



Freedom, Security & Justice:
European Legal Studies

Rivista giuridica di classe A

2026, n. 2

EDITORIALE
SCIENTIFICA



DIRETTRICE

Angela Di Stasi

Ordinario di Diritto Internazionale e di Diritto dell'Unione europea, Università di Salerno
Titolare della Cattedra Jean Monnet 2017-2020 (Commissione europea)
"Judicial Protection of Fundamental Rights in the European Area of Freedom, Security and Justice"

CONSIGLIO SCIENTIFICO

Giandonato Caggiano, Ordinario f.r. di Diritto dell'Unione europea, Università Roma Tre
Sergio Maria Carbone, Professore Emerito, Università di Genova
Roberta Clerici, Ordinario f.r. di Diritto Internazionale privato, Università di Milano †
Nigel Lowe, Professor Emeritus, University of Cardiff
Paolo Mengozzi, Professore Emerito, Università "Alma Mater Studiorum" di Bologna - già Avvocato generale presso la Corte di giustizia dell'UE
Massimo Panebianco, Professore Emerito, Università di Salerno
Nicoletta Parisi, Ordinario f.r. di Diritto Internazionale, Università di Catania - già Componente ANAC
Guido Raimondi, già Presidente della Corte EDU - già Presidente di Sezione della Corte di Cassazione
Silvana Sciarra, Professore Emerito, Università di Firenze - Presidente Emerito della Corte Costituzionale
Giuseppe Tesaro, Professore f.r. di Diritto dell'UE, Università di Napoli "Federico II" - Presidente Emerito della Corte Costituzionale †
Antonio Tizzano, Professore Emerito, Università di Roma "La Sapienza" - Vice Presidente Emerito della Corte di giustizia dell'UE
Ennio Triggiani, Professore Emerito, Università di Bari †
Ugo Villani, Professore Emerito, Università di Bari

COMITATO EDITORIALE

Maria Caterina Baruffi, Ordinario di Diritto Internazionale, Università di Bergamo
Alfonso-Luis Calvo Caravaca, Catedrático Jubilado de Derecho Internacional Privado, Universidad Carlos III de Madrid
Ida Caracciolo, Ordinario di Diritto Internazionale, Università della Campania - Giudice dell'ITLOS
Pablo Antonio Fernández-Sánchez, Profesor Emérito de Derecho Internacional, Universidad de Sevilla
Inge Govaere, Director of the European Legal Studies Department, College of Europe, Bruges
Paola Mori, Ordinario f.r. di Diritto dell'Unione europea, Università "Magna Graecia" di Catanzaro
Lina Panella, Ordinario f.r. di Diritto Internazionale, Università di Messina
Lucia Serena Rossi, Ordinario di Diritto dell'UE, Università "Alma Mater Studiorum" di Bologna - già Giudice della Corte di giustizia dell'UE



