

## FOREWORD

by Ivana Jelić\*

I am delighted to write the foreword for this important publication, which was produced as proceedings from the conference in the form of a special joint edition of *EUWEB Legal Essays. Global and International Perspectives* and *Studia Iuridica Montenegrina*.

The conference on the pertinent topic “*Promoting public awareness of the fight against transnational crimes, the role of police and judicial cooperation and respect for fundamental rights*” was held last June at the University of Donja Gorica, within the Jean Monnet Chair in *Promoting Public Awareness on Enlargement Policy, EU Values and the Western Balkans’ Accession*. The conference gathered researchers and practitioners from different countries, with different backgrounds and EU affiliations, but sharing similar challenges in fighting transnational organised crimes. The cooperation of the University of Salerno and the University of Donja Gorica, through the project supported by the European Union, is an academic answer to existing challenges by promoting dialogue, education, public awareness, and contributing to the realisation of the rule of law.

Fighting against organised crime is the responsibility of every authority and the duty of the whole society. The fight against transnational crimes is an important component of the European legal value system, which is related to the realisation of the rule of law. Another important component, which is at the same time a challenge for most countries, is the fight against corruption. Both harm the three pillars of the Council of Europe system: human rights, the rule of law, and democracy. They must be addressed promptly and effectively. However, we live in societies that are not immune from those challenges. Therefore, the role of universities, and civil society in general, in promoting European standards and interstate cooperation is very important.

In the spirit of the presumption of the same level of human rights protection in the EU member states as the one existing in the Council of Europe member states, where the European Court of Human Rights set forth legal standards by interpreting the European Convention, it is to be concluded that the fight against organised crime is a fight against negation of human rights and denial of the European legal order. A crucial role belongs to transnational cooperation, where police and judicial cooperation are indispensable.

The publication before the readers consists of eight individual papers covering different aspects of transnational organised crime through the prisms of its character as a global problem, judicial and police cooperation, and respect for human rights in fighting the problem. Here, a special role belongs to criminal law, which, as Professor Russo emphasised, became “*a topic of widespread interest*” and “*a high degree of convergence in criminal law and procedure*” is needed. International cooperation in fighting transnational organised crime should give a reply to “*increasing co-operation of organised crime groups at international level*,” where “*the implementation of the EAW can be assessed as a major achievement in the fight against TOC*,” as concluded by Dr. Wagner. Prevention and suppression of organised criminality should be followed by continuous analysis of the legislative framework, *inter alia*, and constant monitoring of

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its phenomenological dimensions, as elaborated by Professor Djurišić. In the context of fighting transnational crimes and dealing with cases with a foreign element, cooperation with EUROJUST is important in its multiplicity, as explained by State Prosecutor Djaletić. The role of international judicial cooperation in criminal matters with an emphasis on Montenegro and the process of its integration in the EU, as described by UN consultant Mr. Mitrović, is crucial in fighting transnational crime and in line with the country's foreign policy priorities. A brief critical overview of judicial cooperation in the Western Balkans, authored by Dr. Šaranović and dealing with different aspects of the phenomenon through ex-Yugoslav heritage and present-day circumstances, highlighted the EU principle of subsidiarity in the context of the EU enlargement. Challenges in the rule of law implementation in the context of human rights protection in the realism of transnational organised crime, as analysed by Professor Vukčević, were assessed from the constitutionalist's point of view while dealing with the ECHR as a living instrument in the case law of the Strasbourg Court. Finally, and not less importantly, the issue of human rights respect while fighting transnational organised crime, which seriously endangers our rights and freedoms, was treated as the concluding paper of the publication. As elaborated by international legal consultant Mr. Marković, who analysed the issue in particular dealing with rights protected by Article 8 of the ECHR and Article 1 of Protocol 1 thereto, the crux is to search and find the balance, as well as to strengthen international police and judicial cooperation.

In addition, in the papers before the readers, the importance of cooperation between the EU and acceding countries in the field concerned has been highlighted. In this regard, harmonization with the EU law is of the highest importance and a *conditio sine qua non* for acceding countries, such as Montenegro.

This useful reading offers both academic and professional analysis and considerations of important issues in the fight against transnational organised crime. I am glad to have the opportunity to cordially support this project, convinced that it will contribute to a better understanding of the importance of international cooperation and institutional dialogue in combating transnational organised crime and consequently will help the development of legal culture.