different ways than I do? Or, I don't know, I guess maybe my observation would be: do you see new challenges out there? So, a variety of possibilities or if you just want to, I don't know, say something. I'm more than happy.

**[Professor Anna Oriolo]** Are there some questions from the public?

**[Daryna Kostiana]** Good morning. My name is Daryna and I'm a Global Studies student. I appreciated your presentation. It has given us a lot of things to think about.

**[Professor David Schultz]** Good.

**[Daryna Kostiana]** I love the example  $1+1=3$ , because it seems a reference to Orwell, because at the end of the book they say  $2+2=5$ .

**[Professor David Schultz]** Yes, OK.

**[Daryna Kostiana]** So, speaking about wartime propaganda, is there a clear line between the actions taken to prevent disinformation and censorship?

**[Professor David Schultz]** Yeah, but this is exactly the heart of what I'm trying to get at here. When we go back to my  $1+1=3$  example or to the  $2+2=5$  example, something like that. That's why I opened up my discussion here. Tell me what you think here. But I'm going to put the question back to you here. Let us say, I'm walking in front of a government building, and I hold up a sign that says  $1 + 1 = 3$ , do I have, in your opinion, do I have a right to do that?

**[Daryna Kostiana]** I think it depends on the purpose. Because people doing it with the purpose of convincing everyone that  $1 + 1 = 3$ , I don't think they have the right to do it. But if I'm doing it to protest, to underline its ridiculousness, I think I have the right to do it.

**[Professor David Schultz]** That's a great answer, it really is here. Because, maybe saying  $1 + 1 = 3$  is factually not true, but it's what you call satire or maybe humor or something like that. It's a good answer. Here's what I think is the difficulty. How would we know? Your answer hinges on my state of mind. How would we know that I am doing it for the purpose of tricking people, as opposed to satire? That's a difficult thing to figure out. Does it hinge upon motive or intent? Figuring out motives or intent is very difficult, because you can't read my mind. But I picked the  $1 + 1$  on purpose. I think all of us would agree that  $1 + 1 = 2$  is objectively the





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

correct answer. Now there's probably some place in the universe, in an Einsteinian universe, where  $1+1$  or maybe in a quantum mechanics universe where  $1 + 1$  doesn't equal 2. But we'll assume we're not talking about that there. OK, what if I wrote two different statements on the board:  $1 + 1 = 2$  or maybe  $1 + 1 = 3$ , something like that, and my other statement is: "all government officials are dishonest". Is there a difference between those statements? What I'm getting at here is, still coming back to a point you're making here, is there a difference when it comes to something that we can objectively define is true ( $1 + 1$ ) versus a matter of opinion or advocacy? And that's the difficulty, also, I think your question brings up here too. But also, is there a difference, as you're getting at it here, between propaganda and censorship? Tell me what you think here, does a country have a right to prevent propaganda?

**[Daryna Kostiana]** During wartime.

**[Professor David Schultz]** OK, but not during peacetime. Make it even more difficult now. What if, our notion of war, I think, is very physical: guns, bombs and so forth. But what if the war is not with guns and bombs, but it's just digital? Does that change the notion now? Now, the line between peace and war has gotten even thinner at this point. If one country, Russia, is spreading disinformation in Ukraine? Now, granted I know that Ukraine is facing a physical war, but let's say it's only a digital war. Will the Ukrainian government have the right to say: "this is propaganda"? Or in a war: "we're going to censor it"? What if now it's a Ukrainian citizen saying these things located in L'viv, for example? You see where I'm getting here, it's complicated. What I'm trying to do here today by the way, I'm hoping that all your brains hurt. What I mean by that is that I'm posing what I think are really tough questions, again as I said, that I don't have the answers to. So, I think you're raising an incredibly good point here, is that I think for the most part, we are going to say under most situations a democratic government or society doesn't have a right to censor. But there are points at which there are exceptions. And then again, how do we classify and say: "that's propaganda"? And does it depend on who's making that propaganda? All good questions. Again, I wish I could give you an answer to the question here. This is the stuff that I'm in the middle of trying to think about right now too.

