Jean Monnet Module
EU-GLOBACT

Transnational Crime and EU Law:
towards **Glob**al **A**ction against **C**ross-border
Threats to common security, rule of law,
and human rights

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Speech by Franco Roberti

Good morning Anna, good morning everyone.

Thank you for allowing me to participate in this closing Conference of the Jean Monnet EU-GLOBACT module, after having taken part in the initial one that inaugurated the activities in 2023. I always follow the work of this University and of the Chair of International Law with deep interest and engagement.

I believe that the topic we are addressing today is extremely topical. At long last, at the level of the European institutions, despite the daily commitment to tackling seemingly more pressing emergencies – such as armed conflicts, humanitarian tragedies, and migratory flows –, the risk of sidelining justice and judicial cooperation is being overcome. On the contrary, the latter play a crucial role precisely in relation to the events affecting the borders of our European Union.

Just think of the profits that international organized crime generates as a consequence of wars, and the illicit secondary economy that will emerge during the reconstruction phase of devastated territories, starting with Ukraine. The trafficking of weapons and goods of various kinds, together with the attempts by criminal syndicates to influence state institutions, represent concrete threats that demand structured responses.

In relation to this complex reality, the European Parliament adopted a comprehensive global strategy to combat organized crime for the five-year period 2021-2026. This path runs parallel to the review process of the United Nations Palermo Convention, launched in 2020 with the "Falcone Resolution": this is how the contracting parties to the Palermo Convention named the resolution, which stakes everything on cyber and economic-financial investigations, today the true nerve center of transnational enforcement action.

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By a strange twist of fate, however, just as we were beginning to acknowledge the need for better coordination to face these new developments in the operations of illicit networks – from artificial intelligence to cyber data, up to financial flows and money laundering –, a profound contrast sharpened within the European institutions. On one side are the countries pursuing full political integration of Member States, inspired by the principle of unity in diversity enshrined in Article 4 of the Lisbon Treaty; on the other side, there remain positions that view Europe exclusively as an "ATM" – as has been said regarding Orbán's Hungary – or at any rate as an opportunity to obtain economic benefits, but nothing more. This polarization hinders the path toward the harmonization of legal systems, which would instead be indispensable to counter modern criminal strategies.

Speaking of artificial intelligence, the Union has issued a specific directive on the matter and has established the European Center for Algorithmic Transparency. This safeguard is fundamental for governing a technological tool that acts as a true double-faced Janus: if, on one hand, artificial intelligence benefits criminal organizations, especially within money laundering circuits, on the other hand, it constitutes an by now indispensable and irreplaceable aid for law enforcement institutions.

This also applies to economic-financial investigations, the asset freezing, and the confiscation of illicit wealth. In March 2024, we approved the new directive on confiscation, which requires Member States to carry out an internal structural adaptation for the identification and tracking of assets, introducing mechanisms that mirror the model of our asset-related prevention measures. Among these, the provision for the freezing and confiscation of assets of illicit origin stands out, even independently of a final criminal conviction against the holder.

With a view to enhancing operational synergies, the European Public Prosecutor's Office (EPPO) represents an extraordinary opportunity. Article 86 of the Lisbon Treaty expressly contemplates the possibility of extending the powers of the European Public Prosecutor, moving beyond the perimeter of offenses affecting only the financial interests of the Union to include international organized crime offenses.

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Allow me, Anna, as the scientific Coordinator of this Module, to join Professor Di Stasi in praising your monograph, *"Ne bis in idem, Diritto internazionale e Interazione tra ordinamenti" (Ne bis in idem: International Law and Interaction between Legal Systems)*. It is a work of extraordinary value. I myself realized the profound relevance of this principle, which is sometimes tended to be considered a marginal aspect; on the contrary, it is an indispensable cornerstone if we want to talk seriously about international cooperation, to verify the state of relations between concurrent national and international jurisdictions in the adjudication of the same transnational crimes. It is necessary to examine these dynamics to assess whether it is possible to assert a primacy of supranational law over domestic law, or an equality based on a horizontal criterion.

I find the thesis you brilliantly support in the volume to be fundamental, namely the need for structured coordination between supranational and national authorities, based on information exchange and prior consultation to prevent the risk of *ne bis in idem*. Not all profiles can then fully fall within this principle, starting with the complex operation aimed at verifying when a *bis* and when an *idem* is correctly configured.

This positive and proactive complementarity between jurisdictions, by preventing potential conflicts and procedural distortions, definitely benefits international cooperation and the effectiveness of the fight against organized crime. I think it will be necessary to further deepen these reflections, which have been at the center of the EU-GLOBACT sessions, because this is one of the central nodes of modern criminal justice.

I will stop here, thank you once again for the invitation, and let us move forward with the proceedings, thank you.

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