VOL. 7 - SPECIAL ISSUE
(2026)

Journal of International Criminal Law

Online Scientific Review

Special Issue EU-GLOBACT HANDBOOK

EUROCRIMES

EDITED BY
Heybatollah Najandimanesh
Anna Oriolo

ISSN: 2717-1914

www.jiclonline.org

EU-GLOBACT HANDBOOK

EUROCRIMES

A Q&A COMPENDIUM AND STRUCTURAL FRAMEWORKS ON OFFENCES UNDER ARTICLE 83 TFEU

This JICL Special Issue constitutes one of the scientific products the Jean Monnet Module (2023-2026) *Transnational Crime and 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).

Co-funded by the European Union

Project funded by European Commission Erasmus + Programme – Jean Monnet Action Project number 101126599. Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.

Table of Contents
Volume 7 – Special Issue

BOARD OF EDITORS

Overview

The Journal of International Criminal Law (*JICL)* is a scientific, online, peer-reviewed journal, first edited in 2020 by Prof. Dr. Heybatollah Najandimanesh, mainly focusing on international criminal law issues.

Since 2023 JICL has been co-managed by Prof. Dr. Anna Oriolo as General Editor and published semiannually in collaboration with the International and European Criminal Law Observatory (IECLO) staff.

JICL Boards are powered by academics, scholars and higher education experts from a variety of colleges, universities, and institutions from all over the world, active in the fields of criminal law and criminal justice at the international, regional, and national level.

The aims of the JICL, *inter alia*, are as follow:

- to promote international peace and justice through scientific research and publications;
- to foster study of international criminal law in a spirit of partnership and cooperation with the researchers from different countries;
- to encourage multi-perspectives of international criminal law; and
- to support young researchers to study and disseminate international criminal law.

Due to the serious interdependence among political sciences, philosophy, criminal law, criminology, ethics and human rights, the scopes of JICL are focused on international criminal law but not limited to it. In particular, the Journal welcomes high-quality submissions of manuscripts, essays, editorial comments, current developments, and book reviews by scholars and practitioners from around the world addressing both traditional and emerging themes, topics such as

- the substantive and procedural aspects of international criminal law;
- the jurisprudence of international criminal courts/tribunals;
- mutual effects of public international law, international relations, and international criminal law;
- relevant case-law from national criminal jurisdictions;
- criminal law and international human rights;
- European Union or EU criminal law (which includes financial violations and transnational crimes);
- domestic policy that affects international criminal law and international criminal justice;
- new technologies and international criminal justice;
- different country-specific approaches toward international criminal law and international criminal justice;
- historical accounts that address the international, regional, and national levels; and
- holistic research that makes use of political science, sociology, criminology, philosophy of law, ethics, and other disciplines that can inform the knowledge basis for scholarly dialogue.

The dynamic evolution of international criminal law, as an area that intersects various branches and levels of law and other disciplines, requires careful examination and interpretation. The need to scrutinize the origins, nature, and purpose of international criminal law is also evident in the light of its interdisciplinary characteristics. International criminal law norms and practices are shaped by various factors that further challenge any claims about the law's distinctiveness. The crime vocabulary too may reflect interdisciplinary synergies that draw on domains that often have been separated from law, according to legal doctrine. Talk about "ecocide" is just one example of such a trend that necessitates a rigorous analysis of law *per se* as well as open-minded assessment informed by other sources, *e.g.*, political science, philosophy, and ethics. Yet other emerging developments concern international criminal justice, especially through innovative contributions to enforcement strategies and restorative justice.

The tensions that arise from a description of preferences and priorities made it appropriate to create, improve and disseminate the JICL as a platform for research and dialogue across different cultures, in particular, as a consequence of the United Nations push for universal imperatives, *e.g.*, the fight against impunity for crimes of global concern (core international crimes, transboundary crimes, and transnational organized crimes).

COPYRIGHT AND LICENSING

Corruption

by Christian Fausto Santoriello[*]

KEY FINDINGS: Budget protection as a subsidiary Eurocrime; Dogmatic classification of conducts and VAT fraud; Severity and anticipation of protection in the Italian legal system; Institutional evolution driven by real-world crises; The operational tandem and the limits of EPPO, Eurojust, and Europol.

I. How Do Fraud and Corruption Cases Influence Trust in Public Institutions?

Corruption and fraud against public resources do not constitute mere offenses of an economic-financial nature; rather, they represent a severe **asymmetric threat to democratic stability** and the social cohesion of multilevel legal systems. According to consolidated sociological-legal studies, continental public opinion manifests deep scepticism regarding the effectiveness and actual incisiveness of the instruments established by States to repress and punish these eversive phenomena.

This systemic pathology poisons the bond of trust between citizens and institutions, acting on three specific system axes that must be remembered:

- **Erosion of Institutional Credibility:** Over two-thirds of European citizens believe that the phenomenon of corruption is not effectively countered, negatively affecting the perceived reliability of the bureaucratic and administrative apparatus, primarily at the national level and, consequently, at the Euro-unitarian level.

[*] Member of the Secretariat of the International & European Criminal Law Observatory (IECLO), University of Salerno, Italy.

- **Distrust in Political Governance:** More than half of the Union's population accuses its governments of structural incapacity in containing illicit behaviors and conflicts of interest.
- **Social Normalization of Malfeasance:** In territorial areas with a high density of organized crime, the submission of citizens to extortionate or corrupt practices (granting money or undue favors in exchange for services that constitute perfect subjective rights) is embedded within a retrograde mindset. This distortion leads to systemic illegality being perceived as an ordinary and inevitable practice of the public machine.

From a dogmatic and statistical perspective, the level of dissemination of the phenomenon within individual States can be analyzed through a specific global macroeconomic indicator, called the **Corruption Perception Index (CPI)**, developed annually by Transparency International.

FOCUS

The Corruption Perception Index and the Checks Model

The CPI Index examines 180 countries worldwide, assigning to each a conventional score between **0 (highest level of perceived corruption)** and **100 (ideally incorrupt State)**. The qualitative analysis of the data reveals the following global stratification:

The Scandinavian Model (Top of the rankings): No State is immune to risk, but Denmark ranks stably at the global peak with a score of **90/100**, followed by Finland, Singapore, New Zealand, Luxembourg, and Norway. This data highlights how Nordic countries possess bureaucratic structures characterized by high levels of transparency, administrative solidity, and rigorous ethical codes. These factors enable the correct constitutional functioning of a system of **"checks and balances" (controls and counterweights)**, wherein the clear separation of functions and the interoperability of cross-checks make it technically complex to carry out abuses of office or misappropriation of funds without immediate detection by a third, independent supervisory body.

High-Risk Systems (Bottom of the rankings): The final positions are occupied by developing countries or those destabilized by humanitarian crises, famines, and internal armed conflicts (such as South Sudan, Somalia, Venezuela, Syria, Yemen, and Libya). In these contexts, mass poverty, political instability, and the absence of independent oversight authorities operate as intrinsic factors that create fertile ground for the proliferation of fraudulent conduct and the embezzlement of international aid.

The Position of Italy: The Italian legal system suffers from historical structural weaknesses, placing it in the upper-middle section of the global ranking with a score of **54/100**. The persistence of unresolved issues within the national landscape has heavily penalized the country's international perception. Elements such as the prolonged absence of an organic regulation concerning **lobbying** and the partial blurriness of borders between public and private interests contribute to eroding the solidity and impartiality of the Public Administration.

FOCUS

The "Qatargate" Scandal, 2022

The vulnerability of institutions does not spare the supranational European level, as dramatically confirmed by the judicial investigations into the case known as **Qatargate**. The forensic inquiry, which involved the operational collaboration of MEPs, former MPs, and assistants of Italian origin, unveiled a complex circuit of **bribe exchanges, international corruption, and money laundering** orchestrated by third States to unduly condition political decisions, geopolitical resolutions, and economic orientations of the European Parliament. This scandal dealt a heavy blow to the reputation of Euro-unitarian democracy, confirming the urgency of introducing strict technological barriers, mandatory transparency registers, and proactive controls over the financial flows of public decision-makers to protect the Union in a phase of severe geopolitical complexity.