COMITATO DEI REFEREES

Bruno Barel, Associato f.r. di Diritto dell'Unione europea, Università di Padova **Marco Benvenuti**, Ordinario di Istituzioni di Diritto pubblico, Università di Roma "La Sapienza"
Fiammetta Borgia, Ordinario di Diritto Internazionale, Università di Roma "Tor Vergata" **Francesco Buonomenna**, Associato di Diritto dell'Unione europea, Università di Salerno
Raffaele Cadin, Ordinario di Diritto Internazionale, Università di Roma "La Sapienza" **Ruggiero Cafari Panico**, Ordinario f.r. di Diritto dell'Unione europea, Università di Milano
Federico Casolari, Ordinario di Diritto dell'Unione europea, Università "Alma Mater Studiorum" di Bologna **Luisa Cassetti**, Ordinario di Istituzioni di Diritto Pubblico, Università di Perugia
Anna Cavaliere, Associato di Filosofia del diritto, Università di Salerno **Giovanni Cellamare**, Ordinario f.r. di Diritto Internazionale, Università di Bari
Giuseppe D'Angelo, Ordinario di Diritto e religione, Università di Salerno **Sara De Vido**, Ordinario di Diritto Internazionale, Università Ca' Foscari Venezia **Valeria Di Comite**, Ordinario di Diritto dell'Unione europea, Università di Bari "Aldo Moro" **Marcello Di Filippo**, Ordinario di Diritto Internazionale, Università di Pisa
Carmela Elefante, Associato di Diritto e religione, Università di Salerno **Rosario Espinosa Calabuig**, Catedrático de Derecho Internacional Privado, Universitat de València **Valentina Faggiani**, Professoressa Titular de Derecho Constitucional, Universidad de Granada
Caterina Fratea, Associato di Diritto dell'Unione europea, Università di Verona **Ana C. Gallego Hernández**, Profesora Ayudante de Derecho Internacional Público y Relaciones Internacionales, Universidad de Sevilla
Pietro Gargiulo, Ordinario f.r. di Diritto Internazionale, Università di Teramo
Francesca Graziani, Associato di Diritto Internazionale, Università della Campania "Luigi Vanvitelli" **Giancarlo Guarino**, Ordinario f.r. di Diritto Internazionale, Università di Napoli "Federico II" **Elsbeth Guild**, Associate Senior Research Fellow, CEPS **Victor Luis Gutiérrez Castillo**, Profesor de Derecho Internacional Público, Universidad de Jaén
Ivan Ingravalle, Ordinario di Diritto Internazionale, Università di Bari **Paola Ivaldi**, Ordinario di Diritto Internazionale, Università di Genova **Luigi Kalb**, Ordinario f.r. di Procedura Penale, Università di Salerno
Gianfranco Liace, Associato di Diritto dell'economia, Università di Salerno **Luisa Marin**, Ricercatore di Diritto dell'UE, Università dell'Insubria **Simone Marini**, Associato di Diritto dell'Unione europea, Università di Pisa **Fabrizio Marongiu Buonaiuti**, Ordinario di Diritto Internazionale, Università di Macerata **Rostane Medhi**, Professeur de Droit Public, Université d'Aix-Marseille
Michele Messina, Ordinario di Diritto dell'Unione europea, Università di Messina-Esperto Giuridico presso la Rappresentanza Permanente d'Italia a Bruxelles **Stefano Montaldo**, Associato di Diritto dell'Unione europea, Università di Torino **Violeta Moreno-Lax**, Senior Lecturer in Law, Queen Mary University of London
Claudia Morviducci, Professore Senior di Diritto dell'Unione europea, Università Roma Tre **Michele Nino**, Ordinario di Diritto Internazionale, Università di Salerno
Criseide Novi, Ordinario di Diritto dell'Unione europea, Università di Foggia **Anna Oriolo**, Associato di Diritto Internazionale, Università di Salerno **Leonardo Pasquali**, Ordinario di Diritto internazionale, Università di Pisa **Piero Pennetta**, Ordinario f.r. di Diritto Internazionale, Università di Salerno **Francesca Perrini**, Associato di Diritto Internazionale, Università di Messina
Gisella Pignataro, Associato di Diritto privato comparato, Università di Salerno **Emanuela Pistoia**, Ordinario di Diritto dell'Unione europea, Università di Teramo
Anna Pitrone, Associato di Diritto dell'Unione europea, Università di Messina **Concetta Maria Pontecorvo**, Ordinario di Diritto Internazionale, Università di Napoli "Federico II" **Pietro Pustorino**, Ordinario di Diritto Internazionale, Università LUISS di Roma **Santiago Ripol Carulla**, Catedrático de Derecho internacional público, Universitat Pompeu Fabra Barcelona
Angela Maria Romito, Associato di Diritto dell'Unione europea, Università di Bari **Gianpaolo Maria Ruotolo**, Ordinario di Diritto Internazionale, Università di Foggia
Teresa Russo, Associato di Diritto dell'Unione europea, Università di Salerno **Alessandra A. Souza Silveira**, Diretora do Centro de Estudos em Direito da UE, Universidade do Minho **Ángel Tinoco Pastrana**, Profesor de Derecho Procesal, Universidad de Sevilla
Sara Tonolo, Ordinario di Diritto Internazionale, Università degli Studi di Padova
Chiara Enrica Tuo, Ordinario di Diritto dell'Unione europea, Università di Genova **Talitha Vassalli di Dachenhausen**, Ordinario f.r. di Diritto Internazionale, Università di Napoli "Federico II" **Alessandra Viviani**, Ordinario di Diritto Internazionale, Università di Siena
Valentina Zambrano, Associato di Diritto Internazionale, Università di Roma "La Sapienza" **Alessandra Zanobetti**, Ordinario f.r. di Diritto Internazionale, Università "Alma Mater Studiorum" di Bologna

