

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 analyse the current European social and cultural context and, above all, the proposals for possible new scenarios at a transnational level, in terms of social justice and security.

The fight against organised crime, in fact, is a precondition for economic development, providing guarantees for the allocation of financial and human resources. Consequently, they encourage the fight against poverty by promoting employment. Finally, they support the exercise of social rights and the specific enjoyment of European citizenship as a principle of this participatory and cosmopolitan community.

The current situation requires ever greater focus on the fight against organized crime (definition by Europol: Serious and Organized Crime Threat Assessment 2017) and corruption: indeed, the 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. It also foresees, where appropriate, the involvement of the private sector and civil society.

ORGANIZED CRIME - A STATISTICAL OVERVIEW

The latest Europol analysis (SOCTA 2017) shows that of the five thousand criminal organizations under investigation in Europe, seven out of ten operate in more than one State, and almost half of them (45%) are active in more than one criminal sector. In contrast, Member States often “compartmentalize” the issue, conducting separate investigations with task forces dedicated to specific fields (drug trafficking, trafficking and smuggling of human beings, etc.).

If we look at the current impact of the illicit market in the EU, from drugs to counterfeiting, we can (under-)estimate that it is worth approximately 110 billion euros, equal to about 1% of the EU GDP, as mentioned on various occasions by the European Commission. If we add to this the fact that only 1.1% of illicit



profits is currently seized (Europol data, 2016), it is clear that new, more advanced and effective measures must be urgently implemented.

The recent 'European' Ndrangheta Connection' operation and the attacks that resulted in the death of journalists Daphne Caruana Galizia and Jan Kuciak, together with his fiancée Martina Kušnířová, focused the attention of the European public on how crime now permeates politics and trade throughout the continent. This demonstrates the importance of even more incisive action to effectively combat the phenomena that affect human rights and freedom on a large scale.

20 YEARS OF COMMITMENT

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

Since its first hearing at the European Parliament in 1997, Libera has always believed that repressive action should be complemented by a greater involvement of civil society —as reaffirmed during the ninth session of the United Nations Convention against Transnational Organized Crime— through support in reporting and clarity of information, to robustly implement the Palermo Convention.



**FOR THIS
REASON
WE CALL
FOR** ➤

WE CALL FOR

1

THE REVISION OF THE DEFINITION OF 'ORGANIZED CRIME'

While emphasizing the importance of analysing both the internal organizational model (strong ties) and the standards for the incrimination of external relations (to which criminal importance must be attributed, to completely isolate the action of criminal associations), we call for **(1)** a legislative act to replace Framework Decision 841/2008, which takes into account the new "social" and case law developments; in line with a new shared definition of the phenomenon, **(2)** strengthen the rule of law protection (which implies equal dignity for each person before the law) in addition to freedom of competition with respect to OC-managed legal and illegal markets; **(3)** an obligation to incriminate in case of behaviour that involves a modification of market economy rules through violent or intimidating dynamics.

2

A DIRECT COLLABORATION BETWEEN CIVIL SOCIETY AND EUROPEAN INSTITUTIONS

We call for **(1)** the setting up of a Permanent Forum of civil society on organized crime between the European Commission and European civil society, as the one that already exists one for anti-drug policies; **(2)** the strengthening of the CRIM committee of the European Parliament as a supervisory body for 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)** the constitution/setting-up of national observatories, promoted by civil society together with academic institutions and public authorities, on organized crime, encouraging the training of specialized operators in the fight against crime, corruption and money laundering.