II. Which Provisions Allow the European Union to Protect Its Financial Interests?

The protection of the **financial interests of the European Union (PIF)** and the repression of fraudulent or corrupt behaviors affecting the community budget constitute a matter of a complex nature, characterized by a distinct shared and transnational competence. The functioning of the Union depends on the certainty of its revenues (traditional own resources, customs duties, VAT quotas) and the correct allocation of its expenditures (structural funds, recovery funds). Consequently, enforcement action is directly safeguarded by the primary sources of the European Treaties, which impose precise obligations of advanced criminal protection on Member States.

REFERENCES

TFEU, Art. 310 para. 6 and Art. 325

Art. 310, para. 6 of the TFEU sets out the core principle of sanctioning solidarity: "The Union and the Member States, in accordance with Art. 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union". This duty of protection is analytically detailed by **Art. 325, para. 1 of the TFEU**: "The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies."

Preventive and ex-post oversight over the lawfulness and regularity of these massive financial resources is entrusted to the vigilance of the **European Court of Auditors**, which formally holds the rank of one of the seven institutions of the Union. On the plane of substantive criminal law, the milestone harmonization legislative act is constituted by **Directive (UE) 2017/1371 (PIF Directive)**, adopted in implementation of **Art. 83, para. 1 of the TFEU**, which qualifies **corruption** and **money laundering** as Eurocrimes equipped with a distinct cross-border dimension, legitimizing the setting of minimum definitions and common sanctions within the Area of Freedom, Security, and Justice.

The PIF Directive specifies that fraudulent conducts can harm the Union budget both from the expenditure side (e.g., illicit capture of agricultural or structural funds through document falsification) and from the revenue side, introducing for the first time the criminal harmonization of **serious fraud against the common system of Value Added Tax (VAT)**, provided that the offense is connected to the territory of two or more Member States and determines a total financial damage of **at least 10 million euros**.

Transnational investigative practice highlights a precise dogmatic breakdown of these tax frauds that we must memorize:

- **Intra-community Operator Fraud (Carousel Fraud):** It is configured as a sophisticated evasion circuit wherein a legal entity imports goods under a VAT exemption regime from one Member State, to then resell them on the internal market of another Member State, regularizing and collecting VAT from the final customer. The entity responsible for the importation and the first national sale is termed a **"missing trader"**, who pockets the VAT paid by the buyer and systematically vanishes, omitting its payment to the state treasury and disappearing from the market before the financial administration can activate tax assessment and collection procedures.
- **Missing Trader Fraud and the Reaction of the Commission:** This specific method of evasion inflicts severe direct asset damage on the treasuries of Member States and, consequently, on the quota of own resources due to the European Union. The *VAT Action Plan* of the European Commission highlights how such conduct vulnerabilities tax efficiency, distorts competition, and requires real-time monitoring of customs flows.
- **VAT Fraud Managed by Structured Criminal Organizations:** This constitutes the hypothesis with the highest coefficient of criminal disvalue, configuring a severe aggravating circumstance of the crime. In this transnational offense, criminal cartels do not limit themselves to using a single missing trader, but structure a commercial supply chain composed of **multi-layered shell companies and "filter" companies (shell or *buffer* companies)**. These intermediate legal entities repeatedly exchange invoices for non-existent transactions and fictitious tax documents for the sole purpose of **fragmenting and obscuring the traceability of financial operations**, eluding the cross-checks of the various national jurisdictions involved and obstructing the forensic investigations of the European Public Prosecutor's Office (**EPPO**).

The **Repressive Architecture of Carousel Fraud Between Criminal Network and Technology** is articulated into four phases

- **Phase 1 - Intra-community Purchase (VAT Exemption):** Company A (located in Member State 1) sells and dispatches goods to Company B ("Missing Trader", located in Member State 2) under a cross-border VAT exemption regime.
- **Phase 2 - Sale on the Internal Market and Collection of Tax:** Company B (Missing Trader) immediately resells the goods on the national market of State 2 to Company C ("Buffer" or filter company), regularizing and collecting VAT from the buyer, but omitting payment to the treasury and vanishing from the market.
- **Phase 3 - Multi-layered Filter and Investigative Elusion:** Company C ("Buffer") resells the goods to a Company D, issuing cascading invoices to obstruct the identification of the fraud by customs and fragment the traceability of bank flows.
- **Phase 4 - Technological and Judicial Enforcement:** Economic-financial police forces and the European Public Prosecutor's Office (EPPO) utilize **Artificial Intelligence algorithms and data analytics systems of customs flows** to intercept the abnormal speed of establishment and closure of *missing trader* companies, ordering the immediate freezing of bank accounts and electronic payment channels before the drainage of illicit capital.

III. How Does the PIF Directive Define Active and Passive Corruption?

The **Directive (UE) 2017/1371 (PIF Directive)** establishes that the prerequisite for the crime of corruption resides in the violation of the duties of diligence, good faith, fairness, impartiality, and responsibility that weigh upon public officials in the exercise of their institutional functions. From a dogmatic and criminal protection standpoint, the Directive operates a clear breakdown of conducts under Art. 4, introducing three minimum common incriminating offenses that Member States are obliged to transpose into their respective domestic legal systems:

- **Passive Corruption:** Configured as the conduct of a public official who, directly or through an intermediary, requests or receives advantages and benefits of any nature (both economic and non-patrimonial), or accepts the mere promise thereof, to perform or omit an act proper to their functions or contrary to official duties, in such a way as to damage or be capable of damaging the financial interests of the European Union.
- **Active Corruption:** Identifies the specific mirror conduct of anyone who promises, offers, or procures, directly or through an intermediary, an advantage or a benefit of any nature to a public official, so that the latter performs or omits an act in accordance with the indications provided, thereby failing in their official duties to the detriment of community resources.
- **Misappropriation:** This offense presupposes the intentionality and specific intent (*dolo specifico*) of the public official who is entrusted, by reason of their office, with the direct or indirect management of financial funds or movable assets. The crime is consummated at the moment the official allocates or uses such resources for purposes other than those originally planned and approved, in order to procure an unjust asset advantage for themselves or a third party or to directly appropriate them.

The repression and prosecution of these PIF crimes demand the application of the principles of **criminal solidarity and cross-border judicial cooperation**. National legal systems are supported by the synergistic action of special agencies such as **Eurojust and Europol** (including through the analysis of cybernetic and illicit financial flows).

Once preliminary investigations are verified and digital and documentary evidence establishing the existence of the crime is gathered, the competent bodies formally communicate the initiation of criminal proceedings to the European Commission and the Member States involved. In this scenario, a crucial and vanguard role is performed by the **EPPO (European Public Prosecutor's Office)**, an independent organ of the Union structured to work in close collaboration with delegated national prosecutors in order to coordinate and exercise criminal prosecution.

On the plane of legislative drafting and the formal process of adopting Union statutory acts aimed at protecting the budget, informal interinstitutional dialogues, commonly termed **trilogues**, acquire strategic relevance. They represent negotiation tables for exchanging views among the European Parliament, the Council of the European Union, and the European Commission, aimed at fostering a political and technical compromise prior to the formal readings of the ordinary legislative procedure.

The direct result of this consultation method was the launching of the **Interinstitutional Agreement of December 16, 2020,** concerning budget discipline, cooperation in budgetary matters, and sound financial management of the Union itself.

The agreement is permeated by a spirit of institutional cooperation aimed at supervising expenditures and conducting rigorous **administrative investigations into the improper or distorted use of European funding**. The institutions aim to promote and safeguard the regularity of financial flows within the following strategic areas of the Union:

- Urban, rural development, and regional cohesion.
- **International and emergency humanitarian aid** (with specific reference to aid granted to the population of Gaza and in support of Ukraine).
- Scientific research and university education (Erasmus+ and Horizon Europe Funds).
- Technological innovation, ecological transition, and digital inclusion.
- Employment, welfare, and social inclusion.
- Maritime policies and sustainable management of fisheries.
- Youth policies and sports development.

To this end, the European Commission operates in coordination with **OLAF (European Anti-Fraud Office)** to carry out administrative inspections on the ground. Furthermore, the fight against fraud and tax evasion is programmatically sustained by the Union through the introduction of **new own resources** of the budget (e.g., plastic tax, ETS quotas), which allow financing the resilience of Europe in the face of epochal challenges of climate change, energy transition, and digital sovereignty.

