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This issue of the Journal intends to illustrate the activities carried out and share the scientific results achieved within the Jean Monnet Chair *Promoting Public Awareness on Enlargement, EU Values and the Western Balkans' Accession* (EUVALWEB), also collecting some of the essays and speeches delivered by our experts and young speakers.

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## Editorial

### JEAN MONNET CHAIR *PROMOTING PUBLIC AWARENESS ON ENLARGEMENT, EU VALUES AND THE WESTERN BALKANS' ACCESSION* (EUVALWEB): ONE YEAR OF ACTIVITIES

After a year of intense teaching and scientific activity, with the participation of Italian, foreign and Western Balkan students and academics, professionals, political, civil society and NGO representatives, both national and international, the first edition of the Jean Monnet Chair *Promoting Public Awareness on Enlargement, EU Values and the Western Balkans' Accession* (EUVALWEB) comes to an end. Selected for co-funding by the European Commission for the period 2022-2025, the Jean Monnet Chair EUVALWEB aims at promoting the study of European Union (EU) law, explaining the important impact that the enlargement policy has on the construction of the Union's identity based on its founding values, also looking at the strategy adopted towards the Western Balkans, in particular in the field of Justice and Home Affairs (JHA) cooperation, which is at the heart of the legal order of the EU and its Member States, also beyond the EU territory. After about a year since the Jean Monnet Chair EUVALWEB began its activities, this editorial of the Journal intends to illustrate the activities carried out and share the scientific results achieved, also collecting some of the essays and speeches delivered by our experts and young speakers.

The main activities of the first edition of the Jean Monnet Chair EUVALWEB consisted of a Chair Course on *Enlargement Policy, EU Values and the Western Balkans' Accession* and a Law Clinic on *EU Cooperation on JHA and the Western Balkans*. In the form of lectures, training seminars, workshops, simulations, working groups, with a theoretical-practical and problem-solving approach, the Chair Course provided participants with an in-depth and detailed knowledge of the European integration process and the construction of the Union's identity based on its founding values. Divided into six modules, specifically dedicated to EU Integration Process, Understanding Enlargement as EU Policy, Membership Criteria in the Accession Process, Respecting EU Values Beyond Enlargement Policy, EU Strategy Towards the Western Balkans, Western Balkans' Accession to the EU and Eastward Enlargement, it enabled the trainees to familiarise themselves with the internal and external challenges posed by the various enlargement processes and to understand the benefits of an “*ever closer integration between the peoples of Europe*”. During these modules, five workshops were held in which the participants were divided into six working groups, coordinated by the Chair Holder with the support of the Tutors. Using a critical method of reading and comparing norms and documents, the participants were asked to answer a series of questions both on their knowledge of European Union law and on their “belonging” to the Union as citizens or future citizens (for the participating Albanian students). The activities conducted in these workshops revealed that many have a perception of being European citizens, but without fully realising its potential. Many responded that membership is understood as the enjoyment of rights and opportunities offered by the Union, particularly in terms of free movement, but not as political status and participation, which is seen as merely indirect. One of the aspects that I would like to point out is the perception that younger



people have of the political weight of States and their choices affecting the European integration process.

With specific reference to the various enlargement processes, it has also emerged the need to ensure adequate preparation of candidate countries through pre-accession strategies, but guaranteeing adequate and constant support that does not leave them alone, as happened in the last decades with the Western Balkans. Moreover, the democratic backsliding of some countries, in particular Poland and Hungary, *i.e.*, States most recently acceded to the Union, has led to reflection on the possible amendment of art. 7 of the Treaty on European Union (TEU) with the introduction of economic sanctions, which are perceived as more effective. Continuing with regard to the enlargement, the youngest emphasised that they do not identify a physical borderline with the Eastern European countries, although they are aware that further enlargement could mean a backward and slower democratic functioning of the Union. Finally, they underlined the bidirectional function of enlargement because it affects the legal systems of the new accession states and the Union's legal system, going so far as to state that: *“The European integration process has a function of pacification, solidarity and transformation of national systems. We believe that the EU has produced positive effects regarding, above all, the introduction and affirmation of democratic principles proper to the rule of law. It is clear that this process has contributed to the strengthening of peace and security, as well as to the prosperity of the Member States”*.

As for the European Area of Freedom, Security and Justice (AFSJ), its importance in terms of freedom and security for Member States and acceding and neighbouring Countries, has been pointed out due to the centrality of criminal and police judicial cooperation. On the other hand, several doubts remain on migration policies and the differentiated application of EU law within the Area.