**[Elvin Demiroz]** My name is Elvin. As the technological sphere increasingly permeates contemporary society and highly sophisticated forms of digital persuasion shape public opinion, how can we effectively safeguard the democratic process? Today, anonymity, algorithmic visibility, and invisible forms of influence make it harder to identify who is speaking and with what intentions. Second, when we impose regulatory boundaries on technological stakeholders, do we risk limiting freedom of expression, and where should these normative limits be drawn? In this context, how can we regulate digital speech responsibly, especially when we often do not even know who the speaker truly is?

**[Professor David Schultz]** I have got to ask a question here. Do you think there's a right to anonymous speech? What do you think?

**[Elvin Demiroz]** Maybe writing something about the country.





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

**[Professor David Schultz]** Let's say that I was in a non-democratic society and I wanted to protest the government. If my identity were fully known, I'm probably going to be in prison. It probably makes sense for me to be anonymous. But how about in something more approaching a democratic society, should I have a right to be anonymous? And what you're getting at is a really good question here. On the one hand, if I'm anonymous, I'm not accountable for my speech, but on the other hand, if I reveal my identity, even in a democratic society, I could be persecuted or challenged. I'm going to do an example from the United States right now. Mark Kelly is a US senator, he's from the state of Arizona. Mark Kelly was an astronaut, he was a Navy SEAL, he's a decorated war veteran and, about a week ago, he produced a video with several other members of Congress and what he said, and this is true in the United States, I don't know if it's true in other countries, by the way, under U.S. law, and under military law, you as a soldier have a right, in fact a duty, to disobey an illegal order. So, if your commander were to tell you, for example: "go kill those civilians", you actually have a right to disobey it. Alright, Mark Kelly did a video and discussed that. He's now being investigated by the Trump administration. Now, Mark Kelly is a powerful person and eventually nothing's going to happen to him as a result. But what if he were let's stay a corporal or a sergeant in the military and he had put together a video and wanted to say: "we have a right not to obey illegal orders". Should that person be able to be anonymous? On the one hand, many of us might say yes, because he, otherwise, will be persecuted or prosecuted for his free speech, but on the other hand what you're worried about is, by allowing people to be anonymous, does it make it easier to lie? Does it make it easier, go back to my example here, if I'm anonymous on the Internet I could say all day  $1 + 1$  is 3, and I've never held responsible for it, because you don't know who I am. Again, I wish I had a good answer to this question.

**[Nida Çetintaş]** When false information is spread intentionally to attack another country what kinds of problems does that create for international law? How can we define it in terms of criminal sanctions?

**[Professor David Schultz]** That's a good question. There are a couple of things to think about here: With my students in the United States, under U.S. law, I raised a similar question. I'm going to turn your question a little bit, I will eventually come back to it here. Much of our focus about freedom of expression is on the speaker, does a speaker have a right to say certain things. But let's think about it a different way: as a listener do you have a right to hear truthful information. What do you think? The reason why I pose this is that as I've been thinking about this for the last couple of years, if we think of speech like a conversation: you and I are talking, I say something, if it's false, you get to correct me. But the whole purpose of speech focuses on both the speaker and on the listener. Partly where I think we need to be moving, in terms of thinking about free speech, is focusing on the rights of listeners, the rights of people to hear truthful information. And what I think would be interesting is if we were to look at the Convention on Human Rights and to look at you know whether it is in Italy, the United States, Turkey and Brazil, do the courts need to be starting to think about how the right of a speaker to speak freely has to be balanced with the right of listeners to get truthful information? And how should international law be altered if we think that it's correct to reflect that new shifting balance that's out





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

there. That's one issue but your question also I think still gets back to the prosecution problem: how do we detect the people who are doing it? And if more and more of it now is going to be done by AI or by bots, how do we track them down? I'm on maybe two or three social media platforms myself. I get regular requests through LinkedIn or Facebook to make connections. The thing that marvels me so much, is the number of dead people who want to be my friends. And you know what I'm referring to at this point. They're long since dead I know they're dead or they're bots. How do I find out who these people really are? I don't know. Your question is good. I think, thinking about that, that shift towards the listener is part of the answer. But your question is still raising that detection issue.