IV. What Jurisdictional Conflicts Exist Between PIF Crimes and National Jurisdictions?

From the perspective of economic criminal law, a close structural analogy and frequent criminological convergence exist between the crimes of fraud/corruption in community funds and the offense of **self-laundering**. In both offenses, an elusive and hidden conduct is carried out by the active subject upon financial funds derived from a crime, with the ultimate purpose and specific intent of concretely obstructing the identification of their criminal origin. The crime of self-laundering is configured as a **plurioffensive** offense, as the criminal sanction aims to simultaneously protect multiple legally protected interests: the administration of justice (harmed by the masking activity), the integrity of the economic-financial system, and free market competition, which is polluted by the injection of cleaned illicit capital.

However, in the practice of transnational investigations, an insurmountable obstacle arises, defined by many jurists and lecturers as a partial **flaw in the enforcement and competence-sharing system**. The conflict manifests in investigations where the European Public Prosecutor's Office (**EPPO**) faces a concurrence of offenses: the EPPO cannot continue to exercise criminal prosecution or pursue the subsequent crime of self-laundering if the latter does not appear **directly, predominantly, and inextricably linked** to the fraud on community funds (inextricably connected competence constraint). Conversely, the EPPO undoubtedly instantiates a formidable community tool for fighting fraud and customs corruption, but **it does not possess a fully supranational structure**. It operates as a hybrid and "decentralized" body, whose European Delegated Prosecutors (EDPs) act within individual Member States by applying the procedural criminal rules of their respective national codes. The EPPO is therefore forced to suffer the limits inherent in the barriers of national jurisdictions, unable to autonomously bypass differences in trial

rites and evidence acquisition to pursue connected corporate crimes, partially limiting the maximization of financial benefit and global asset protection of the European Union.
The **competence requirement** of the European Public Prosecutor's Office in the concurrence of offenses is developed into four phases:

- **Phase 1 - Predicate Offense (PIF Fraud):** A corrupt official and a private individual divert 1 million euros of European funds destined for agriculture (Exclusive and immediate competence of the EPPO *ex* PIF Directive).
- **Phase 2 - Self-Laundering Conduct:** The private individual reinvests the illicit million euros by purchasing real estate or legal corporate shares on the national territory, obstructing the forensic identification of the money's origin.
- **Phase 3 - Legal Connection Review:**
    - If Self-Laundering is inextricably linked to the fraud on EU funds: The EPPO attracts the entire investigation (*vis attractiva*) and exercises criminal prosecution for both crimes.
    - If Self-Laundering predominantly harms national taxes or offenses: The EPPO must **decline its competence** for the self-laundering portion, transferring the file to the national Public Prosecutor's Office, fragmenting the effectiveness of the investigation.
- **Phase 4 - Limits of the Hybrid Structure:** Delegated Prosecutors of the EPPO must exercise criminal prosecution before the national judge by applying the domestic code of criminal procedure, clashing with procedural diversities and the admissibility of digital and banking evidence among the Member States.

V. How Does the International Definition of Corruption Differ from the European One?

The crimes of fraud and corruption constitute core offenses of economic criminal law, disciplined in a parallel manner both at the European level and at the international level. Although it is possible to find profiles of distinct material similarity, the definitions provided by the two systems differ due to the diverse historical-cultural circumstances in which the offense is configured, the criminal policy objectives that the different systems intend to pursue, and the dogmatic status of the active subjects resulting therefrom.
In this regard, the **United Nations Convention against Transnational Organized Crime (Palermo Convention of 2000)** provides a precise and mandatory framework of universal incriminatory scope, focused on countering mafia infiltration into institutional circuits.

REFERENCES

UNTOC, 2000, Art. 8

Art. 8 establishes that each State Party shall adopt such legislative measures as may be necessary to establish as a criminal offense the following intentional conducts: "(a) The promising, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; (b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties."

This criminal pillar found its maximum expansion and global specialization with the launching of the **United Nations Convention against Corruption (UNCAC)**, also known as the **Mérida Convention** (adopted by the General Assembly on October 31, 2003), which is configured as the first legally binding instrument of universal vocation for the systemic prevention and countering of the phenomenon of corruption.
The **UNCAC Convention** consists of a Preamble and 71 articles divided into eight structural chapters, corresponding to the programmatic objectives that the States Parties pledge to pursue:

- **Chapter I - General Provisions:** Sets the purposes of the treaty and introduces core definitions.
- **Chapter II - Preventive Measures:** Obliges States to establish independent anti-corruption bodies, codes of conduct for public decision-makers, and transparency criteria in procurement.
- **Chapter III - Criminalization and Law Enforcement:** Defines substantive offenses (corruption, misappropriation, obstruction of justice).
- **Chapter IV - International Cooperation:** Governs extradition, mutual legal assistance, and joint investigations.
- **Chapter V - Asset Recovery:** Represents the true **revolutionary and innovative profile** of the treaty, elevating the return of assets stolen through corruption into a fundamental principle of international law.
- **Chapter VI - Technical Assistance and Information Exchange:** Enhances the principle of solidarity and the development of collaborative capacity to jointly counter financial crimes.
- **Chapters VII and VIII - Mechanisms for Implementation and Final Provisions:** Regulate the application of the treaty and the submission of States to periodic reviews by the Conference of the States Parties.

Regarding regulatory criteria, the **macroscopic difference** between international discipline (UN) and European discipline (UE) lies in the level of cogenza, flexibility, and prescriptive detail of the norm.
The international UN instrument possesses a **broader, more flexible, and soft law approach**, providing general principles and recommended measures rather than rigidly binding the actions of States to extremely stringent parameters that are sometimes logistically difficult to implement. While on one hand this universal perspective may appear generic or vague, on the other hand it allows preserving an autonomous line of action for individual countries, which can adapt prevention measures to the specific circumstances of their political-cultural context. Conversely, European Union legislation (e.g., the PIF Directive) applies a **highly prescriptive and detailed model**, aimed at uniforming statutory minimum penalties. This European approach guarantees absolute certainty of the law and severely punishes the offense, but runs the risk of failing to consider disparities in instruments available to individual States or the peculiarities of their administrative systems, potentially causing slowdowns in trial prosecution if not supported by central agencies.
A further and decisive criterion of dogmatic differentiation resides not in the structure of the objective conduct of handling the bribe, but in the **subjective qualification of the natural person responsible** for the illicit behavior.

FOCUS

The Subjective Status of the Crime (Public Official v. Public Servant):
•**The International Model (UN Convention)**: Disciplines the all-encompassing figure of the **"Public Official"**. This is delineated as any natural person holding a legislative, executive, administrative, or judicial mandate of a State Party, or who exercises a public function or provides a **public service under the domestic law** and national statutes of the signatory State. The focus is centered on the nature of the state activity exercised.
• **The Community Model (Directive EU 2017/1371)**: Specifies and analytically sections the category of the **"Public Servant"**, operating a mandatory tripartition for the purpose of protecting the European budget. The Directive includes within the offense:
- The **Union Official**: Any person who has the status of an official or contractual agent hired by an institution, organ, or body of the European Union.
- The **National Official**: Any person who has the status of an official or public officer defined by the legal system of the Member State in which the action is perpetrated.
- The **Enforcement Official**: Any subject acting at the national, regional, or local level to manage, disburse, or control European funds distributed under a shared management regime.

While the European Union is founded on a principle of institutional cooperation that provides for joint and binding action between supranational organs (EPPO, OLAF), the UN Convention leaves wide room for maneuver to each State Party so that it acts according to its respective constitutional legal principles.

Finally, **Art. 10, para. 4 of the UNCAC Convention** introduces the obligation to extend criminal or administrative liability to collective entities: "Each State Party shall, in particular, ensure that legal persons held liable in accordance with this Article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions". Through this provision, the international Convention pledges to ensure that no person responsible for such economic crimes goes unpunished. However, we must highlight during examinations a **fundamental flaw**: the lack, at the UN level, of a central body equipped with supranational powers of investigative coordination and coactive judicial enforcement (elements that conversely characterize the architecture of the European Union through the European Public Prosecutor's Office) risks rendering the practical application of these international sanctions partially fragmented and ineffective on the cross-border plane.

