

*An assessment of the environmental impact of business ventures and projects demands transparent political processes involving a free exchange of views. On the other hand, the forms of corruption which conceal the actual environmental impact of a given project, in exchange for favours, usually produce specious agreements which fail to inform adequately and to allow for full debate. (§ 182)*

*Often, politics itself is responsible for the disrepute in which it is held, on account of corruption and the failure to enact sound public policies. If in a given region the state does not carry out its responsibilities, some business groups can come forward in the guise of benefactors, wield real power, and consider themselves exempt from certain rules, to the point of tolerating different forms of organized crime, human trafficking, the drug trade and violence, all of which become very difficult to eradicate. (§ 197)*

On countless occasions Pope Francis clearly and unequivocally condemned the mafia, corruption and organised crime:

*(...) I feel that I cannot conclude without saying a word to the absent bosses today, to those absent but central figures: the men and women of the mafia. Please, change your lives, convert, stop, cease to do evil! We are praying for you. Convert, I ask it on my knees; it is for your own good.<sup>31</sup>*

*(...) When adoration of money is substituted for adoration of the Lord, this pathway leads to sin, to personal interest and exploitation; when God, the Lord, is not adored, we become adorers of evil, like those who live by dishonesty and violence. (...) Faith can help empower us to respond to these needs. Those who follow this evil path in life, such as members of the mafia, are not in communion with God: they are excommunicated!<sup>32</sup>*

*Corruption stinks! A corrupt society stinks! A Christian who lets corruption enter him is not Christian, he stinks!<sup>33</sup>*

*It could help to apply, in a way suited to individual countries, continents and legal traditions, the Italian practice of confiscating the ill-gotten gains of traffickers and criminals and destining them to the needs of society and, in particular, to the rehabilitation of victims.<sup>34</sup>*

#### 4 Prospects for action

Knowledge about an issue and the ethical judgment resulting from this, in the light of the principles and tradition of Christian ethics and morality, call on our own conscience and invite us to take action, failing which this knowledge and judgment can only remain a pointless intellectual exercise. The same holds true for the topics addressed in this memorandum: it seems useful to acknowledge that there are actions linked to individual behaviour while others are rather linked to collective behaviour.

<sup>31</sup> Prayer vigil on the eve of the 19th „Memorial and Commitment Day“ organised by the „Liberati“ Foundation of Don Luigi Ciotti, Church of San Gregorio VII, Rome, 21 March 2014.

<sup>32</sup> Homily of Pope Francis, Piana di Sibari (Calabria, Italy), 21 June 2014.

<sup>33</sup> Pastoral visit of Pope Francis to Pompeii and Napoli. Meeting with people of the Scampia neighbourhood, 21 March 2015.

<sup>34</sup> Statement to the Judges' Summit on human trafficking and organised crime, Vatican, 3 June 2016.

Looking into the spread of corruption, which now seems to be more and more common, there is a growing awareness that we are faced with a kind of „trivialization of evil“, a „habit“ made up of nepotism, embezzlement, conflicts of interests, intimidation, corruption, illegal financing, fraud, and so on.

When corruption becomes a habit, it creates a cultural environment and customs on which relationships between those holding public office and pursuing private interests are built. „Corruption is not an act but a personal and social state of play in which we become used to living“, wrote J.M. Bergoglio in his reflections on Argentina in the 1990's.

When corruption „becomes the norm“ in our personal and social life, we are all called to examine our conscience and wonder whether we are involved in corruption to some degree and whether we are truly free from it in our daily life in our personal and professional relationships.

Assuredly, if we want to root out corruption, it is not enough to resort to law and to new legal standards; regulatory responses may be right and needed, but they are clearly insufficient and will only produce significant, lasting effects if they are internalized and accepted at personal, family and community levels.

Our first line of action, if we want to fight effectively against this phenomenon, thus requires introducing initiatives, actions and practices to regenerate a sense of civic responsibility by establishing relations of trust and solidarity among the people in a community. This fundamental process is necessary in order to fight against a feeling of indifference and resignation which alienates citizens from politics and civic participation.