COMITATO DI REDAZIONE

Angela Festa, Docente incaricato di Diritto dell'Unione europea, Università della Campania "Luigi Vanvitelli"
Anna Iermano, Associato di Diritto Internazionale, Università di Salerno
Daniela Marrani, Associato di Diritto Internazionale, Università di Salerno
Rossana Palladino (Coordinatore), Associato di Diritto dell'Unione europea, Università di Salerno

Revisione linguistica degli abstracts a cura di

Francesco Campofreda, Dottore di ricerca in Diritto Internazionale, Università di Salerno





Indice-Sommario 2026, n. 2

Editoriale

La riforma della legislazione sulla cittadinanza tra Corte costituzionale e Corte di giustizia dell'Unione europea p. 1
Bruno Barel

Saggi, Articoli e Commenti

Free movement of persons in the agreement between the EU and the United Kingdom in respect of Gibraltar. Special status of military personnel p. 21
Pablo Antonio Fernández Sánchez

Storia diplomática: Italia-Europa-Occidente p. 44
Massimo Panebianco

¿Hacia un modelo de Estado híbrido? Entre *court-packing* e intentos de revertir la *backsliding* p. 53
Valentina Faggiani

Vulnerabilità digitale del minore e forme di tutela nel contesto europeo p. 93
Gisella Pignataro

The case law of the European Court of Human Rights regarding contested territories: “Differentiated” jurisdiction as a panacea or as an Achilles’s heel? p. 120
Elisa Ruozzi

The EU legal framework on social security for migrants: A comparative assessment of national practices p. 139
Paolo Iafrate

Il danno ambientale sistemico e la soglia di gravità: tra qualificazione giuridica e tutela giurisdizionale p. 163
Adelaide Francesca Daniela Luminari



FOCUS

The EU as a Global Security Provider: Countering Transnational Crime and New Cooperation Architectures

Collected Papers of the Jean Monnet Module (2023-2026) Transnational Crime & EU Law: Towards Global Action against Cross-border Threats to Common Security, Rule of Law and Human Rights (EU-GLOBACT) – (Coordinator: Prof. Dr. Anna Oriolo)

Presentazione del Focus/Focus Overview
Anna Oriolo

p. 185

Parte I

Contrasto alla criminalità transnazionale e minacce globali/Countering Transnational Crime and Global Threats

Traffico illecito di armi via mare, criminalità transnazionale e sicurezza globale: verso un nuovo paradigma di legalità universale
Anna Oriolo

p. 191

The tragedy of the global commons in the age of artificial intelligence: Illegal mining, transnational crime, and the future of EU global enforcement
David Schultz

p. 216

The European legal framework on the return of cultural objects: An effective tool to foster civil and administrative cooperation between EU Member States?
Fulvia Staiano

p. 241

Il ruolo degli Stati nella prevenzione e nella repressione degli illeciti contro il patrimonio culturale subacqueo: obiettivi e strumenti comuni tra la Convenzione UNESCO del 2001 e le politiche dell'Unione europea
Patrizia Vigni

p. 257

Parte II

Nuove architetture di cooperazione e strumenti di contrasto dell'Unione europea/New Cooperation Architectures and Enforcement Tools of the European Union

Il principio di fiducia reciproca nella cooperazione giudiziaria penale a dieci anni dal caso *Aranyosi*. Alcune considerazioni sull'attualità del “doppio test” alla luce della sentenza *Commissione c. Ungheria (Valeurs de l'Union)*
Angela Festa

p. 281

Intelligence, diritti umani e sicurezza: criticità e prospettive in ambito internazionale ed europeo
Francesco Focillo

p. 312



War-crimes investigations: New technologies, new complexities, new vulnerabilities. A strategic shortfall or evolutionary opportunity for NATO p. 334
Luigi Bramati