The **investigative flow** of countering corruption functions in two main models:

- **International Model (UNCAC 2003)**:
  - Detection of fact;
  - Activation of national police authorities of the State Party;
  - Request for bilateral mutual legal assistance *ex* Chapter IV;
  - Limit: Absence of a central prosecutor (risk of stasis or national political filter).
- **Euro-unitarian Model (PIF Directive / EPPO)**:
  - Interception of anomalous financial flows on European funds;
  - Automatic and exclusive activation of European Delegated Prosecutors of the **EPPO**;
  - Simultaneous issuance of asset freezing decrees in the 27 Member States *ex* principle of mutual recognition;
  - Direct exercise of criminal prosecution;

VI. What Substantive Sanctioning Instruments Define the Offense of Corruption Under Domestic Law?

In the Italian legal system, conducts damaging administrative transparency and public resources are severely disciplined by the Criminal Code (c.c.) and specific complementary laws. The sanctioning instruments activated following the judicial determination of these offenses articulate in a multilevel complex of **custodial penalties, civil-restitutory sanctions, administrative and disqualifying measures**, integrated by incisive preventive asset recovery measures.

From a dogmatic standpoint and penal typification, we must avoid the common error of confusing **fraud** with **swindling**. Although both offenses affect property, they present structurally different constitutive elements:

- **Swindling (Art. 640 c.c.):** Consists of the conduct of anyone who, through artifice or deception, inducing someone into error, procures for themselves or others an **unjust profit with another's detriment**. It is punished with imprisonment from six months to three years and a fine from 51 to 1,032 euros, configuring an ex-officio aggravating circumstance under Art. 640, para. 2, no. 1 if the act is committed to the detriment of the State or a public entity, including the European Union.
- **Fraud in the Exercise of Commerce (Art. 515 c.c.):** Specifically sanctions anyone who, in the exercise of a commercial activity or in a shop open to the public, **delivers to the buyer one movable thing for another**, or a movable thing different from that declared or agreed in terms of origin, provenance, quality, or quantity. The statutory penalty provides for imprisonment up to two years or a fine up to 2,065 euros, with a more severe penalty if the object of the fraud consists of metals or precious stones.

Unlike swindling, where the perimeter of active subjects is omnicomprensive, fraud in commerce strictly requires the status of a **qualified agent** (merchant) and punishes the fraudulent execution of the contract, whereas in swindling, the pre-existence of intent aimed at gaining the victim's consent through deception is what matters.

Regarding the protection of the Public Administration from mafia infiltration and transnational organized crime, the Italian legislator severely punishes the phenomenon of public officials' corruption, historically exploited by syndicates to monopolize the awarding of public procurement contracts and expenditure flows.

REFERENCES

Italian Criminal Code, Art. 318 and Art. 319

Art. 318 (Corruption for the exercise of the function): "The public official who, for the exercise of his functions or his powers, unduly receives, for himself or for a third party, money or other utility, or accepts the promise thereof, shall be punished with imprisonment from three to eight years".

Art. 319 (Corruption for an act contrary to official duties): Punishes with imprisonment from six to ten years the public official who, to omit or delay an act of his office, or to perform an act contrary to official duties, receives or accepts the promise of money or other utility.

It must be remembered that the penal status of corruption was radically rewritten by **Art. 1 of Law no. 190 of November 6, 2012 (the Severino Law)**, which overturned the sanctioning framework. The reform introduced an advanced protection threshold: in the new formulation of Art. 318 c.c., the legislator eliminated any reference to a specific official act, punishing the mere **"sale of the public-administrative function"**. Consequently, even the single acceptance of a promise or the reception of a utility connected to the generic position of the public employee constitutes a consummated crime, operating as a powerful advanced deterrent. This framework safeguards the constitutional obligation enshrined in **Art. 54 of the Italian Constitution**, which imposes on citizens entrusted with public functions the un-derogable duty to fulfill them with **discipline and honor**.

Furthermore, the strategic link between the fight against organized crime and the protection of European economic resources found its highest operational expression in **Law no. 161 of October 17, 2017 (known as the Antoci Law)**, which reformed the Anti-Mafia Code.

FOCUS

Law No. 161, 2017, and The Antoci Protocol

The origin of this legislation lies in the proactive stance of Giuseppe Antoci, at the time President of the Nebrodi Park in Sicily, a territory vulnerable to the infiltration of mafia clans (the so-called "mafia of the pastures"). Criminal organizations used frontmen and falsified anti-mafia certifications, or bypassed controls by exploiting minimum exemption thresholds, to **illegitimately lease state-owned lands**, thereby intercepting millions of euros of European funds allocated by the **Common Agricultural Policy (CAP)**. To dismantle this illicit business, Antoci promoted a rigorous Legality Protocol, which introduced a **mandatory obligation to present anti-mafia certification for any public tender**, eliminating any minimum value exemption threshold. Extended to the entire Sicilian region in 2016, the Protocol was fully integrated by Parliament within Law No. 161/2017, becoming a law of the State applicable across the entire national territory. The European Commission officially qualified the Antoci Law as an **investigative model of excellence** in protecting the financial interests of the European Union against structured mafia crime.

The historical relationship between the Italian State and European institutions regarding community fraud was shaped by a series of judicial investigations that highlighted the necessity of a centralized and supranational cooperation.

FOCUS

From *Tangentopoli* to the *Poseidone* Investigation

The *Mani Pulite* Investigation Cycle (*Tangentopoli* - 1992): The investigations that led to the collapse of the so-called *First Republic* revealed an endemic system of bribes polluting public contracts. Forensic audits proved that corrupt flows involved, in part, funding allocated by European structural funds as well. The scandal pushed community institutions to launch a profound reflection on transparency, accelerating the strengthening of **OLAF's** investigative powers.

The *Poseidone* Investigation (2005): Conducted by the Calabrian judiciary, the investigation unveiled a massive system of **diversion and improper use of European funds** originally intended for the construction of water purification plants and environmental infrastructures in the Calabria region. The inquiry assumed a strong institutional and European relevance because high-level political figures seconded to Brussels institutions were among the suspects, highlighting the risk that local corruption could penetrate community decision-making dynamics, accelerating the push toward the establishment of an independent European Public Prosecutor's Office (**EPPO**).

Mafia penetration into European structural funds follows flexible and industrial operational models, as confirmed by the most relevant operations of the Italian judicial police:

- **Operation Spartacus (2010):** A historic maxi-trial that crushed the leadership of the Camorra-style *Casalesi clan*. Economic-financial investigations coordinated by the DDA demonstrated how the mafia organization had capillary infiltrated the allocation procedures of **European funds for rural development**, diverting clean capital to finance parallel illicit activities, such as controlling the cement cycle and illegal extraction of inert materials in the province of Caserta, thereby distorting the rules of the common market.
- **The Araba Fenice Operation (Siracusa):** This investigation hit a strategic funding sector different from the environmental or agricultural compartments, namely the management of **European Structural Funds**, with specific reference to the **European Regional Development Fund (ERDF)**, implemented by the Union to upgrade healthcare, energy, and educational infrastructures for the local population, thereby reducing regional disparities. Aggravated swindles against the State and the EU were systematically executed through the issuance and declaration of **falsified or "inflated" invoices**, where the accounting gap between declared expenses and actual site costs turned into a net profit for the criminal organization. Parallelly, falsified reports were filed by complicit and corrupt public officials to certify the progress of projects partially executed on the ground but, in reality, never completed.

FOCUS

European Court of Auditors, Special Report No. 06, 2019

These serious episodes of Italian judicial practice fall entirely within the definition of fraud (or fraudulent irregularities) provided by the European Court of Auditors in its Special Report no. 06/2019. The institution defines PIF fraud as: "any intentional action or omission, use or presentation of false, inaccurate or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by them, as well as the diversion of such funds for purposes other than those for which they were originally granted".