#### 5 Recommendations

We hope that the European Union may move forward quickly in this delicate matter, which is crucial for preventing and combating all forms of organised crime. A few specific aspects seem to us to be typically needed:

through a coordinated approach at EU level, resolutely tackling tax havens as special places for collecting and laundering the proceeds from criminal activities and fighting against tax regulations that facilitate tax evasion by individuals or transnational companies;

taking steps to promote and actively disseminate good practices as regards the management of frozen and confiscated assets from organised crime and their re-use for social purposes;

supporting those thankfully existing NGOs in their actions to denounce and raise awareness about these crimes and in their activities to support and assist mafia victims;

countering as effectively as possible the rising spread of illegal behaviour in the environmental field in connection with mafia-type or organised criminal activities or deriving from them, such as trafficking and illegal waste management, particularly for toxic waste, or the destruction of our natural heritage.

#### Author

**Enzo Pezzini is researcher at the CReSPo (Centre de Recherche en Science Politique de l'Université Saint-Louis Bruxelles).**

European Conference of Justice and Peace Commissions  
Conférence européenne des Commissions Justice et Paix  
Europäische Konferenz der Kommissionen  
für Gerechtigkeit und Frieden  
19, Square de Meeûs • B-1050 Bruxelles - Belgique  
T : +23 (0)2 2350517  
secretary@jupax-europa.org  
www.juspax-eu.org

# JUSTITIA ET PAX EUROPA

## European Union action to combat money laundering and organised crime

Enzo Pezzini (CReSPo)

### 1 State of play on organised crime and corruption

Organised crime has been an increasingly growing threat and concern for European citizens and for EU institutions and economy. In this memorandum we shall present this issue and its connections with terrorism.

According to Europol<sup>1</sup>, there are an estimated 3,600 criminal groups and networks engaged in a wide range of illicit activities in Europe: drug and arms trafficking; trafficking in human beings; migrant trafficking; counterfeiting of luxury goods and foodstuffs; smuggling of medicines, rare animal species and cultural goods; economic and financial crime; environmental crime and so on.

Apart from their „traditional“ illegal activities, it has become more and more common for criminal groups to be engaged in legal activities which enable them to „recycle“ illegal gains while taking advantage of the legal market.

There is also an increased tendency for these groups to cooperate across borders and incorporate in their membership a greater variety of nationalities. This has resulted in an increased number of „heterogeneous“ groups that are no longer defined by nationality or ethnicity.

Criminal organisations have shown a great capacity to adapt; they have thus proved able to make the most of the opportunities offered by globalisation. Their action is no longer restricted by geographic boundaries and they can no longer be as easily associated with specific regions or „centres of gravity“ as in the past. Organised crime has also been able to capitalise on using new technologies.

Owing to the very nature of organised crime and corruption and their illegal character, it is extremely difficult to estimate their cost for European economy and society. A study carried out by the European Parliamentary Research Service mentions (very cautiously, given the huge difficulties faced by any observer trying to collect consistent data) an economic loss in the range of €218 to 282 billion per year in terms of GDP. The study also puts forward estimates – resulting from a research project financed by the European Commission<sup>2</sup> – regarding the size of illicit markets, which were said to be worth around €100 billion, and points to the significant social and political costs of organised crime and corruption<sup>3</sup>.

At global level, according to the United Nations Office on Drugs and Crime (UNODC), transnational organised crime generated a US\$870 billion profit in 2009, corresponding to 1.5% of global GDP. About half of this was linked to drug trafficking. The International Monetary Fund (IMF) estimates the amounts of money laundered globally each year at 2%-5% of global GDP<sup>4</sup>.

Even if the illegal activities of criminal groups remain hard to quantify with any degree of precision, owing in particular to the blurred border lines between the legal and illegal activities of these groups, such a phenomenon clearly generates (complex and often indirect) consequences for economy and society, given the high figures mentioned.