AI tools for combating transnational crime within the EU p. 345
Roxana Matefi

Parte III

Responsabilità e giustizia penale/Accountability and Criminal Justice

Luci e ombre (soprattutto) occidentali sul consolidamento della giustizia penale internazionale p. 355
Paolo Bargiacchi

The EU's cross-border cybercrime enforcement and the limits of extraterritorial jurisdiction p. 388
Heybatollah Najandimanesh

La vittima di tratta al centro della sicurezza in Europa tra standard CEDU e nuove sfide nell'era digitale p. 410
Anna Iermano

La regolamentazione delle catene di approvvigionamento in Europa come strumento per combattere la criminalità: dall'opposizione alla convergenza dei modelli francese e italiano p. 442
Virginie Mercier

La responsabilità penale degli enti creditizi nella gestione delle misure restrittive UE: tra obblighi di garanzia e nuove fattispecie sovranazionali di incriminazione p. 453
Carmine Renzulli

Parte IV

Diritti umani e minacce transfrontaliere/Human Rights and Cross-Border Threats

La *transnational repression* quale minaccia “rinnovata” a diritti umani e sicurezza: la necessità di una risposta mirata da parte dell'Unione europea p. 465
Stefano Busillo

Children pornography, online sextorsion, revenge porn: the provisions of Greek penal code and the EU regulatory developments p. 507
Georgios Nouskalis

Intelligenza artificiale e “fenomeno religioso” nel prisma dei diritti umani p. 518
Daniela Marrani

Postfazione/Afterword p. 539
Angela Di Stasi

Appendice p. 541
EU-GLOBACT Policy Recommendations and Guidelines
Francesco Focillo, Emanuele Sorgente



EU-GLOBACT POLICY RECOMMENDATIONS AND GUIDELINES

Francesco Focillo*, Emanuele Sorgente**

This document gathers, in the form of a proactive synthesis, the findings and reflections that emerged during the three years of activity of the Jean Monnet Module EU-GLOBACT. The basis is constituted by the responses provided, under conditions of total anonymity, to the questions posed to the experts, academics, and speakers who animated the various meetings of the Project.

The evaluations and suggestions that emerged have been reorganized according to a precise logical-legal framework divided into three sections ordered by increasing strategic relevance.

1. *Overview of Critical Issues*: an analytical examination isolating the problematic nodes, regulatory asymmetries, and current limitations encountered in countering transnational crimes.
2. *General Strategic Recommendations*: a section identifying the intervention mechanisms and operational methodologies that specialists deem indispensable to strengthen counter-activities.
3. *Guidelines for European Union Action*: specifically, a core set of proposals addressed to EU institutions, regarding both internal action and its role on the global stage.

1. Framework of Criticalities in EU Action

From the analysis of the inputs and opinions collected during the three-year activities of EU-GLOBACT several structural obstacles affecting the effectiveness of the fight against transnational crime clearly emerge, as listed below.

1. *Fragmentation of national legal systems*. The main limitation lies in the profound regulatory differences among Member States. This disharmony hinders the application of the principle of mutual recognition, affecting both the definition of offenses and counter-procedures. This results in severe delays in activating

* Ph.D. Student in Legal Sciences (International, European, and Comparative Law Curriculum), University of Salerno; Member of the Research Staff of the Jean Monnet Module EU-GLOBACT.

** Master's Degree in Law, University of Salerno; Member of the Communication and External Relations Staff (CERS) of the Jean Monnet Module EU-GLOBACT.

established operational instruments such as the European Investigation Order (EIO) or the European Arrest Warrant (EAW).