**[Francesco Focillo]** I have one very short question. When talking about truthful speech, the right of the listener to hear truthful speech, isn't there a more philosophical problem of defining truth?

**[Professor David Schultz]** Yes, there is.

**[Francesco Focillo]** One thing might be true from my perspective, so isn't this a problem which permeates national and international political science and philosophy as well?

**[Professor David Schultz]** Exactly, and that's why I was starting with the 1+1 example here. Because 1 + 1, accepted the example that you gave here, where we are standing at a government meeting and standing up after the government has been drawing out lies, or something like that, I stand up and I say: "and 1 + 1 is 3", my whole point at that point, this is criticism or sarcasm. But generally, for the most part we're going to say "1 + 1 is 2". That's pretty objective to figure out that answer here. But you're right, we know from philosophy, we know from phenomenology, that a lot of knowledge is perspective based, that the world that you see (Italian, growing up in a particular place in Italy, white Caucasian, etc.) you will have very different views. You perceive the world differently and your truths are different than what I see. That becomes the underlying problem also. To some extent, tell me what you think here. I think our notions of free speech both presuppose objective truth; at the same time they also reject the idea of objective truth. What do you think?

**[Francesco Focillo]** I agree, because there is no mention of truthfulness in these categories that we give ourselves for free speech. And this, I think this might come from positivism, the attachment to objective truth and scientific knowledge. I agree with you, because I personally don't see the relations between how we define free speech and the problem of truth.

**[Professor David Schultz]** Now think about what some people consider to be the most classic exposition of the right to free speech is John Stuart Mill's on liberty. John Stuart Mill, as he's describing the case for freedom of thought and freedom of speech, keeps saying that we need to have it as part of the effort to find truth. And the reason why I bring this up here, is, do we think free speech should be more protected, because we believe that truth exists, or does freedom of speech get more protection because we think there is no truth, and therefore it's the circulation of more opinions? And if it's closer to the latter, then we now get in and I agree with you





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

that you know the epistemological problem that you're raising here: if there is no truth, well then is there really propaganda? If there is no truth, are there really lies or is it just about opinion? I think that's the sort of thing, I don't know, part of the underlying problem that we have is that, I think our doctrines of international law and domestic law about what's protected speech versus not, have a series of assumptions, you are correct, that philosophers are telling us pardon the pun here are not necessarily true.

**[Professor Anna Oriolo]** I don't have questions, but I have some reflection to share with you, but the question is for the students and the public. Because your presentation focuses on "what speech is", because we need to distinguish freedom of speech from freedom of expression. Expression is different from speech, expressing my thought is different from speech. The second thing is: the right to free speech is a right of all individuals, or whether there are some exceptions concerning the role of the individuals. And the first point is linked to the second one, are there exceptions? In my opinion, the exception to the right depends on balancing your individual rights versus the general interest or the best interest. For example: is there a difference if Michele, talking with Oscar, says: "the Holocaust didn't exist", or is there a difference, if this sentence is said by a professor teaching, talking with students, presents a paper, where there is a speech of a Professor Schultz that affirms that the Holocaust didn't exist? Is there freedom of speech in this case for you? This is a case that has been examined by the European Court of Human Rights that Professor Schultz quoted. This is the focus of Professor Schultz's paper: it is important to analyze what speech is, the difference between speech and expression, who has the right to free speech and what the exceptions are. Because some people always defend the right of expression. Other people think that there is an exception, for example, in cases of negationism. A person cannot say everything.

**[Elvin Demiroz]** This reminds me of Popper's tolerance dilemma. We are free to speak as long as it does not violate the tolerance of others.

**[Professor Anna Oriolo]** It is not a question of tolerance. You can tolerate, but you are asking, you are hearing. And if you are a minor, a child? Can I restrict your freedom of expression or not? This is the problem of all individual rights: also, freedom of expression of religion. You may prefer to wear the burqa, because you can follow the religion. Can I restrict your freedom?

**[Elvin Demiroz]** If it's for security, yes.

**[Professor Anna Oriolo]** There is no problem of security, you are in a public space. Can I decide to fire you from work, because you wear the burqa?

