



Transnational Crime and EU Law:
towards **Global Action** against **Cross-border**
Threats to common security, rule of law,
and human rights

CONCLUDING REMARKS

by *Pablo Antonio Fernández-Sánchez**

Thank you very much! I feel like a student because the place from where I listened to everything was ideal for writing down some notes, even without a computer, and that is a rarity. Well, it is not easy to make an overarching concluding speech on so many points of view, some differing from each other while others even very coinciding.

Professor Roxana Matefi, don't you worry because I'm with you, right? The main focus that you have expressed in your speech is exactly the relationship – but you have not called relationship – you have called it in a better way, “influence”, between the artificial intelligence and law and the human rights specifically. Not only just law. You have mentioned, namely, the right to equality and the right of non-discrimination, and for this reason you have found support for your ideas in the European Convention of Human Rights and in the International Covenant on Civil and Political Rights too. You have taken into account the European Law, European Union Law, too and some specific human rights in this framework (for example, freedom of expression, human dignity, freedom of assembly, *etc.*). The essence of your speech, in my view, is about the question that you have anticipated, foreseeing the relationship between the artificial intelligence and law because you have mentioned the scientific concept of artificial intelligence in the AI Act of the European Union, now in force. Sure, it originates as a mere scientific concept, but now it's a legal concept too, and this is the essence of your speech. With respect to a second issue: you have finished your speech with a question, maybe not resolved: who is the responsible subject? And you have mentioned several examples: the programmer, the manufacturer, the operator and so go on. In my view these are the two most important points you have focused on during your speech.

After that, Professor Daniela Marrani spoke about something very different, but very important, nonetheless. She said that data protection and the protection of confidentiality constitute, in her words, inalienable values of the European Union. This is very important because it is not the same thing, whether it is a value or a right. However– since, in law, you can't “exactly” use a right as a value – for this reason she made a very narrow, and also very interesting, analysis on the protection of rights. And these values have been also expressed by the Court of Justice, which for us jurists, in general, makes more comprehensible to understand and accept as they are. Indeed, such acknowledgment inevitably leads to the value of democracy, of political participation, which is the right that can be properly protected. And I really liked that because it's important.

Professor Fabio Coppola, on the other hand, spoke about the difficulty of prevention and repression of digital crimes, especially hate speech. It is not easy to handle the risk ensuing from artificial intelligence in this case. It is a problem with respect to which various legislative interventions have shown how difficult it is to punish these circumstances. Therefore, a traditional criminal sanction is of no use in this matter. I'm not sure if the analysis he did is only criminal law, it's a bit broader, isn't it? It also seemed to me to be a

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philosophical perspective of law, even from a more complex point of view, ultimately more systemic, which I like very much, because this is more honest.

On top of that, Dr. Giovanni De Bernardo spoke about the need to reinvent security strategies. All threats require, as he said, international collaboration, which he later said must be “voluntary”. I don't think it's just voluntary, it can be mandatory, it depends on the process, right? The most profitable, however, is the voluntary one: perfect in all cases. I think it's important to take into account what Giovanni De Bernardo said. Italy has placed judicial cooperation as a central matter and this is very important because it will certainly be a model for the rest of the countries. He also talked about image and voice cloning, he certainly didn't have time to express some ideas fully, but I really enjoyed listening to him.

Now, the students Orsola Ilenia Conte and Teresa D'Aniello. First of all, congratulations because I know perfectly well that it is not easy. I remember when I was a student in my final year of my PhD. And you have spoken not only from a methodological point of view, but also from a practical point of view, and with your age it is really surprising to see a perception that is also practical. That is not possible, of course, because it is only the practice of others, because you have studied others experience, because you do not have the your own yet. They have been very critical of the role of technology and cybersecurity, calling out cybercrime in a timely manner: it is a precise issue, a dangerous invisible enemy. Perfect, beautiful. Differentiating this type of crime from traditional crime. This is a point where the majority of the rapporteurs agreed. This report highlights the measures taken by the European Union to establish a secure and monitored European digital space.

An important thing that Ambassador Cosimo Risi said is the “proposal” he put forward. He didn't call it revolutionary, but I call it like that amidst a discourse, we can say cosmic, of broad-spectrum. This is like when internationalists talk about hard law and soft law and I always say this: “if it is law, it cannot be soft”. He spoke of hard science, and I don't know if we are hard science or bland science. Surely it also depends on the person who's perceiving it. In any case, he made this revolutionary proposal to have a course or a title that is “systemic” and valid with all kinds of sciences as well, regardless of whether we call them hard sciences or mild sciences.

Moving to Professor Florin Roman, his speech mentioned the different methods used by organised crime groups to perpetrate financial crimes. I must confess that I learned a word in Italian from you that I didn't know, which is “*bilancio*” (financial report/statements), because I always say “budget”, and you correctly said “*bilancio*”. Prof. Roman's speech also describes the strategic and technological framework of the instruments in the framework of the detention, prevention and prosecution of financial crimes. He also made a very interesting comparison between the national IT tools of Italy and Romania.

Now, let us come to Dr. Bianca Rinaldi, Dr. Gianpaolo Nuzzo and Professor Anna Iermano. They talked about the most important topic, which is cooperation, because without international judicial cooperation (that is the issue) little can be done. In general, since the IT world is an area that knows no borders, I often wonder whether we can really apply criminal law or national law to this type of crime. It's a bit complicated, isn't it? I am currently studying the problem of the application of criminal law in outer space. Yes, it's very easy to say when a State goes with a ship, yes, but that's not easy to frame the related issues. Dr. Rinaldi referred to the new reality that she called Copernican: the codification of the electronic criminal process, emphasizing all the problems inherent in the formation of procedural documents, the electronic filing of criminal documents and telematic notifications. That's important, isn't it? All of this will be absolutely essential for the general concept of cross-border judicial cooperation.





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Dr. Nuzzo, as a State official at the Public Prosecutor's Office, gave a curiously systemic vision, this is also a methodology that everyone has taken into account. And it's not easy, because it's all connected and interdependent. As I said, it has given a systemic vision, taking into account Italian legislation and also the international and European level, the Europe of the two systems, the Council of Europe and the European Union, and also, sometimes, of comparative law. Because he spoke about Anglo-Saxon law, addressing with special interest the issue of international cooperation in the field of child pornography, which I did not know had a strictly IT qualification not existing outside the IT world. That's interesting too. Professor Iermano, finally, has formulated the issue of the digitalization of judicial cooperation and access to justice, this is more crucial than anything else.



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