



CALL FOR PAPERS

Economic crime, environmental crime and organized crime: prevention and repression between national and European Union law

The creation of a freedom, security and justice area as the specific objective of the European Union's policies and activities (Title V of the TFEU - Articles 67-76), which guarantees fundamental freedoms for the European citizens, such as the freedom of movement for persons, in addition to the freedom of movement for workers, goods, services and capital of the European single market, has also increased the opportunities for proliferation of particularly alarming types of crime, which have progressively assumed transnational dimension.

The need to protect supranational legal interests of an institutional nature (such as the financial interests, the smooth functioning and the impartiality of the administration, the European Union's currency) has progressively been followed by the need to provide a supranational protection, even through criminal law, to legal interests - having traditionally a national dimension - which have become of supranational interest as a result of the development of European construction and related policies such as environment, competition and the smooth functioning of the market, the transparency of information and financial markets, the investors' confidence, consequently exposed to new or greater forms of aggression, which can be effectively tackled only through supranational instruments and activities.

Such need of protection has originally taken the form of the adoption of legal instruments of first and third pillar (through the so-called "double text", which means both directive and framework decision), and some of them have already been transposed into EU directives, after the entry into force of the Treaty of Lisbon.

The primary aim of the regulatory instruments adopted at the supranational level stems from the need to harmonize the Member States legislations, both with regard to criminal offences and level of penalties, in order to ensure a better judicial cooperation between States and mutual recognition of judicial measures and decisions and avoid the "forum shopping" phenomenon enhanced by different provisions setting forth criminal offences and different levels of sanctions between Member States.

However, the provision of penalties in binding EU legal instruments has various theoretical and practical implications in terms of respect for the general principles governing the criminal law and the fundamental rights, which must be guaranteed both at national and supranational level.

The complexity of these matters is emblematically represented by the so-called “white collars crimes”, with respect to which freedoms guaranteed at supranational level increased the trans-nationalisation of illegal practices and activities, facilitating their perpetration and making the prosecution more difficult. Within this wide category, some examples can be considered corruption, money-laundering, false accounting fraud, market abuse, which required the enactment of supranational legislation, such as respectively the Framework Decision 2003/568/JHA about corruption in the private sector. A set of directives concerning the prevention and repression of money laundering (the last one is the Fourth Directive 2015/849/EU, since negotiations about the Fifth Directive are still underway); the Regulation 596/2014 and the Directive 2014/57 concerning the market abuse.

With particular reference to corruption, it should be stressed that the recent adoption of the Directive concerning the protection of EU financial interests through the criminal law (PIF 2017/1371/EU) has introduced a specific obligation to penalize the corruption against EU financial interests (Article 4). Furthermore, there are several legal instruments to tackle corruption in the public sector, both where corruption has transnational and international nature (Convention on the Fight against Corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and the United Nations Convention against Corruption of 2003, to which the European Union is party).

In environmental matter the last legislative initiative is represented by the adoption of Directive 2008/99/EC, which contains several obligations of criminalisation, aimed at approximating criminal offences and harmonising levels of sanctions.

As for organized crime, the empirical-criminological studies carried out in the last few decades show the *exportation* at a supranational level of some criminal patterns typical of the organized crime, well known in certain legal systems such as the Italian one. The need to adapt criminal organisation's activities and operating schemes to new European and global scenarios has progressively changed and diversified them. As a result, the organized crime started infiltrating the legal economy, in particular laundering large assets deriving from many illegal activities managed by the criminal organisation (e.g. drug, human and arms trafficking) and investing them in legal economic activities. Recently, the the decision-making processes' manipulation within the public administrations, achieved by systematic and systemic large-scale corrupt



practices, in order to award public contracts and procurements to companies or institutions related to the organized crime, has become a quite relevant criminal operating scheme of the organisations.

The need to combat these dangerous and alarming criminal phenomena has called for a common answer at the EU level, with the adoption of a common action in 1998 and subsequently of a Framework Decision 2008/841/JHA, which also takes into account the United Nations Convention on transnational organized crime adopted in Palermo in 2000.

The mixture of obligations to provide for penalties embodied both in mandatory and not binding legislative instruments adopted at European and international level in these matters makes the transposition and implementation at the national level particularly difficult.

This holds true, in particular, since a fair balance between the need for protection of legal interests and the necessity to respect domestic fundamental principles and rights, in the light of the recognition and interpretation they have at supranational level, must be struck.

Such legislative framework has been further strengthened by the recent adoption of Regulation 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor Office (EPPO), which presents new evolutionary perspectives on the prosecution of the above mentioned crimes, outlining new scenarios in terms of bolstering the judicial cooperation in criminal and police matters.

The complexity and the particular sensitiveness of such issues stimulates the *Centro di Diritto Penale Europeo* of Catania - always engaged in the study and dissemination of these topics in the scientific community and among law practitioners - to publish a call for papers, within the "*Erasmus+ - Jean Monnet Support to Associations - Re-launching the Centro as a leading cultural association to foster education and legal training in European Criminal Law*" programme.

The call for papers represents the final moment of a long discussion held during 2017 even through the organisation of a set of seminars and a final conference (planned for the 12th and 13th January 2018) on such issues.

In such a context, the call aims at collecting contributions from academics and law experts from any nationality concerning the most relevant profiles about

- Corruption and organized crime in the European perspective
- False accounting fraud: EU obligations and implementation by Italian legal system
- Market abuse: old issues and new problematic profiles in the European perspective
- *Ne bis in idem* and market abuse
- Money laundering and organized crime: combating and cooperating at national and European level
- Self-laundering. Critical profiles and new perspectives in the light of the proposal of the Fifth European anti-money laundering Directive
- Protection of the environment through criminal law: Directive 2008/99/EC and implementation in the Italian legal system
- Adequacy and effectiveness of the Italian legislation against the environmental crimes (L. 68/2015)
- Definition of organized crime in the light of European and international legislative instruments.

If relevant, the contributions could also deal with the impact of the EPPO Regulation on the analysed issues and/or the perspectives concerning a possible extension of the European Public Prosecutor Office's competence (Article 22) to environmental, economic (*lato sensu*) and organized crime.

The submitted papers will be published, under the condition of a positive assessment, aiming to check, among other qualities, originality and innovativeness, carried out through a special peer review procedure, in a volume of the series "*Pubblicazioni del Centro di Diritto Penale Europeo*", edited by A. Giuffr  Editore. The volume will also collect proceedings of the seminars concerning the same topic, organized by the *Centro di Diritto Penale Europeo* during 2017 and of the final conference planned for the 12th and 13th January 2018.

Papers, in Italian or English, not exceeding 50.000 characters (including spaces), must be sent to the email address associazione.cdpe@gmail.com **by 15th February 2018**, and must contain name, last name and email address of the Author, the institution (if any), and a short *curriculum vitae*.

To Authors, whose papers will be selected for the publication, will be promptly sent an email, communicating the results of the selection procedure, any correction required by the reviewers, the editorial guidelines, and the deadline for the submission of revised contributions.

Should you require any further information about participation, please send an email to associazione.cdpe@gmail.com .