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Epilogue

SOME CONCLUSIONS CONCERNING KEY ELEMENTS OF THE FUTURE OF EU-WESTERN BALKANS COOPERATION ON JUSTICE AND HOME AFFAIRS*

After three years of intense and fruitful research and didactic activities, our project comes to an end. Against the backdrop of EU enlargement toward the Western Balkans, the EUWEB Module has focused on four main research areas: cross border security (asylum and migration management); the fight against transnational crime; police and judicial cooperation; and the protection of fundamental rights. These will remain the key elements of EUWEB's Observatory Research in the future.

We will continue to monitor the enlargement process because we strongly believe in a common future. The geostrategic assets of Europe are changing, new requests for membership are pending before EU institutions, and a new and no longer invisible line is dividing the peoples of Europe. We have to stay on this journey together.

In particular, enlargement acts as a bridge between the European Union's exterior and interior, transforming third States into partner States, candidate States, acceding States, and finally, Member States on the formal basis of Article 49 TEU, with a key role ascribed to the Commission, the Council, and the European Council progressively establishing new membership criteria.

Due to the practices of EU institutions and some Member States, EU enlargement has taken on the connotations of a medium-long term process linked to the attribution of different statuses and functions depending on the countries that present their candidacy: initially concerning the European Union's aims of promoting peace and solidarity, then symptomatic of the need to consolidate its identity based on the principles – now values – of Article 2 TEU, of which the rule of law comes first.

As a consequence of the war in Ukraine, it is now even more important to monitor and support EU enlargement toward the Western Balkans. We are delighted that as the project concludes, negotiations have been opened with Albania and North Macedonia. We continue to investigate EU enlargement also with reference to the new candidate States (Ukraine and Moldova) with a view to the enlargement of other regional organizations, which as known, constitute a criticality in current international relationships. Thus, we envisage using the enlargement perspective to deepen our understanding of the changing geopolitical assets of the European and international community.

A second key element of the EUWEB Observatory is cross-border security, which will remain crucial. While our analyses highlight the issues around migration and asylum, the protection of the national public order with consequences on human rights and free movement within the Schengen area call into question the principles of solidarity and mutual trust among EU Member States.

Within the broader framework of the international order, solidarity implies political actions aimed at eliminating inequalities while providing mutual support in the event of difficulties, an aspect that faces the greatest challenges. Thus, the crisis of migrants arriving on the threshold of the Union is a crisis to which Member States have and

* Speech held at the open forum of the International Conference *Key Elements for the Future of the EUWEB Observatory's Research* at EPOKA University of Tirana, 15 June 2022.

continue to respond by strengthening controls at external borders, reintroducing controls at internal borders to avoid secondary movements, creating border areas without any jurisdiction. On the other hand, the EU has enhanced the externalization of border management and the role of Frontex. The same proposals made in the context of the European Pact on Migration and Asylum allow for the creation of areas to conduct pre-screening, a procedure still to be defined. All this has set so-called virtuous States, as they are in the front line, against non-virtuous States, invoking compliance with the Dublin Regulation, and contesting or evading the exceptional measures defined precisely in the name of sharing responsibility that should serve to overcome situations of crisis and difficulty.

The European Commission's package of proposals of September 2020 is still pending and closely linked to Greek practice. In fact, Greece was presented as a real laboratory, testing new techniques and procedures for the management of migratory flows, even using the hotspot approach. Thus, we want to continue monitoring, studying, and analyzing the next steps of these proposals, considering the new European Union Agency for Asylum regulation that only entered into force in January 2022. We also want to focus on the practice of status agreements with Frontex in the Western Balkans, and the extraterritorial exercise of executive power and use of force.

The third key element, combating transnational crime, has highlighted the absence of a uniform definition of offenses in national legal systems, making their prosecution difficult. Despite this, consensus has now been reached that cooperation is the only real tool to fight and prevent these crimes. Over the years, Member States have become aware not only of the increasing usefulness of cooperation, but also the exigency of practical impetus and setting increasingly ambitious objectives. Thus, the growing need to effectively combat this "extended" form of crime or criminal phenomena, including terrorism, human trafficking, sexual exploitation of women and minors, illicit drug and arms trafficking, money laundering, corruption, cybercrime, and organized crime, has led to the preparation of regulatory instruments for the prevention and repression of these crimes, both at the national and supranational level, in an attempt to develop uniform norms across States and direct them toward the harmonization of their internal laws. Indeed, several Conventions have been established in the UN system, Council of Europe, European Union, but also in other regions of the World, such as in the African Union, and in the North and Latin American systems. In this perspective, we intend to extend our research and compare the tools and strategies in the fight against transnational crimes in other continents in relation to third countries and within the framework of other regional organizations.

The fourth key element of EUWEB research has been (and will continue to be) judicial and police cooperation. This field of investigation is closely linked with border security and the fight against transnational crimes, as international and European judicial cooperation in criminal matters offers several tools and strategies, such as the not-so-new European arrest warrant (EAW), the European Investigation Order (EIO), Joint Investigation Teams (JITs), and other international instruments, in light of the new dimensions of digital justice and digital cooperation. The most evident example is the proliferation of databases: the Schengen Information System (SIS), Visa Information System (VIS), European Dactyloscopy system (EURODAC system), Entry and Exit System (EES), European Travel Information and Authorisation System (ETIAS), and their interoperability, the European Criminal Records Information System for third-country nationals (ECRIS-TCN system).

Regulations 2019/817 and 2019/818 establish a framework for the interoperability of EU information systems in the field of borders, visa, police and judicial cooperation,

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asylum, and migration, adding new objectives to the underlying systems, among which the multiple-identity detection procedure is a prominent novelty in the reform. This mechanism is expected to support the “correct identification” of third country nationals at EU external borders, while calling into question the guarantees set forth for migrants’ rights and the protection of personal data.

Of course, Member States impose or oppose different political choices, creating areas of political incommunicability. However, in these spaces of political incommunicability, cooperation between national authorities comes into play, and in some ways compensates for the stalemate in political integration. The unstoppable application of international and EU law implies a way forward in the cooperation of national authorities and EU agencies with regard to implementing or reporting their failed or poor implementation.

The fifth key element, namely the protection of human rights, has had and will continue to have a transversal dimension with respect to all the aforementioned fields of investigation. The analyses conducted highlight systemic violation, or more precisely, a kind of “natural” compression of the exercise and protection of individual rights for the preeminent security needs of public order.

In conclusion, there is still a long way to go, but I would like to embark on the next part of the journey with you.

The Covid pandemic has divided us, but the EUWEB Module and its research activities have kept us together. We will keep walking together! Thank you!

31 July 2022


The Editor-in-Chief
Teresa Russo