2. *Jurisdictional conflicts and bureaucratic stalemates.* When an investigation simultaneously involves multiple countries, determining which judicial authority should proceed on a priority basis proves complex. Current coordination mechanisms do not always prevent overlapping and duplication of investigations, exposing proceedings to the risk of violation of the *ne bis in idem* principle.
3. *The digital investigation gap.* Faced with organizations routinely employing encrypted communications and fragmented virtual financial circuits, investigative authorities clash with the obsolescence of traditional mutual legal assistance procedures. The timeframes of international bureaucracy are structurally incompatible with the volatility of digital evidence.
4. *Infiltration into environmental sectors and ecological transition.* Transnational crime exploits the disparity in criminal sanctions and the lack of uniform controls among Member States to manage the illicit trafficking of hazardous waste and infiltrate ecological transition funds (*green laundering*).
5. *Margins for forum shopping.* Criminal networks exploit delays and asymmetries in the transposition of European regulations. By shifting financial assets and logistics bases toward territories characterized by laxer asset controls or opaque corporate regimes, organized groups create distortions in the single market and neutralize the action of more rigorous States.
6. *Exclusively securitized approach to migration.* External border management focuses almost exclusively on criminal and repressive responses. This approach ends up hitting the weakest link in the migratory chain without impacting the actual financial flows of smuggling, isolating judicial action from economic and cultural cooperation policies with the territories of origin.
7. *Limitations in information exchange outside the EU (Maghreb and Libya).* Cooperation between the European Union and the authorities of neighbouring Countries suffers from the absence of stable operational agreements. In unstable contexts such as the Maghreb area, the lack of solid institutional interlocutors and the disparity in rights protection standards block at birth the sharing of financial information necessary to dismantle criminal networks.
8. *Lack of binding international instruments.* On a transnational level, the effectiveness of criminal judicial cooperation within the European Union is weakened by the systematic reliance on non-binding instruments (soft law) in corporate matters. Global treaties, such as the Conventions against corruption and against organized crime, show severe structural limitations in pursuing the grand corruption shielding the main criminal cartels.

9. *Vulnerability of logistics chains and maritime transport.* Major commercial ports and intermodal hubs of the Union suffer from severe flaws in customs control systems and risk analysis. Transnational networks exploit these weaknesses to insert illicit flows of all kinds (drugs, weapons, waste, counterfeit goods, and chemical precursors) within global legal trade routes.
10. *Limitations of global operational cooperation outside EU borders.* Investigative coordination mechanisms slow down when criminal networks operate outside European territory. There is a lack of a fluid legal framework to project advanced tools, such as simultaneous investigations and intelligence sharing, toward worldwide organizations and third Countries.

2. General Strategic Recommendations

To overcome the highlighted limitations, the contributions of specialists converge on a series of interventions as follows.

1. *Uniform classification of transnational offenses.* To overcome internal fragmentation, it is indispensable to promote rigorous harmonization and a common classification of criminal offenses among Member States, reducing interpretive discretion that slows down the execution of the EAW and the EIO.
2. *Immediate data cross-checking and centralization of agencies.* To prevent overlaps and violations of the *ne bis in idem* principle when an investigative action involves multiple States, it is necessary to move past the logic of fragmented investigations by activating common investigative tables at the regional level. Agencies such as Eurojust, Europol, and EPPO must be able to rely on systems for interconnection and immediate data cross-checking.
3. *Technological update of emergency procedures.* It is necessary to define operational guidelines for the stabilization and immediate acquisition of cross-border data flows. National authorities must adopt protocols for the rapid freezing of volatile computer data prior to the activation of traditional mutual legal assistance requests, thereby reducing investigative response times.
4. *Economic-financial approach to environmental crimes.* It is crucial to introduce standardized asset investigation methodologies to trace financial flows generated by eco-mafias, targeting the front corporate structures utilized for the illicit disposal of waste.
5. *Asset flow analysis platforms.* Law enforcement authorities must equip themselves with advanced tools for the real-time mapping and correlation of suspicious capital movements. It becomes fundamental to structure standardized cooperation channels with telecommunication network operators and *cloud* service providers to accelerate the acquisition of digital evidence, without compromising defense guarantees.

