

POLITICAL AGENDA

OF THE EUROPEAN NETWORK

CHANCE

CIVIL HUB AGAINST
ORGANISED CRIME IN EUROPE

PROMOTED BY **LIBERA** ASSOCIAZIONI, NOMI E NUMERI CONTRO LE MAFIE





Today, with the European Parliament approaching its 9th term, we believe it is necessary to dwell on the analysis of the current European social and cultural context and above all on the proposals for possible new scenarios to build at a transnational level in terms of social security and justice.


The contrast to criminal and corruption phenomena, in fact, implicitly generates good practices on three different levels. It is a precondition for economic development, by giving guarantees for the allocation of financial and human resources. Consequently, it encourages the fight against poverty by promoting employment. Finally, it supports the exercise of social rights and the concrete enjoyment of the European citizenship as a principle of participatory and cosmopolitan community.

The current situation requires more and more attention to the fight against organized crime (definition by Europol: *Serious and Organized Crime Threat Assessment 2017*) and corruption crimes: the same cycle of EU policies against organized crime (EU Policy on Serious and Organized Crime) 2018-2021, promoted by the European Council in the fight against criminal threats on a continental scale, underlines the need to strengthen cooperation between Member States, European Institutions and Agencies and foresees, when useful, the involvement of the private sector and civil society.

ORGANISED CRIME NUMBERS

In the EU's 28 member states, there are five thousand criminal organisations under investigation in Europe, seven out of ten operate in several countries, and almost half (45 percent) in several criminal areas, according to "Serious and Organized Crime Threat Assessment" - SOCTA - 2017 report of Europol. Oftenly Member States face this phenomenon by breaking down the investigations in specific counteracting measures (drug trafficking, smuggling, human trafficking..).

If we look at the current impact of the illicit market in the European Union, from drugs to counterfeiting, we can (under-)estimate that it stands at approximately 110 billion euros, equal to about 1% of the Union's GDP, as mentioned in various occasions by the European Commission. If we add to this that



only 1.1% of illicit profits are currently seized (Europol data, 2016), it is clear that the implementation of new, more advanced and effective measures is urgent.

The recent '*European Ndrangheta Connection*' operation and the tragic attacks that resulted in the death of journalists *Daphne Caruana Galizia* and *Jan Kuciak*, together with his fiancée *Martina Kušnírová*, have attracted the attention of the European public opinion on how crime now permeates politics and trade across all Europe. This proves how important it is to act more and more effectively to combat any endeavour affecting human rights and freedom on a large scale.

TWENTY YEARS OF COMMITMENT

Twenty years after the adoption of the United Nations' *Palermo Convention*, we have to stop and think what has Europe achieved in the fight against organized crime? We have to duly consider and assess the important instruments put in place so far, such as the *Directive 2014/42* on the freezing and confiscation of instrumentalities and proceeds of crime in Europe, and *Directive 2018/843*, on the prevention of the use of the financial system for the purposes of money laundering.

Since its first hearing in the European Parliament in 1997, Libera has always believed that repression should be complemented by a greater involvement of civil society - as reaffirmed during ninth session of the United Nations Convention against Transnational Organized Crime - through support measures to reporting and clarity of information, to achieve a solid implementation of the Palermo Convention.



**FOR THIS
REASON
WE ASK** →

WE ASK

THE RE-ELABORATION OF THE DEFINITION OF 'ORGANIZED CRIME'

we ask (1) a regulatory act that replaces Framework Decision 841/2008 and that takes into account the recent 'social' and legal developments, emphasizing the importance of analysis of both the internal organizational model (strong ties) and of the model of incrimination of external relations (to which criminal importance must be attributed to completely isolate the action of criminal associations); in line with a new shared definition of the phenomenon, we also demand the strengthening of the protection of *the rule of law* (which implies equal dignity of every person before the law) and of freedom of competition with respect to OC-managed legal and illegal markets; we also ask (2) to introduce an obligation to incriminate in case of behaviours that involve an alteration of the market economy rules through violent or intimidating dynamics.

THE BOOSTING OF A DIRECT COLLABORATION BETWEEN CIVIL SOCIETY AND EUROPEAN INSTITUTIONS

we ask (1) to establish a Permanent Forum of civil society on organized crime between the European Commission and European civil society, as already existing on the subject of anti-drug policies; (2) the boosting of the CRIM commission of the European Parliament as a supervisory body to the application of the relevant legislation and as a promoter of an integrated and global strategy against criminal systems and related activities such as corruption and money laundering; (3) to activate national observatories - promoted by civil society together with the academic world and institutions - on organized crime, encouraging the training of specialized operators in the fight against crime, corruption and money laundering.