WE CALL FOR

3

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 call for **(1)** better harmonization of rules for combatting organized crime at the European level, in line with the European Security Agenda of the European Commission (July 2017), with specific focus on the public and social re-use of criminal assets, both directly and indirectly; **(2)** the ARO platform (Asset Recovery Offices) to be strengthened to provide any relevant financial information on natural and legal persons for justice purposes; **(3)** the AMO platform (Asset Management Offices) to be boosted, as a key tool in promoting the exchange of knowledge and good practices on the management of seized/confiscated assets; **(4)** greater provision and recourse to non-conviction based confiscation measures, including those for patrimonial prevention, through a specific Directive that includes the guarantee of a fair trial; **(5)** a fund dedicated to the re-use of confiscated assets through the Cohesion Policies in the 2021-2027 programming period, encouraging the creation of a European strategy for the public and social destination of criminal assets.

4

STRONGER PROTECTION FOR THE VICTIMS OF ORGANIZED CRIME AND VIOLENT CRIMES

In line with Directive 29/2012 and building on the importance of the value of a 'collective memory' for the victims of organized crime, we call for **(1)** the creation of a guarantee fund dedicated to taking charge of and supporting organised crime victims, also encouraging the direct and indirect re-use of confiscated assets; **(2)** the definition, with a specific regulatory act, of 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 granted by national authorities for extremely serious events from being of negligible value.

WE CALL FOR

5

THE FIGHT AGAINST CORRUPTION AND THE PROMOTION OF TRANSPARENCY, THROUGH PRACTICES OF WIDESPREAD PARTICIPATION AND CIVIC MONITORING, STARTING FROM THE EUROPEAN CORRUPTION RISK INDICATORS

In light of the ever higher economic, social and environmental cost of corruption, and taking into account the United Nations Convention against Corruption (Merida Convention) signed by the EU in 2005, which obliges States to develop "coordinated anti-corruption policies that promote the participation of civil society", and of COMM 2003/0317, we call for **(1)** a review of the legislation on corruption prevention, enhancing the role of civil society by encouraging new community-based monitoring practices (monitoring communities); **(2)** the introduction or extension of violation reporting systems in all EU Member States, both in the public and private sectors; **(3)** the promotion of knowledge and transparency through strengthening civic access to information and creating an annual report from the European Commission on the current state of corruption phenomena within the European Union. This should be a prerequisite for the processing of indicators and red-flags that Member States are able to use to monitor the risk of corruption in certain sensitive areas (tenders, concessions, local administration, the environment, controls, etc.), and for the preparation of limiting and prevention tools.

WE CALL FOR

6

THE CREATION OF A STRUCTURED PROTECTION SYSTEM FOR 'INSIDERS' BY ADAPTING EU LEGISLATION ON THE PROTECTION OF WHISTLEBLOWERS, AND AN IMMEDIATE LEGISLATIVE INITIATIVE ON THE SUBJECT OF WITNESSES AND COLLABORATORS OF JUSTICE

On the assumption that the contribution of 'insiders' has proved crucial in shedding light on and dismantling criminal networks and activities, we call for **(1)** the recognition of a transnational European legal status for 'witnesses of corruption and/or criminal events', which facilitates the protection of witnesses and whistleblowers, as in similar cases, and which is included in a system of increased protection, certain and responding to accurate standards, in order to guarantee the social reintegration of such witnesses/collaborators outside the territories where they are subject to intimidation or influence from criminal organizations; **(2)** the creation of an integrated European system for the transnational protection of collaborators of justice, in order to facilitate their social reintegration and neutralize the risk factors during their exit phase from the criminal context, in return for crucial knowledge of the structure, activities and network of criminal relations; **(3)** the creation of civic/institutional structures committed to accompanying and directing potential 'witnesses of corruption and/or criminal events' towards specific institutional channels, in the preparatory phase, prior to the reporting itself, in relation to the ethical dilemma linked to doubts about what may be done; **(4)** the promotion of a Directive on the harmonization of declaratory evidence in criminal proceedings, with particular reference to collaborators of justice, and in line with the implementation of the European Public Prosecutor's Office.

**We also call
for a concrete
commitments
regarding**



WE CALL FOR

7

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 call for **(1)** 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 repressive action; **(2)** a drive toward the application of more stringent shared criteria for assessing non-cooperative jurisdictions for tax purposes both inside and outside the EU.