The economic impact of these illicit conducts on the budget and cohesion programs of the European Union highlights a financial vulnerability of macroscopic character. According to official data analyzed within the PIF Report (Protection of the Financial Interests) regarding fraudulent irregularities registered in each financed sector during the five-year period examined by the Court of Auditors and the Commission, a clear concentration of the criminal threat emerges on two pillars of the EU budget:

- **The Agricultural Sector (Common Agricultural Policy - CAP):** Catalyzes approximately **50% of the total number of fraudulent irregularities** reported at the community level. This massive penetration of fraud has diverted and compromised public resources for a total of **350.9 million euros**.
- **Cohesion and Regional Development Policies:** Represent the sector with the highest absolute economic damage coefficient. The European Union registered overall financial losses worth **1,063.6 million euros**. This massive figure constitutes **72% of the overall total of European funds compromised by fraud**, registering a value equal to three times the entire damage suffered by the agricultural compartment.

The illicit activities perpetrated in these strategic sectors determine a dual destructive effect: in the first instance, they erode and damage the financial interest and stability of the European Union budget; in the second instance, they invalidate the primary political objective of supporting the population, improving welfare services, and modernizing the territories of Member States. The economic profit accumulated by criminal cartels ends up weighing directly on the social fabric, on families, and on the credibility of national institutions, which are perceived by public opinion as insecure, permeable, and incapable of stemming systemic corruption. In the regions of Southern Italy, omitted vigilance causes a conspicuous quota of funding originally intended to strengthen infrastructures and community services to be definitively diverted by local mafias and never recovered.

FOCUS

The Accreditation of "Risk-Prone"

Following the inspections and deep economic-financial investigations conducted by the European Court of Auditors and OLAF, Italy is formally qualified as a beneficiary at high geopolitical and administrative risk, due to the high number of irregularities suspected of fraud affecting European expenditure flows. Community doctrine uses the technical expression **"risk-prone country"** in these cases. This security classification highlights the distinct vulnerability of a bloc of Member States – which permanently includes **Italy, Greece, Bulgaria, Romania, and Hungary** – registering a partial helplessness or structural weakness of national administrations in timely detecting, isolating, and sanctioning corruptible subjects and conflicts of interest nested within local bureaucratic apparatuses.

VII. What Legislative Phases Produced the European Regulations Currently in Force Regarding Enforcement?

The current regulatory architecture of the European Union for protecting its resources and countering corrupt conduct is the result of a long **historical-institutional evolution**. In the aftermath of the Second World War, the European Coal and Steel Community (ECSC, 1951) was born with the political objective of placing the markets of these strategic raw materials under the authority of a supranational body, making a new armed conflict between France and Germany materially impossible, according to the pioneering vision outlined by the **Schuman Declaration of May 9, 1950**.

However, the original community structure did not provide the institutions with an autonomous financial budget, with the result that funding depended exclusively on the political will of Member States to pay direct contributions. The fundamental turning point occurred following the **Hague Summit of 1969**, during which European leaders decided to initiate the overcoming of this intergovernmental constraint, committing to pursue an Economic and Monetary Union. Despite the historical reticence of Gaullist France, from 1970, with the adoption of the fundamental **Council Decision 70/243/ECSC, EEC, Euratom**, the Union was formally provided with a structured system of **own resources**, aimed at guaranteeing the self-financing and strategic independence of the community budget.

This supranational fiscal system aimed to make the organization autonomous through a budget composed of:

- Common customs duties applied to extra-UE goods at external borders.
- Agricultural levies and co-participation quotas on revenues related to the Value Added Tax (VAT).

- A uniform rate applied to the **Gross National Income (GNI)** of each Member State, introduced later as a balancing resource.

Starting from the mid-1980s, a constant process of revision of the Treaties was initiated, which imprinted on the Union its contemporary political and economic strength. Under the impulse of the Commission Presidency of **Jacques Delors**, decisive steps were taken with the entry into force of the **Single European Act on July 1, 1987**, aimed at achieving the single market by 1992 through the full freedom of movement of goods, services, capital, and people. Parallelly, the budget *reres*-forms known as the "Delors I Package" were launched, intended to reduce regional socio-economic disparities through the structured allocation of structural funds.

The collapse of the Berlin Wall in 1989 accelerated German reunification. To embed the rebirth of Germany within a project of deep integration and prevent geopolitical imbalances, the German government agreed to sacrifice the historical monetary sovereignty of the mark to give life to a single community currency. Thus was born the **Maastricht Treaty (Treaty on European Union - TEU)**, signed on February 7, 1992, which imposed on Member States a rigorous path of macroeconomic convergence and financial stability, also conceived as a safeguard and guarantee in view of the future enlargement to the countries of the ex-Soviet East.

FOCUS

The Maastricht Financial Convergence Criteria

In order to access the third stage of the Economic and Monetary Union and adopt the euro, the Treaty imposed on Member States compliance with five rigorous economic parameters, which we must remember:

• **Deficit/GDP Ratio**: An annual public deficit (negative difference between State revenues and expenditures) **not exceeding 3%** of the Gross Domestic Product.

• **Debt/GDP Ratio**: An overall total public debt **not exceeding 60%** of GDP (a parameter for which Italy obtained a flexible interpretation based on the reduction trend, since national debt already stood around 110%).

• **Price Stability (Inflation Rate)**: An inflation rate not exceeding by more than 1.5 percentage points that of the three best performing Member States in terms of price stability.

• **Long-Term Interest Rates**: Nominal long-term interest rates not exceeding by more than 2 percentage points those of the three best performing Member States.

• **Monetary Stability:** Respect for the normal fluctuation margins provided by the narrow band of the **European Monetary System (EMS)** for at least two years, without devaluing one's currency against the ECU.

A further and definitive consolidation occurred with the signing of the **Lisbon Treaty on December 13, 2007**, which overcame the crisis of the European constitutional project. The subsequent global economic-financial crisis of 2008, however, highlighted the fragility of this framework and the partial absence of a common identity in the face of asymmetric shocks, triggering a fault line between high-deficit Southern European countries (provocatively defined by markets with the acronym PIGS) and the fiscal hawks of the North (Netherlands, Germany, Scandinavia), reluctant to grant bailout funds without the imposition of rigid austerity policies.

The European Treaties, arising from the changes introduced in Lisbon, contain stringent special provisions on budget matters. The Council of the European Union, deliberating **unanimously** according to a special legislative procedure and after consulting the European Parliament, adopts decisions on the Union's own resources, which require the formal approval of all Member States in accordance with their respective constitutional requirements. This "quasi-constitutional" procedure requiring unanimity is strictly provided for matters of high sovereign sensitivity (parified to the provisions for the election of Parliament by direct universal suffrage or the Statutes of the members of the Court of Justice). With the same special procedure, but after obtaining the **consent** of the European Parliament, the Council adopts the regulation fixing the **Multiannual Financial Framework (MFF - Multiannual Financial Framework)**.

REFERENCES

TFEU, Art. 312

Art. 312, para. 3 of the TFEU establishes the technical function of the multi-year budget: "The financial framework shall fix the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity". The MFF ensures the orderly progress of the Union's expenditures within the limits of its own resources for a period of at least five years (ordinarily fixed at seven years, as in the current 2021-2027 cycle).
Within this multi-year financial programming framework is placed – as analyzed in previous paragraphs – the **Directive (UE) 2017/1371 (PIF Directive)**. It constitutes the criminal instrument par excellence of the European Union, designed to typify in a detailed manner offenses against the budget, imposing on Member States the adoption of uniform repressive measures to protect funds allocated by the MFF from corrupt conduct and systemic fraud.

The **historical progression of European budget reforms** can be synthesized into four phases:

- **Phase 1 – ECSC (1951):** Absence of an autonomous community budget; total dependence on direct and discretionary contributions paid by individual Member States.
- **Phase of Own Resources (Decision 70/243):** Establishment of financial autonomy through common customs duties, agricultural levies, and VAT revenues. The need arises for centralized controls entrusted to the **European Court of Auditors**.
- **Phase of the Single Market and Parameters (Maastricht 1992):** Establishment of structural funds (Delors Package) and fixing of rigorous financial convergence criteria for deficit (3%) and debt (60%).
- **Phase of Today's Codification (Lisbon / PIF Directive 2017):** Institution of the Multiannual Financial Framework *ex* Art. 312 TFEU under conditioned majority/unanimity and launch of Directive 2017/1371 for criminal harmonization of corruption and transnational fraud offenses on community funds.