WE ASK

THE STRENGTHENING OF THE FIGHT AGAINST ORGANIZED CRIME AND THE CONFISCATION OF CRIMINAL ASSETS

based on the new Regulation 1805/2018 for the mutual recognition of freezing and confiscation orders and Directive 42/2014, we ask for (1) to push for the harmonization of rules to combat organized crime at European level, in line with the European Security Agenda of the European Commission (July 2017), with specific attention to the promotion of public and social re-use of criminal assets, both directly and indirectly; (2) to strengthen the ARO platform - Asset Recovery Offices - in order to enable them to provide any relevant financial information on natural and legal persons for justice purposes; (3) to strengthen the AMO platform - Asset Management Offices - as a key tool to promote the exchange of knowledge and good practices regarding the management of seized/confiscated assets; (4) to encourage the provision and recourse to non-conviction based confiscation measures - including those for patrimonial prevention - with a specific Directive that includes guarantees of due process.

THE STRENGTHENING OF THE PROTECTION OF ORGANIZED CRIME AND VIOLENT CRIMES VICTIMS

in line with Directive 29/2012 and building on the importance of the value of building a 'collective memory' for the victims of organized crime, we ask (1) to create a guarantee fund dedicated to taking charge of and supporting OC victims, also encouraging the direct and indirect re-use of confiscated assets; (2) to define, with a specific regulatory act, parameters that ensure the "fair and adequate" nature of the compensation due to the victims of violent intentional crimes pursuant to Directive 2004/80, preventing compensation for extremely serious events granted by national authorities from being of negligible value.

WE ASK

THE PROMOTION OF A PROMPT EU LEGISLATIVE INITIATIVE ON THE PROTECTION OF WITNESSES AND WHISTLE-BLOWERS FOR THE CREATION OF A STRUCTURED PROTECTION SYSTEM

providing the confirmed experience that the contribution of the insiders has proved crucial to shed light and therefore dismantle the networks and criminal activities, we ask (1) to recognize a *European transnational legal status* as a 'witness to corruption and / or criminal facts', which facilitates the protection of witnesses and whistle-blowers, to be treated as similar cases, and is inserted in a system of increasing but certain and standard protections, guaranteeing their social reintegration outside the territories where they could be recipients of intimidation or pressure by criminal organizations; (2) to initiate the formal recognition of informal bodies and / or the creation of civic / institutional structures committed to orienting and accompanying potential *reporting* individuals in the preparatory phase to the report itself, as an ethical dilemma linked to doubts about what can be done, towards specific institutional channels.

**We also ask
for a concrete
commitment
regarding**



WE ASK

THE STRENGTHENING OF THE FIGHT AGAINST MONEY LAUNDERING

taking into account directive 1673/2018 - which in particular refers to the fight against money laundering in criminal law, we ask (1) to develop evidentiary standards that take into account the extreme opacity of the origin of criminal assets, including the disproportion between economic-financial resources and lawful income (*unexplained wealth*), which is also important in terms of confiscation, as a collateral tool for repression; (2) to push for the application of more stringent shared criteria for the assessment of non-cooperative jurisdictions for tax purposes both inside and outside the Union.

A MORE EFFECTIVE STRATEGY IN THE FIELD OF COMBATING ILLICIT DRUG TRAFFICKING

in line with the EU Action Plan on the fight against drugs 2017-2020, we ask (1) to promote actions aimed at reducing demand through approaches that are not repressive; (2) to promote positive harmonization strategies aimed at approximating Member States' laws on criminal matters (including through customs cooperation) and, on the other hand, as an object of interpretation by the EU Court of Justice, called upon to assess whether, and to what extent, the fight against drug trafficking may constitute one of the justifying grounds for exceptions to the fundamental freedoms of the internal market and European citizenship.

WE ASK

MORE EFFICIENT COOPERATION IN THE FIGHT AGAINST PEOPLE SMUGGLING AND HUMAN TRAFFICKING

in line with Directive 2011/36 and taking into account the right and duty to solidarity of the European Union as described in Title IV of the Charter of Fundamental Rights of the European Union, we ask (1) to promote policies for the (physical and economic) protection of victims of people smuggling and human trafficking - even in the case of a crime; (2) to strengthen the cooperation between Eurojust and the WACAP network - West African Network of Central Authorities and Prosecutors against Organized Crime, emphasizing the changes and development of transcontinental criminal organizations; (3) to define an increasingly harmonised law enforcement action at European level, developing advanced forms of investigation (already developed elsewhere) with the implementation of new technologies.