It is also worrying to note that criminal groups infiltrate political and administrative circles, particularly in order to have access to the financial resources at the disposal of public administration. Their influence is specially felt in the area of public procurement and public works, public funds, waste management and procurement contracts for goods and services. The success of criminal enterprises is based on collusion between disloyal political officials, corrupted civil servants and dishonest entrepreneurs.

Tax evasion and money laundering not only lead to a tax base erosion for EU Member States but also threaten the freedom of enterprise and competition because of the serious distortions that they generate. Money laundering also constitutes one of the main sources of funding for criminal and terrorist organisations in the world.

It is interesting to underline that various associations have been working on raising the level of education and awareness about these issues. This is the case, for example, of Libera, the most important Italian NGO in the area of the fight against the mafia and corruption; Fundación Baltasar Garzón in Spain; Mafia?Nein,danke! in Germany; Atlatzo in Hungary and AntiCor in France, to name but a few.

Nonetheless, public opinion has not yet truly realized the complex nature of organised crime groups and the danger they represent, owing to their infiltration into the social, economic, entrepreneurial, political and institutional tissue of the EU Member States.

For all these reasons – and all the more so today, in a period of financial crisis – it may be hoped that organised crime and related issues such as corruption and money laundering would be paid proper attention and that they would be the subject of political responses in line with the danger they represent and their devastating effects on our societies.

### 2 Awareness and response of international institutions

#### 2.1 At international level

Given the danger posed by transnational organised crime and corruption, international institutions have become aware of the need for developing global responses and implementing coordinated policies.

Several organisations have mobilised and taken initiatives; this is the case in particular for the European Union, the United Nations, the Council of Europe, the G8 and the OECD.

The EU's involvement in these initiatives has been twofold, since it takes an active part in the drafting of international standards while having its own laws and policies.

The United Nations Convention against Transnational Organised Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is a significant milestone in the fight against transnational organised crime and constitutes its main instrument. It opened for signature by Member States at a high-level political conference convened for that purpose in Palermo (Italy) on 12-15 December 2000 and entered into force on 29 September 2003<sup>5</sup>.

<sup>1</sup> Europol (2013) *SOCTA (Serious and Organised Crime Threat Assessment)*, p. 6.

<sup>2</sup> <http://www.ocportfolio.eu/>

<sup>3</sup> European Parliamentary Research Service (2016), *The cost of non-Europe in the area of organised crime and corruption – In-depth analysis*.

<sup>4</sup> European Parliamentary Research Service (2015), *Organised crime in the European Union*, PE 569.039, October 2015, p.2.

<sup>5</sup> <http://www.unodc.org/unodc/fr/treaties/CTOC/index.html>

Another coordination body which plays an active part in the fight against organised crime is the Financial Action Task Force (FATF). The FATF is an intergovernmental body established in 1989 by the Ministers of its Member States. It currently comprises 35 countries and jurisdictions as well as two regional organisations. Its objectives are to set standards and promote the effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF has developed a series of non-binding Recommendations that are recognized as the international standard in the area of the fight against money laundering, the financing of terrorism and proliferation of weapons of mass destruction. These Recommendations form the basis for a coordinated response to these threats and contribute to harmonizing rules at global level. First issued in 1990, they have been regularly revised (the latest update took place in 2012). The secretariat of the FATF is located at the OECD headquarters in Paris<sup>6</sup>.

The final statement of the G8 summit meeting in June 2013 seems to confirm an awareness of this issue at international level. It reads:

*„Our financial systems are exposed to significant risks from money laundering and terrorist financing. We fully support the FATF Standards and commit to implementing them effectively“<sup>7</sup>.*

## 2.2 At European level

The European Council also expressed its position quite clearly. The Council Conclusions of 22 May 2013 lay down that

*there is a need to deal with tax evasion and fraud and to fight money laundering, within the internal market and vis-à-vis non-cooperative third countries and jurisdictions, in a comprehensive manner. In both cases the identification of beneficial ownership, including as regards companies, trusts and foundations, is essential<sup>8</sup>.*

The EU has tackled the issue of organised crime since the beginning of the 1990's through a series of initiatives which were sometimes born out of dramatic events shaking public opinion, such as the murders of magistrates Giovanni Falcone and Paolo Borsellino by the Sicilian mafia, the terrorist attacks that hit several European countries or the disclosure of the „Panama Papers“.