**[Elvin Demiroz]** If that's on the contract.

**[Professor Anna Oriolo]** OK, you know the European Court of Human Rights and the European Court of Justice have addressed these issues. And, about Francesco, there is not only scientific truth. There is also historical truth. So, there is not only scientific or philosophical truth, but also historical truth. So, in my opinion,





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

the question concerns the right at stake. Individual rights can be restricted if compared to general or best interest, like in the case of the best interest of the child, compared to individual freedom of expression. This is my personal opinion. What's yours?

**[Professor David Schultz]** This is a tough question here, because there's a famous phrase from a court opinion in the United States that was 100 years ago: Oliver Wendell Holmes Jr. was on the Supreme Court and he said, at one point: "no one has the right to falsely yell fire in a crowded theater". That he points out, and I think you're saying the same thing here, is that free speech, or even freedom of expression, you know I like the distinction you're making here, by the way, no rights are absolute. There's some point where we might have to have some trade-offs. On the one hand, I agree, speech might need to be restricted in the best interests of society, but the question becomes: who gets to make that decision, regarding what's in the best interest of society. What if the government says that it's in the best interests of our society not to let you protest in front of a government building. Or I think you mentioned this to me today, that there's some strikes going on today, or some protests going on today. What if I'm the government and I say: "it's in the best interests not to let this happen"? So, I agree with the theory about saying, that speech has to give way in some situations in the best interests of society. The question is: "who gets to decide what are those best interests" and "how do we weigh the competing my speech versus the best interests of the society"?

**[Professor Anna Oriolo]** Not the government. For us the judge is an impartial power. So, the judge, the national or the international judge. Because the international judge can also judge the national one.

**[Professor David Schultz]** Exactly. I mean, at least in Europe you have something like that. You've got the European Court of human rights. We don't have something like that in the United States. We don't have an outside the US court second guessing our courts. So, you actually might potentially be better situated in Europe than we are in the United States for that.

**[Professor Anna Oriolo]** There is the International Court of Justice, which judges not questions concerning freedom of speech, but the decision of the United States government concerning the right to life and the execution of the death penalty. For the international students: there is the LaGrand case, in which the International Court of Justice condemned the United States for violations of the Vienna Convention and required it to remedy the breach and prevent future violations by changing the internal law. So, I think that the judge could be the solution.

**[Elvin Demiroz]** Even if freedom of expression is protected, many radical ideologies are banned in democracies - for example, neo-Nazi movements in Germany or Mussolini-related political activity in Italy. But online space feels unlimited and without clear responsibility. So how can we create legal boundaries for speech in the digital sphere? And do we need new global human-rights-based ethical frameworks for technology and AI?





## 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**

**[Professor David Schultz]** Again, a tough issue, and we've already got it a little bit with social media now, but clearly, you know, in the next two years, maybe even sooner here, the even more rapid spread of the use of artificial intelligence. What as I read something like, in the first six months, or nine months, of ChatGPT coming out, it went to something like 900 million users. I mean, I'm suspecting now, between Claude, ChatGPT, a couple of others (like DeepSeek), we probably have about 2 billion people using some form of AI at this point. And then, if you look at the number of people who are actually on the Internet, it's in the billions. You put your finger exactly on the problem here. How do we amend, and this is the problem that I'm trying to raise here, how do we amend, or should we amend, because there might be some people that will say: "we don't need to make any changes to existing freedom of speech or expression law, just let everything circulate out there". If that's not the answer, the second answer is that, if we need to do these restrictions, how? I mean, those are the questions we need to be thinking about here. But what I would also argue, and I didn't spend a enough time talking about it here, I only had one slide, I actually, tell me if you folks agree or disagree with me at this point, it's ok to say "I disagree", I actually think the greater threat to free speech and freedom of expression now is not the government, it's those six or seven or eight private corporations that are controlling about 90% of the information markets in the world. Do we need some type of body of legislation that focuses on rights involving using those platforms? I think so.

**[Elvin Demiroz]** Yanis Varoufakis who is the former Minister of Economy of Greece created the term "Technofeudalism" to describe the current state of things.

**[Professor David Schultz]** I like this term a lot.



UNIVERSITÀ DEGLI STUDI DI SALERNO



Co-funded by  
the European Union



IECLO