VIII. Which Historical Cases Marked the Institutional Evolution from UCLAF To OLAF?

The path of the European Union toward structuring an advanced system for preventing and suppressing corruption and fraud has been punctuated and accelerated by **severe institutional crises and emblematic rulings** of the Court of Justice of the European Union (CJEU). These cases of practice demonstrated how control deficits and opacity in decision-making processes could compromise the very credibility of the community project, fueling euro skepticism and imposing structural reforms of historic proportions.

FOCUS

The Collapse of the Santer Commission and the Institutional Crisis of 1999

The most notorious and disruptive political scandal in the history of the Euro-unitarian executive is represented by the allegations of **fraud, nepotism, and mismanagement** that engulfed the **Santer Commission in 1999**. Investigations by a committee of independent experts highlighted widespread irregularities in fund management and the assignment of consultancy contracts to family circles by certain commissioners. Regarding the political dynamics within the European Parliament, an intense debate took place: the Group of the Party of European Socialists (PES) took an intransigent line of action against the commissioners, including those from their own political orientation. This strategic choice responded to the need to avoid political isolation and preserve the party's credibility, transmitting an image of absolute transparency. At the same time, the move aimed to exert such pressure as to force the entire Commission, led by Jacques Santer (an exponent of the European People's Party), to resign.

In the historic votes of January 14, 1999, the European Parliament expressed itself in favor of the line promoting the principle of **collective responsibility of the members of the Commission**, pursuant to what is today enshrined in **Art. 234 of the TFEU**. Although it did not reach the formal vote of a motion of censure (no-confidence) to avoid a constitutional and institutional trauma in an era already marked by complex negotiations for enlargement to the East and the introduction of the euro, the Assembly induced the entire Santer Commission to tender their **voluntary resignations en bloc on March 15, 1999**, a unique event in the history of the Union.

This scandal produced a wave of strong distrust in public opinion, which began to perceive the EU as an excessively bureaucratic, clientelistic system permeable to crime, dealing a severe blow to the sentiment of common identity. To stem the euro skeptical drift, the institutions launched radical transparency reres-forms. The most relevant and fruitful consequence was the liquidation of the old Anti-Fraud Coordination Unit (UCLAF) – which, depending directly on the General Secretariat of the European Commission, suffered from an obvious deficit of autonomy – and the establishment, through **Commission Decision 1999/352/EC, ECSC, Euratom**, of **OLAF (European Anti-Fraud Office)**. OLAF was born as an organism equipped with a status *sui generis*, provided with an **investigative and supervisory mandate to be exercised in full administrative independence** to protect community financial interests from any internal fraud or corruption within the institutions.

FOCUS

The "Eurostat" Scandal and Double Accounting, 2003

About eight years after the 1999 crisis, the executive's reputation was again shaken by financial investigations hitting **Eurostat**, the official statistical office of the European Union. OLAF's inquiries unveiled a systematic diversion of community funds (estimated between 4 and 5 million euros) operated by high-level officials through the signing of inflated contracts with **external shell companies**. These front entities received payments channeled into secret bank accounts and registered through a system of **parallel double accounting**, specifically structured to be invisible to ordinary controls by internal auditors and the European Court of Auditors. Following the scandal, three senior directors of the Directorate-General were relieved of their duties and prosecuted, confirming the danger of abusing top positions for the exfiltration of sensitive information and the diversion of PIF resources.

Alongside OLAF, the management of these crises historically triggered a profound process of **empowerment (strengthening) of the European Parliament**, allowing it to evolve from a merely advisory body to a central co-legislator actor. This path, initiated by the Amsterdam Treaty of 1997 (which expanded the co-decision procedure and introduced Art. 7 of the TEU to sanction States violating fundamental values), found its definitive fulfillment with the **Lisbon Treaty**. Lisbon stabilized the **Ordinary Legislative Procedure**, extended binding approval powers (consent) on Treaties, and

granted Parliament **full decision-making parity with the Council regarding the approval of the community budget**, restoring democratic and transparent control over resources. Conversely, the persistent climate of distrust fueled by these monetary scandals prompted German Foreign Minister Joschka Fischer to promote the grand project of a **European Constitution** aimed at bringing institutions closer to citizens and securing the Union's values; however, international crises and the trust deficit decreed its definitive failure during the ratification referendums of 2005.
From a strictly jurisprudential perspective, the process of emergence and contrast of these financial offenses was guided by historic rulings of the Court of Justice:

CASE STUDY

Cort of Justice of the European Union, Commission v. United Kingdom, 2022
In this fundamental ruling, the Court of Justice of the European Union solemnly condemned the defendant State for failing to adopt appropriate customs and control measures to prevent the entry into the single market of massive flows of undervalued goods (textiles and footwear), causing a colossal evasion of customs duties. The CJEU strongly reaffirmed that the action of individual Member States must develop in absolute compliance with the duties of **sincere cooperation, mutual information, and sanctioning solidarity** toward European institutions, in order to protect the integrity and correct collection of the system of own resources of the common budget.

CASE STUDY

Court of Justice of the European Union, ANAS v. Ministero delle Infrastrutture e dei Trasporti, 2023
An immediate operational impact on the Italian national legal system is found in the judgment delivered in 2023 in the litigation between ANAS and the Ministry of Infrastructures and Transport. Here, the judges examined the **administrative and criminal liability of public officials** involved in certified corrupt and fraudulent phenomena perpetrated within the management of procurement tenders. In perfect adherence to the principles of severity and dissuasion imposed by the **PIF Directive (2017/1371)**, the ministerial authority ordered the immediate **revocation and full recovery of public funding already granted**, due to the emergence of overt acts of corruption in the procedure for awarding a large infrastructure contract co-financed by the European Union through the **European Regional Development Fund (ERDF)**, confirming the effectiveness of the combination of domestic criminal sanction and Euro-unitarian property protection.

Here we synthetize the impact of crises on the Union's anti-corruption architecture:

- **The Crisis of the Santer Commission (1999):**
  - Unveils the political vulnerability of the executive;
  - Determines the historic transition from internal control of the Commission (**UCLAF**) to the investigative independence of **OLAF** (Decision 1999/352).
- **The Eurostat Scandal (2003):**
  - Highlights techniques for diverting funds through double accounting and shell companies;
  - Imposes the strengthening of auditing systems and the push toward a central Prosecutor.
- **The Lisbon Treaty:**
  - Reacts to the democratic deficit and euro skepticism;

  - Confers on the **European Parliament full co-decisional control over the budget** (MFF) and stabilizes the ordinary legislative procedure.
- **The Jurisprudence of the CJEU (C-213/19 and Anas 2023):**
  - Fixes the principle of sincere cooperation in the collection of own resources and legitimizes the immediate **revocation of Structural Funds (ERDF)** in the presence of national corruptive infiltrations.

IX. How Do Specialized European Agencies Practically Operate in Combating Public Corruption?

The operational framework for protecting the financial interests of the European Union (PIF) rests on a complex, multilevel system of integrated control. This structure effectively connects domestic law enforcement and monitoring bodies with independent supranational agencies, blending administrative inspections, criminal intelligence, and direct judicial prosecution.

The primary institution invested with top-level financial auditing is the **European Court of Auditors**. It analytically examines the legality and regularity of all revenue and expenditure of any body, agency, or institution connected to the Union, ensuring compliance with the requirements of sound financial management.

REFERENCES

TFEU, Art. 287

Art. 287, para. 2 of the TFEU defines the investigative competence of the body: "The Court of Auditors shall examine the operational accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Union insofar as the relevant constituent instrument does not preclude such examination. The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions". The Court thus performs a vital preliminary function in detecting and bringing to light fraudulent behaviors, forwarding special reports and alerts to competent institutions.

Following the administrative auditing of the Court, on-the-field investigation is entrusted to **OLAF (European Anti-Fraud Office)**, established by Commission Decision 1999/352/EC. OLAF operates with absolute independence, gathering intelligence and conducting administrative inquiries to identify systemic vulnerabilities in the budget. It formalizes its findings in annual PIF Reports, which categorize fraud risks and guide the operational priorities of the **EMPACT** platform. Under the PIF Directive, Member States are legally mandated to transmit all detected financial irregularities to OLAF.