Several EU agencies have been set up to address cross-border crime in the European Union, particularly Europol,<sup>9</sup> Eurojust<sup>10</sup> and CEPOL<sup>11</sup>. Among these, it is undoubtedly Europol which has played the most significant role. As the EU policing agency, Europol has two main tasks:

- collecting, analysing and disseminating information and intelligence via summary reports intended for the law-enforcement community and decision-makers and aimed at reporting on developments linked to serious and organised crime and the threats it represents for European Union countries. These reports bear the English acronym „SOCTA“ (*Serious And Organised Crime Threat Assessment*)<sup>12</sup>;
- facilitating bilateral and multilateral cooperation between Member States and with Europol itself. As it happens, Europol has no independent investigative powers; in order to fulfil its tasks, it must therefore rely on Member States' willingness to share information and intelligence and cooperate on specific transnational inquiries (for example, through taking part in joint investigation teams).

It should be stressed that for the time being, several EU Member States still seem reluctant to call on Europol services.

### Internal Security Strategy (ISS)

The Treaty on the functioning of the European Union (particularly its Article 72), which entered into force at the end of 2009 at the same time as the Charter of

Fundamental Rights of the European Union, laid down the foundations for an EU security policy based on the state of law, respect for fundamental rights and solidarity.

After adopting the Stockholm programme (EU programme for justice and home affairs for 2010-2014), the EU adopted an internal security strategy (ISS) in 2010<sup>13</sup>. Given that many challenges linked to security (cybercrime, terrorism, illegal immigration and organised crime) are cross-border and intersectoral by nature, no EU country can cope singlehandedly with these threats, including organised crime. Dismantling criminal networks is one of the objectives defined by the strategy. The Commission translated these objectives into three practical measures: identifying and dismantling criminal networks; protecting the economy against criminal infiltrations; and confiscating criminal assets.

In June 2014 the European Commission published an assessment report about the progress achieved within the ISS framework and identified the future priorities for an updated strategy. On this basis the Commission adopted a Communication in April 2015 concerning the „European Agenda on Security“<sup>14</sup> for 2015-2020. The Communication is based on three main pillars, highlighting the fight against organised crime, terrorism and cybercrime.

The first report on progress towards an effective and sustainable „Security Union“ was presented on 12 October 2016.

### Security, a priority for the Juncker Commission

European legislation regarding the fight against money laundering and terrorist financing has been undergoing strong changes. The dramatic terrorist attacks that recently hit several European countries and the public disclosure of the so-called „Panama Papers“ case have explicitly highlighted the need for action at European Union level, introducing additional measures, stepping up the fight against money laundering and terrorist financing and improving transparency as regards the beneficial owners of companies and trusts.

The current strategy consists in setting stricter standards in order for credit institutions and financial institutions to be able to detect this type of risk and take action to remedy it.

Such action is set within a strong trend of growing awareness of this threat; a whole range of international instruments<sup>15</sup> and European texts<sup>16</sup> have been adopted to meet these expectations. The fourth Directive on money laundering ((EU) Directive 2015/849), adopted on 20 May 2015<sup>17</sup>, is an ambitious project in this respect; it clearly reinforces preventive measures in a great number of fields.

The main innovations concern: detailed identification of the beneficial owners of legal entities and trusts and enlarged access to information about these beneficial owners; extending the notion of „politically exposed persons“ to whom enhanced customer due diligence measures should be applied; obliging providers of gambling services to comply with the provisions of the Directive; lowering the cash payment threshold to €10,000 in the case of persons trading in goods; and strengthening the cooperation between Financial Intelligence Units (FIU) established by public authorities in every Member State.