8

A MORE EFFECTIVE STRATEGY FOR COMBATting ILLICIT DRUG TRAFFICKING

In line with the EU Action Plan on the fight against drugs 2017-2020, we call for **(1)** actions aimed at reducing demand through approaches that are not repressive; **(2)** the development of strategies directed towards the harmonization of Member States legislation in the field of criminal matters (also through customs cooperation), in order for the pronouncements to become coherent lines of interpretation by the EU Court of Justice, which is 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 CALL FOR

9 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 of solidarity of the European Union, as described in Title IV of the Charter of Fundamental Rights of the European Union, we call for **(1)** policies for the (physical and economic) protection of victims of people smuggling and human trafficking, even in the case of a crime; **(2)** stronger 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)** increasingly harmonized law enforcement action at the European level, developing advanced forms of investigation (already developed elsewhere) and including the implementation of new technologies.

10 A EUROPEAN 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 call for **(1)** the introduction of aggravating circumstances for environmental crimes committed by organized crime and / or by natural and legal persons acting in conjunction with OC into Directive 2008/99/EC and its components; **(2)** the establishment of a Permanent Forum on eco-mafias and on transnational illicit trafficking activities to the detriment of the environment between the European Commission and civil society; **(3)** all Member States, in adopting 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 CALL FOR

11

MORE STRUCTURED COORDINATION OF THE FIGHT AGAINST ILLICIT ARMS TRADE

in line with Common Position 2008/944 of the Council of the European Union on the control of weapons, where one of the eight essential criteria is respect for human rights, and according to the EU Arms Trade Treaty (2013), we call for **(1)** common standards in the issuance of weapon end-use certificates; **(2)** the implementation of European IT systems to exchange information to prevent the diversion of weapons and to obtain specific data on the entities involved in arms trafficking, in synergy with the INTERPOL tools (iARMS) and other European systems for monitoring the flow of arms; **(3)** intensified law enforcement powers for the security apparatuses of Member States in the fight against arms trafficking, with particular focus on SALW (Small Arms and Light Weapons).

We also call for information, prevention and law enforcement instruments, to be strengthened through



WE CALL FOR

12 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 call for **(1)** the adoption of a new directive on investigative tools to be used in the fight against cybercrime, such as organized crime, terrorism and money laundering, capable of regulating 'real time interceptions', while properly using the most advanced technologies in criminal trials, strengthening the protection of privacy, while protecting online fraud victims and preventing the most serious forms of crime.

13 THE GUARANTEEING OF JUDICIARY INDEPENDENCE AND THE PROMOTION OF JUDICIAL COOPERATION

In line with the EU Justice Scoreboard 2018, we call for **(1)** an increasingly effective judicial system that guarantees not only efficiency criteria, but also competence, transparency and independence, in order to limit bureaucratic tendencies and strengthen qualitative checks on individual investigations and jurisdictional procedures, which must prevail over merely quantitative evaluation; **(2)** stronger cooperation between judicial and investigative authorities at the transnational and European levels, based on the principle of mutual recognition, as already promoted with regard to freezing and confiscation orders (Regulation 2018/1805).

WE CALL FOR

14

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 call for **(1)** greater protection and safety for those who provide information, involving guarantees with respect to vocational practice in the specific freedom of expression and protection of sources, guarantees regarding respect for people's privacy, protection of know-how and confidential business information; **(2)** the development of ad hoc legislation that includes specific safeguards for journalists, in the interest of the citizenship, guaranteeing recognition of the use of rights deriving from the 'right to know' in anonymous or collective forms.

15

THE STRENGTHENING OF EU FUNDING PROGRAMMES AND COHESION POLICIES ON THE PREVENTION AND FIGHT AGAINST ORGANIZED CRIME AND CORRUPTION

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.

INFO



0039 669770336



info@chance.international



www.libera.it

www.chance.international



LIBERA