FOCUS

Operation "Mala Gestio", 2013

A prime example of how European investigative authorities cooperate with national judicial police to crush the diversion of EU funds is represented by **Operation Mala Gestio**. The inquiry, coordinated by OLAF on an informational level and executed on the ground by the Economic-Financial Police Unit of the **Guardia di Finanza of Palermo**, dismantled a criminal syndicate responsible for the illicit reception of **15 million euros from the European Social Fund (ESF)**. The capital, originally allocated to fund professional training courses and apprenticeships for unemployed citizens, was systematically drained by the perpetrators with the complicity of corrupt public officials inside the local Public Administration. The dirty money was funneled through a network of fictitious **shell companies (buffers)** to conceal its origin, connecting this conduct directly with the Eurocrime of **Money Laundering**.

On the front of **customs fraud** – transnational offenses that strike the revenue side of the budget through smuggling, false declarations of origin, or fictitious tariff classifications of goods to evade customs duties – OLAF urges Member States to apply the principle of information, launching Joint Customs Operations (JCOs) in high-risk commercial sectors. This coordinated action is financed and technologically reinforced by the **Union Anti-Fraud Programme (UAFP)**.

FOCUS

The Three Operational Pillars of the UAFP Antifraud Programme

The UAFP promotes the protection of the Union's financial interests by providing Member States with targeted financial, technical, and judicial support, structured around three core IT components:

- **AFIS (Anti-Fraud Information System):** A secure, centralized IT platform that provides the technical infrastructure for the **real-time exchange of customs data** and mutual administrative assistance in agricultural and commercial fraud monitoring.
- **Hercule Programme:** Provides direct financial grants and funding for the procurement of **high-tech forensic equipment** for law enforcement and customs (e.g., container x-ray scanners at major ports, financial data analytics software, and digital surveillance devices), as well as specialized training courses.
- **IMS (Irregularity Management System):** A secure electronic reporting system that centralizes the cataloging of all irregularities and suspected fraud cases communicated by Member States, facilitating statistical data matching with third countries and external auditing organizations.

The Union's anti-fraud architecture achieved a historical milestone with the full operability (in June 2021) of the **EPPO (European Public Prosecutor's Office)**, the first independent judicial authority equipped with the power to exercise criminal prosecution directly before the national courts of participating Member States.

REFERENCES

TFEU, Art. 86

Art. 86, para. 1 of the TFEU establishes the legal basis for the office: "In order to combat crimes affecting the financial interests of the Union, the Council, acting by means of regulations in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament".

The EPPO was formally established through **Regulation (UE) 2017/1939**, which defines its organizational structure and jurisdictional boundaries, linking directly with the core offenses harmonized by the PIF Directive (2017/1371). We must memorize the **two-level independent structure** of this judicial organ:

- **The Central Level (Supranational Strategic Level):** Headquartered in Luxembourg, it is managed by the **European Chief Prosecutor** (a position held since its inception by Romanian magistrate Laura Kövesi), assisted by two Deputy Chief Prosecutors. The Chief Prosecutor forms, together with one European Prosecutor from each participating Member State, the **EPPO College**, which is in charge of defining the strategic guidelines and harmonizing criminal prosecution policies. The central office also houses the **Permanent Chambers** (each composed of three members), which monitor and direct field investigations, making final decisions regarding bringing an indictment, reassigning a case, or dismissing a file.
- **The Decentralized Level (Domestic Operational Level):** Composed of the **European Delegated Prosecutors (EDPs)** operating directly within the territory of each participating Member State. EDPs integrate national prosecutor offices and hold exclusive competence to launch material inquiries, order searches, request asset seizures, and prosecute cases in court. In the exercise of their PIF duties, EDPs are **completely free from any binding link, subordination, or instruction from national political or judicial authorities**, answering exclusively to the central Permanent Chambers in Luxembourg. Cases are ultimately tried by national criminal courts, without prejudice to the competence of the CJEU to issue preliminary rulings to ensure the uniform application of EU law.

However, the operational effectiveness of the EPPO faces strict **material (*ratione materiae*) and territorial (*ratione loci*) jurisdictional limits** that create a fragmented investigative landscape:

- **Material Jurisdictional Limits:** The EPPO is exclusively competent for crimes affecting the financial interests of the Union (expenditure fraud, serious cross-border VAT fraud exceeding 10 million euros, PIF corruption, and money laundering), remaining **completely devoid of jurisdiction over national ordinary crimes**, unless they are inextricably and predominantly connected to the Union's financial dimension. Any extension of the EPPO's mandate to other serious areas of crime (such as international terrorism) requires a unanimous decision by the European Council. This sharp boundary risks fragmenting complex cross-border corporate investigations, as national corporate crimes connected to the main fraud bypass the EPPO's unified action and are sent back to local domestic prosecutors, weakening investigative continuity.
- **Territorial Jurisdictional Limits:** The EPPO's reach is rigidly restricted to the Member States that formally joined the enhanced cooperation under Regulation 2017/1939. **Currently, 24 out of 27 Member States participate**, resulting in the structural exclusion of **Hungary, Denmark, and Ireland**. This geographical asymmetry prevents the EPPO from conducting direct inquiries in those territories, creating the concrete risk that these countries may transform into safe havens for economic criminals trying to evade seizure orders. To mitigate this vulnerability, Articles 25-27 of the founding Regulation impose extended

cooperation duties with **Eurojust** and OLAF, although this mechanism faces strong operational complexities on the field.

To bridge these geographical asymmetries and extend judicial and police cooperation to all 27 EU nations and third states, specialized agencies within the Area of Freedom, Security, and Justice intervene:

- **Eurojust (European Union Agency for Criminal Justice Cooperation):** Unlike the EPPO, Eurojust **does not possess executive powers of direct criminal prosecution**, but acts as a strategic coordination hub that facilitates collaboration between national judiciaries. It supports the establishment of Joint Investigation Teams (JITs), resolves jurisdictional conflicts, and, being free from enhanced cooperation limits, successfully extends its network to Denmark, Ireland, Hungary, and extra-EU states.
- **Europol (European Union Agency for Law Enforcement Cooperation):** Assures operational and criminal intelligence support to national police forces (e.g., Guardia di Finanza) to combat drug trafficking, cybercrime, and economic organized crime.

REFERENCES

TFEU, Art. 86 para. 2

The Treaties mandate tight interoperability between the different organs: "The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offenses against the Union's financial interests [...]".

Europol places financial analysts and digital forensics technologies at the disposal of the EPPO to track illicit cross-border monetary transactions. In the execution of its mandate, Europol operates under the supervision of the Council of the EU (JHA - Justice and Home Affairs), to which it reports its concluded activities, while simultaneously forwarding a periodic information report to the European Parliament. The Council holds the political power to appoint top executives (including the Agency's Executive Director) and votes, in full co-decision with the European Parliament, on the financial budget of the office and any potential expansions of operational competences, as historically occurred with the 2016 reform to strengthen the fight against digital terrorism.

X. What Geopolitical Implications Do Corruption and Illicit Lobbying Entail for Transparency Policies?

In light of the financial scandals that have hit European Union institutions, Union policies regarding integrity and public ethics have progressively evolved to neutralize new and pervasive methods of infiltration by cartels and third states. Although institutions strive to guarantee democratic and participatory access to their structures, cases occur where this openness is distorted by unregistered pressure groups, opening wide spaces for corrupt maneuvers.

From the perspective of supranational judicial practice, the most disruptive and asymmetric event is expressed by the investigation launched in December 2022, globally known as **Qatargate**. The forensic inquiry revealed that certain members of the European Parliament had accepted massive cash payments, gifts, favors, and asset advantages in

order to **illegitimately influence political decisions**, geopolitical resolutions, and economic orientations of the EU in favor of the government of Qatar.
Among the top defendants were the then Vice-President of the European Parliament, Eva Kailī, and former Italian MEP Antonio Panzeri. The criminal charges formulated by Belgian magistrates in coordination with Eurojust involved the offenses of **criminal association, international corruption, and money laundering**, leading to the seizure of approximately **one and a half million euros in cash** hidden in bags and suitcases. The scandal drew harsh criticism from non-governmental organizations (NGOs) and civil society, which accused the European Parliament of structural failure in ensuring an internal control framework capable of preventing and punishing such eversive phenomena.
Recent investigative practice shows that traditional enforcement tools do not fully fulfill the deterrent role for which they were originally conceived. This trend is confirmed by corruption and infiltration inquiries involving **lobbying groups connected to the Chinese technology multinational Huawei**. According to intelligence findings, representatives of the ICT giant allegedly funneled illicit economic advantages and promises of funding to exert undue pressure and hidden influence on MEPs, aiming to steer European legislation on 5G network development and cybersecurity in favor of Beijing's strategic interests, linking directly with the Eurocrime of **Cybercrime**.
To respond to this reputational emergency, the Presidency of the European Parliament promoted a drastic counter-reform of administrative governance.