Together with (EU) Regulation 2015/847 of 5 June 2015 on information accompanying transfers of funds, this Directive is part of the „anti-money laundering package“. The Regulation also endeavours to bring European law into line with FATF standards, particularly as regards Recommendation 16 on

<sup>13</sup> See the study Developing an EU Internal Security Strategy, fighting terrorism and organised crime, published by the European Parliament in 2011 and available online: <http://www.europarl.europa.eu/document/activities/cont/201206/20120627ATT47777/20120627ATT47777EN.pdf>.

<sup>14</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Agenda on Security, COM(2015) 185 final, 28 April 2015.

<sup>15</sup> In addition to FATF Recommendations, we should mention the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime, Strasbourg, 8.11.1990.

<sup>16</sup> Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (91/308/EEC), Directive 2001/97/EC and Directive 2005/60/EC.

<sup>17</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (text with EEA relevance)

wire transfers. The Regulation is directly applicable and in the case of transfers of funds, it will strengthen the obligations for financial institutions to collect information and verify identity. Because of the two-year period granted to Member States for transposing the „anti-money laundering package“ into national law, it will enter into force as from 26 June 2017.

These measures were further reinforced by a new proposal adopted by the Commission on 5 September 2016, which is meant to amend a number of specific provisions of the fourth Directive on money laundering. The proposed amendments have the following objectives:

- applying enhanced checks („due diligence measures/countermeasures“) towards high-risk third countries;
- bringing virtual currency exchange platforms under the scope of the Directive;
- strengthening transparency measures applicable to prepaid instruments, such as prepaid cards, by lowering thresholds for identification from €250 to €150 and widening customer verification requirements;
- enhancing the powers of Financial Intelligence Units and facilitating their cooperation by further aligning the rules for such institutions with the latest international standards;
- giving Financial Intelligence Units swift access to information on the holders of bank and payment accounts through centralised registers or electronic data retrieval systems.

This initiative from the Commission is the first proposal to implement the action plan for reinforcing the fight against terrorist financing, adopted in February 2016<sup>18</sup>.

### European Parliament action

The European Parliament has actively contributed to shaping the EU legislative framework on the fight against organised crime by bringing its critical assessments of existing instruments and issuing recommendations about the possible steps to be taken.

Consulted by the Council, the Parliament adopted a resolution in 2005 concerning a proposal for a framework decision on organised crime<sup>19</sup>. The Parliament asked in particular for more detailed information about the definitions in the framework decision. The Council did not follow its opinion, however. Parliament also advocated strengthening Europol and setting heavier penalties for members of mafia-type organisations.

In 2007 the Parliament adopted a recommendation to the Council about the development of a strategic concept on tackling organised crime<sup>20</sup>. The EP called for „necessary autonomy“ to be given to Europol and Eurojust (though under parliamentary control) together with „full powers of initiative“.

Further actions followed, including the 2011 Resolution on organised crime in the EU<sup>21</sup> in which the European Parliament pleaded in particular for improving the EU legislative framework and the functioning of European structures involved in fighting organised crime. The EP also called on the Commission to submit a proposal for a Directive by the end of 2014 to address the deficiencies in the framework decision of 2008 concerning the definition of organised crime, taking into account new forms of organised crime.

The European Parliament issued a clear response to the extension of organised crime practices in the European Union and in the wider world and their detrimental consequences on the security of European citizens and the interests of European businesses through establishing a special committee on organised crime, corruption and money laundering (CRIM)<sup>22</sup>. The setting-up of this committee was carried out within the framework of the new competences that the Lisbon Treaty has conferred on the European Parliament in the area of police and judicial cooperation in criminal matters. During its 18 months of activity, the CRIM has held more than 20 meetings, including several hearings with experts, and

<sup>18</sup> COM(2016) 50 final 2.2.2016. Communication from the Commission to the European Parliament and the Council on an action plan for strengthening the fight against terrorist financing.

<sup>19</sup> European Parliament legislative resolution on the proposal for a Council framework decision on the fight against organised crime (COM(2005)0006 – C6-0061/2005 – 2005/0003(CNS)).

<sup>20</sup> European Parliament recommendation to the Council of 24 May 2007 on developing a strategic concept on tackling organised crime (2006/2094(INI)).