A NEW STRATEGY FOR THE FIGHT AGAINST ECO-MAFIAS AND TRANSNATIONAL ILLICIT TRAFFICKING ACTIVITIES TO THE DETRIMENT OF THE ENVIRONMENT

taking into account Directive 2008/99/EC - on the protection of the environment through criminal law - and Framework Decision 841/2008 - relating to the fight against organized crime - we ask (1) to introduce into Directive 2008/99/EC an aggravating circumstance for environmental crimes - and its components - committed by organized crime and / or by natural and legal persons acting in conjunction with OC; (2) to establish a Permanent Forum between the European Commission and civil society on eco-mafias and on transnational illicit trafficking activities to the detriment of the environment; (3) to urge all Member States, in the reception of Directive 2008/99/EC, to introduce effective criminal penalties for environmental crimes in order to strengthen and harmonize investigation standards and tools, as implemented in Italian Law No. 68/2015.

WE ASK

A MORE STRUCTURED COORDINATION OF THE FIGHT AGAINST ILLICIT ARMS TRADE

in line with Common Position 2008/944 of the Council of the European Union for the control of weapons, that counts among the eight essential criteria the respect for human rights, and according to the EU Arms Trade Treaty (2013), we ask (1) to promote common standards for the issue of weapons end-use certificates; (2) to implement European IT systems to exchange information in order to prevent the diversion of weapons and to obtain specific data on the entities involved in the trafficking of weapons, in synergy with the INTERPOL tools (iARMS) and with the other European monitoring systems arms flows; (3) to intensify the law enforcement powers of the Member States' security apparatuses in the fight against arms trafficking with particular attention to SALW (Small Arms and Light Weapons).

**We also ask
to strengthen law
enforcement
instruments,
through**



WE ASK

THE STRENGTHENING OF THE DISCIPLINE OF HIGH-TECH SURVEYS

in line with Directive 2013/40, and further developing the content of the legislative initiatives presented by the European Commission on 17 April 2018 to facilitate the transnational acquisition and storage of electronic evidence in criminal proceedings (e-evidence), we ask (1) to adopt a new directive on the investigation tools to be used for the fight against cybercrime, such as for organized crime, terrorism and money laundering, capable of regulating 'real time interceptions', while properly using most advanced technologies in the criminal trial, strengthening the protection of privacy, while protecting online fraud victims and preventing the most serious forms of crime.

THE PROMOTION OF GREATER INDEPENDENCE OF THE JUDICIARY

in line with the EU Justice Scoreboard 2018, we ask (1) to promote an increasingly effective functioning of the judicial system, guaranteeing not only the criteria of efficiency, but also of competence, transparency and independence, in order to limit red-tape abuse and to strengthen the qualitative checks of single investigations and court procedures, which must prevail over the merely quantitative evaluation criterion. (2) to strengthen cooperation among judicial and investigative authorities at European and transnational level, on the basis of the principle of mutual recognition, as already encouraged in the freezing and confiscation regimes (2018/1805 Regulation).

WE ASK

GREATER PROTECTION OF THE RIGHT TO INFORMATION, THE PROTECTION OF JOURNALISTS AND THE CIVIC FORMS OF THE "RIGHT TO KNOW"

in line with the 2019 Annual Report of the Council of Europe, which states that protecting journalists also protects the right to information, we ask (1) to strengthen the protection and safety of those who make information and to promote guarantees with respect to vocational practice in the specific freedom of expression and protection of sources, giving guarantees on respect for people's privacy, protection of know-how and confidential business information; (2) to develop ad hoc legislation that includes specific safeguards for journalists, in the interest of citizenship, guaranteeing recognition of the use of rights deriving from 'right to know' in anonymous or collective forms.

GREATER SUPPORT TO CIVIL SOCIETY FOR PREVENTING AND COMBATING ORGANIZED CRIME

we ask (1) to prepare more specific financing facilities for civil society projects for actions to prevent and to combat OC; (2) to strengthen control over the recipients of European funding (direct and indirect) to improve the efficiency and transparency of implemented projects; (3) to implement specific prevention measures for fraud cases related to European funding; (4) to set up a fund dedicated to the enhancement of confiscated assets and their recovery through Cohesion Policies for the next long term EU budget 2021-2027, encouraging the creation of an European strategy for the public and social allocation of criminal assets.



LIBERA