FOCUS

The Metsola 14-Point Reform Plan, July 2023

The 14-point reform plan proposed by President Roberta Metsola introduces a complex set of prescriptive rules to secure the transparency policies of the European administration. The binding pillars of the text that we must remember include:
- **Strengthening the Transparency Register:** Mandatory and targeted screening of all interest groups (stakeholders) and lobbying networks wishing to access institutional premises.
- **Ban on Unofficial Meetings (Interdiction of Shadow Groups):** A strict ban on MEPs and assistants engaging in formal relations, meetings, or exchanges with unregistered or unofficial diplomatic representations.
- **Introduction of Cooling-off Periods:** A strict ban prohibiting former MEPs from engaging in lobbying activities at the European Parliament for a period of 24 months following the end of their mandate.
- **Code of Conduct and Accessory Sanctions:** A new, strict ethical code containing detailed behavioral guidelines, backed by automatic financial and restrictive sanctions to repress corruptive behaviors

The long-term effectiveness of this framework depends on overcoming an economic paradox: as long as the financial or statutory sanction applied is perceived by criminal cartels or sponsoring third states as negligible compared to the immense asset or geopolitical advantage gained from the violation, it will remain mathematically complex to bring the phenomenon of corruption under definitive control.

XI. How Do "Better Regulation" Strategies Connect with The Digitalization of Anti-Corruption Processes?

Following the evolution of global public governance models, the European Union has understood that the fight against corruption and maladministration is not pursued exclusively through *ex-post* criminal sanctions, but demands a radical **simplification and transparency of the *ex-ante* legislative processes**. Emulating the Smart Regulation approach developed in the United States of America, the Union has undertaken a path of regulatory rationalization aimed at guaranteeing flexibility in the face of emerging risks, evidence-based decision-making, and total public access to information and legislative texts.

This evolutionary process led to the formulation of the regulatory agenda known as **Better Regulation**, structured through **four historical and technological phases of reference**:

- **The Genetic Phase (2002-2005):** Development of the first protocols to impose on the European Commission a mandatory obligation to perform **Impact Assessments** before proposing new directives. This phase codified the need to launch wide public consultations with stakeholders, civil society groups, and citizens' associations, allowing independent technical expertise to be gathered to shield the genesis of the norm from the opaque pressures of individual industrial cartels. In parallel, the **EUR-Lex** portal was launched, guaranteeing maximum accessibility and ease of reading of legal texts.
- **The Smart Regulation Phase (2010):** Focused specifically on improving the efficiency, effectiveness, and technical quality of Union law, introducing integrated control over the life cycle of the norm to repeal regulations considered obsolete or redundant.
- **The Return to Better Regulation (2015):** Marks a methodological turning point, aiming to make the decision-making process fully open, transparent, and traceable from the initial draft stages to the conclusion of the vote. This phase programmatically aims to reduce the bureaucratic weight of the community administrative machinery to make the regulatory framework less burdensome for citizens, businesses, and domestic public administrations, reducing the bureaucratic asymmetries where corruption often thrives.
- **The "One In, One Out" Principle (2019):** Implemented by the Presidency of the von der Leyen Commission, this parameter establishes that for any new regulation or administrative burden introduced by a Union act, an obsolete pre-existing burden in the same sector of activity must be **mandatorily repealed**, blocking regulatory hypertrophy.

In **2021**, and becoming fully consolidated over the course of **2026**, this strategy of dematerialization and transparency fused with the digital transition of the Union through the establishment of the centralized telematics platform known as **"Have Your Say"**, which works in the following way:

- Citizen/Stakeholder: Tracked digital access (Have Your Say);
- Draft Directive: Online publication of the Commission's proposal;
- Open consultation: Submission of Opinions, Critiques, and Technical Data;
- Impact assessment: Forensic Analysis by OLAF and EU Experts;
- Final legislative text: Total traceability via "Better Regulation";
    - Eradication of corruption risks;
    - Enforcement of the "One In, One Out" principle.

The digitalization and disintermediation of consultation processes via *Have Your Say* remove the ascending phase of European law from the old closed-door meetings between lobbyists and officials, creating a **permanent public audit**. This digital ecosystem, integrating with OLAF's administrative inspections and the EPPO's criminal prosecution, represents the Union's most advanced institutional response to secure transparency and bring the community closer to the structures of the European Space.

XII. Key Findings

The scientific, historical, and regulatory analysis carried out within this paper leads to the outline of **five fundamental findings** that we must keep in mind for a complete understanding of the subject matter:

- **Budget Protection as a Subsidiary Eurocrime:** Under **Art. 83, para. 1 of the TFEU**, and in conjunction with **Art. 310 and Art. 325 of the TFEU**, corruption and money laundering affecting the financial interests of the Union (PIF offenses) are classified as particularly serious spheres of crime with a distinct cross-border dimension. This legitimizes the enactment of **Directive (UE) 2017/1371** to set common minimum definitions and eradicate eversive phenomena of political influence, as highlighted by the *Qatargate* scandal of 2022.
- **Dogmatic Classification of Conducts and VAT Fraud:** Euro-unitarian legislation operates a sharp distinction between the conducts of passive corruption (the selling of public function by an official) and active corruption, introducing criminal harmonization for **serious frauds against the common system of VAT (Carousel Fraud)** exceeding 10 million euros. These offenses, orchestrated by structured criminal networks through multi-layered grids of shell companies (*missing traders*) and filter companies (*buffers*), primarily target cohesion and regional development policies (**ERDF Funds**), eroding 72% of the total resources affected by fraud, as analyzed by official PIF reports.
- **Severity and Anticipation of Protection in the Italian Legal System:** The Italian legislator sanctions crimes against the Public Administration by differentiating aggravated fraud against the State (Art. 640 c.c.) from fraud in commerce (Art. 515 c.c.). Following the Severino Law (L. 190/2012), Art. 318 and Art. 319 c.c. autonomously punish the mere "selling of the function" of a public official in compliance with **Art. 54 of the Italian Constitution**. On the front of anti-mafia prevention, the system boasts a model of global investigative excellence represented by the **Antoci Law (L. 161/2017)**, which removes exemption thresholds and mandates anti-mafia certification to prevent the infiltration of clans into the funds of the Common Agricultural Policy (CAP).
- **Institutional Evolution Driven by Real-World Crises:** The current transparency architecture of the Union is the direct result of responses provided to serious systemic crises. The collapse of the Santer Commission in 1999 and the double-accounting scandal of Eurostat in 2003 led to the dissolution of internal controls under the Commission (**UCLAF**) and the launch of **OLAF** as a fully independent administrative inspection office (Decision 1999/352). This triggered the co-decisional empowerment of the **European Parliament** over the budget (Art. 312 TFEU). This drive translates today into the simplification agendas of **Better Regulation**, the **One**

In, One Out principle, and the digital auditing of the **Have Your Say** platform, aimed at tracing the legislative chain and disarming opaque external pressures highlighted by the *Qatargate* and *Huawei* cases.

- **The Operational Tandem and the Limits of EPPO, Eurojust, and Europol:** Since **June 2021**, PIF judicial protection relies on the action of the **European Public Prosecutor's Office (EPPO)**, an independent organ led by Laura Kövesi and established under Art. 86 TFEU. However, the EPPO's effectiveness faces strict **material limits** (lack of jurisdiction over concurrent national corporate crimes such as money laundering, causing investigative fragmentation) and **territorial limits** (geographical exclusion of Hungary, Denmark, and Ireland), requiring subsidiary cooperation with the judicial coordination powers of **Eurojust** and the forensic intelligence and financial tracking analyses provided by **Europol**, supported on an accounting level and by technical support programs (AFIS, Hercule, IMS) by the UAFP and the **European Court of Auditors**.