6. *Introduction of the Legal Firewall, fund conditionality, and SAR coordination.* Regarding the fight against smuggling networks, a legal shield (firewall) is needed to untie victim status from irregular stay. Politically, the provision of economic aid must be subordinated to the respect for the fundamental rights of migrants and asylum seekers, while the management of Search and Rescue (SAR) zones must shift to a central coordination (Frontex) to remove it from a purely repressive approach.
7. *New models of international capacity building.* It is important to promote joint training modules with partner Countries of the Southern shore (Maghreb and Libya) to align local judiciary and police forces with European standards on fair trial and data protection. This operational transfer of competences is the only way to legitimize investigative channels on the ground for tracking illicit flows.
8. *Overcoming global conventional asymmetries.* Experts suggest promoting the adoption of multilateral binding protocols that overcome the non-prescriptive nature of international corporate soft law. It is necessary to define minimum common standards for the transparency of the beneficial owners of legal entities in partner Countries, preventing the use of corporate screens to protect major cartels.
9. *Digital shielding of transport nodes and commercial flows.* Implement integrated systems for monitoring and technological tracking in the main maritime and land hubs of the Union. It is necessary to standardize automated customs inspection criteria to intercept illicit cargoes, without blocking the legal supply chain of goods.
10. *Internationalization of common investigative tools.* Promote the extension of Joint Investigation Teams (JITs) on a global scale, signing advanced operational agreements to stably integrate the action of EU agencies with global partners and major international agencies.

3. Guidelines for European Union Action

The reorganization of the collected indications outlines ten action directives for European institutions.

1. *Overcoming the double criminality control.* The EU must push toward the creation of a common procedural framework for the most serious transnational crimes, ensuring that evidence legally acquired in one Member State is immediately and unequivocally admissible in courts throughout the Union, resolving at the root the issue of internal regulatory differences.
2. *Expanding the competences of the European Public Prosecutor's Office (EPPO).* The tool to resolve conflicts when an investigation touches multiple countries is the extension of EPPO's mandate beyond PIF offenses, including complex

transnational crimes, terrorism, and trafficking. Centralizing criminal prosecution in a single supranational body prevents the duplication of trials across different Member States.

3. *Unitary balance of power with web service providers.* The European Union must establish itself as the sole interlocutor and regulatory authority toward telecommunication and *cloud* service providers. Backed by the weight of the single market, the Union must impose strict and sanctionable obligations of direct judicial cooperation on anyone operating within EU territory.
4. *Rigorous application of the Environmental Crime Directive.* The EU must strengthen Europol's analytical skills to intercept cross-border routes of environmental crimes and impose maximum and harmonized criminal sanctions against waste trafficking on Member States.
5. *Civil and criminal liability along the supply chain.* Full implementation must be given to European directives on corporate due diligence to eliminate the competitive advantages of *forum shopping*. Companies operating in the single market must be legally accountable for illicit infiltrations along the entire supply chain, eliminating territories with laxer asset controls from the commercial circuits of the single market.
6. *Investments in co-development in Countries of origin.* Leveraging its political and cultural weight, the EU must fund university hubs and vocational training schools directly in the countries of departure of migratory flows. Qualifying the local workforce (for instance, in the agrifood sector or technical compartments) offers real development alternatives and deprives exploitation networks of ground.
7. *Standardization of guarantees in bilateral treaties.* The European Union must promote agreements with neighbouring partners of the Maghreb and Libyan area that include binding clauses on data protection and procedural rights of persons under investigation, setting such minimum protections as an absolute legal precondition to unblock the exchange of financial information and overcome institutional instability.
8. *Promotion of the EU criminal cooperation model abroad.* The European Union must champion the export of the mutual recognition model and centralized investigations within international fora, conditioning bilateral commercial relations with third Countries upon the signing of strict operational agreements on countering grand corruption and lifting the corporate veil.
9. *Establishment of the European Ports Alliance and customs intelligence.* It is necessary to fund the security and automation of EU commercial ports through the use of artificial intelligence algorithms applied to container scanning. The EU must impose minimum safety standards and uniform sanctions on all logistics operators accessing the single market.

10. *Institutionalization of operational pacts with Interpol and UNODC.* It is crucial to strengthen the external role of Eurojust to fund and coordinate Joint Investigation Teams (JITs) bilateral and multilateral with third Countries, defining standard protocols for data exchange with Interpol and the United Nations Office on Drugs and Crime (UNODC).