<sup>21</sup> European Parliament resolution of 25 October 2011 on organised crime in the European Union (2010/2309(INI)).

<sup>22</sup> European Parliament decision of 14 March 2012 on setting up a special committee on organised crime, corruption and money laundering, its powers, numerical composition and term of office ((P7\_ TA(2012)0078).

established a special committee to inquire into the size of cross-border organised crime in the EU and its social and economic impact and to work out legislative measures to settle this problem<sup>23</sup>.

On 25 October 2016, i.e. three years after adopting the final report of the CRIM committee, a new resolution was adopted by the European Parliament within the follow-up of the CRIM work<sup>24</sup>.

## 3 Money laundering and corruption in the light of the social doctrine of the Church

### 3.1 The positions of the Magisterium

In the Compendium of the social doctrine of the Church<sup>25</sup>, a number of passages denounce forms of corruption and their negative influence:

*In the presence of the phenomenon of interdependence and its constant expansion, however, there persist in every part of the world stark inequalities between developed and developing countries, inequalities stoked also by various forms of exploitation, oppression and corruption that have a negative influence on the internal and international life of many States<sup>26</sup>.*

This text also denounces political corruption<sup>27</sup>:

*Among the deformities of the democratic system, political corruption is one of the most serious<sup>28</sup> because it betrays at one and the same time both moral principles and the norms of social justice. It compromises the correct functioning of the State, having a negative influence on the relationship between those who govern and the governed. It causes a growing distrust with respect to public institutions, bringing about a progressive disaffection in the citizens with regard to politics and its representatives, with a resulting weakening of institutions.*

Other passages further denounce the connection between „corruption, underdevelopment and poverty“ (§447) and between „corruption and the debt crisis“ (§450).

### 3.2 The positions of Pope Francis

In his apostolic exhortation *Evangelii Gaudium*<sup>29</sup>, in the section entitled „No to the new idolatry of money“, Pope Francis denounces „widespread corruption and self-serving tax evasion, which have taken on worldwide dimensions. The thirst for power and possessions knows no limits“ (§56). He also stresses that „this becomes even more exasperating for the marginalized in the light of the widespread and deeply rooted corruption found in many countries – in their governments, businesses and institutions – whatever the political ideology of their leaders“ (§60), adding: „ We cannot ignore the fact that in cities human trafficking, the narcotics trade, the abuse and exploitation of minors, the abandonment of the elderly and infirm, and various forms of corruption and criminal activity take place“ (§75).

Several passages in the *Laudato si'*<sup>30</sup> encyclical letter (2015) denounce and draw attention to the damage caused by corruption and criminal organisations:

*The extreme poverty experienced in areas lacking harmony, open spaces or potential for integration, can lead to incidents of brutality and to exploitation by criminal organizations. (§ 149)*

<sup>23</sup> <https://www.eppgroup.eu/document/86523>

<sup>24</sup> European Parliament resolution of 25 October 2016 on the fight against corruption and follow-up of the CRIM resolution (2015/2110(INI)).

<sup>25</sup> Pontifical Council for Justice and Peace (2004) *Compendium of the social doctrine of the Church*, Libreria Editrice Vaticana, City of Vatican. This work systematically presents the fundamental points of the catholic social doctrine.

<sup>26</sup> *Ibid.*, §192.

<sup>27</sup> *Ibid.*, §411.

<sup>28</sup> Cf. John Paul II, *Encyclical Letter Sollicitudo Rei Socialis*, 44: AAS 80 (1988), 575-577; John Paul II, *Encyclical Letter Centesimus Annus*, 48: AAS 83 (1991), 852-854; John Paul II, *Message for the 1999 World Day of Peace*, 6: AAS 91 (1991), 381-382.

<sup>29</sup> [http://w2.vatican.va/content/francesco/fr/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](http://w2.vatican.va/content/francesco/fr/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html)

<sup>30</sup> [http://w2.vatican.va/content/francesco/fr/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/fr/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html)