At the end of these workshops, participants were asked to submit questions that were further explored in the presentation of short papers that formed the themes (Enlargement and Membership Criteria, EU Values, Rule of Law, European Citizenship and Democratic Principles, Protection of Fundamental Rights, European Space of Freedom, Security and Justice) of the conference on *Promoting Public Awareness on Enlargement of EU Borders, the Western Balkans' Accession and Respect for EU Values*, which took place on 29 May 2023 at the University of Salerno with the participation, among others, of Antonio Parenti, Head of the European Commission Representation in Italy, who, in the European Year of Skills, stressed also the importance of training to seize the opportunities offered by the green and digital transition, also for the future citizens of the Union.

Moving on to the Law Clinic, this took the form of a specialisation course on EU cooperation in JHA, which is one of the main areas of the EU accession process and concerns an issue of extreme political relevance for the EU. In the form of practical and in-depth exercises, it took a more technical/scientific approach, offering in-depth teaching on EU law for future professionals specialised in cross-border issues, which are increasingly in demand on the labour market. Through an innovative and multidisciplinary approach, the EUVALWEB Law Clinic promoted excellence in the teaching of European issues related to immigration, cross-border security, the fight against transnational crime, police and judicial cooperation, and the promotion and protection of EU values and fundamental rights. All Law Clinic topics, delivered by the Chair Holder and the Chair's Team, as well as academics, national and international experts, policy makers, representatives of civil society and NGOs, including from the Western Balkans, focused on: Security Challenges in the Context of the War in Ukraine, Cross Border Security: What's New from the EU Proposals on Migration and Asylum?,

EU Cooperation on Justice: A focus on the Role of the Lawyer and Deontological Rules, The Protection of Fundamental Rights in the Framework of Mutual Recognition Instruments and the Activities of EU Bodies in Criminal Matters, Integration and Cooperation Challenges in the EU Area of Freedom, Security and Justice, EU's Harmonisation of National Criminal Law, Security Standards v. Human Rights Standards in Cross-Border Police and Judicial Cooperation. The discussion on these topics revealed the following areas of research and scientific results.

First, from the 1990s onwards, the concept of European security has been questioned several times, specifically after the fall of the Berlin Wall that was supposed to mark the end of the East-West conflict and the beginning of a long period of *détente* in international relations. On the contrary, it simply shifted the borders of the conflict in the former Yugoslavia, Iraq and Central Asia. Almost simultaneously, the dissolution of the Soviet Union led to a period of unprecedented democratic transition and change in Europe. Nevertheless, the emergence of long-standing disputes concerning the determination of physical, cultural, and political borders throughout the area from the Transcaucasian states to Ukraine confirmed that these borders are still insecure. It also demonstrated that there is an unclear border for European security: the position of Ukraine at the crossroads between Europe and Russia. The attempts to “integrate” this country into one of the two “zones of influence” show that the contours of European security are still too uncertain. Certainly, enlargement is a foreign policy strategy, but any enlargement cannot disregard the internal and external security of the entire European continental area and, above all, as already experienced with the former Yugoslavia, it cannot disregard the pacification of the area and the need to prosecute human rights violations, bringing criminals to justice (**Bargiacchi**). In addition, there is a trend for countries from Central Europe to Central Asia to move towards hybrid regimes (**Matwijkiw**).

Another aspect that emerged is the crossing and securing of borders, not only external but also internal to the Union. In order to limit irregular migrant crossings, State borders become unreachable or the scene of collective or chain rejections. Moreover, controls increasingly materialise in certain spaces that States do not consider to be part of national borders, or even in *terrae nullius*, where some of the border management and control policies are implemented. European Integrated Border Management has also resulted in the practice of detaining migrants and asylum seekers and in gross violations of human rights, the hotspot approach and policies of outsourcing and delegating the control of asylum and migration to third countries, leaving too much room for organised crime, which makes migrant smuggling and human trafficking its most lucrative business, especially due to the “structural” weaknesses along the Balkan route and, in particular, North Macedonia (**Doneva**).

In addressing the issue of the reception/detention of migrants, the difficulty of access of lawyers to detention centres was lamented. Legal assistance in immigration detention centres is a primary need for asylum seekers and migrants staying there. It is necessary in asylum and return procedures; it is also necessary to challenge the legality and conditions of detention. Without legal assistance, there can be no migrants' cases before national courts, the European Court of Human Rights and the European Court of Justice. Therefore, the role of the lawyer in the justice-system of each country is decisive, even more today with the proliferation of judicial and extrajudicial (assistance, advice, drafting of opinions, drafting of contracts, etc.) “venues” in which the lawyer can perform his activities. Therefore, the lawyer nowadays plays an important role in the civil growth of democratic society recognised by art. 6 of the European Convention of Human Rights (ECHR) under the heading “Right to a fair trial” and by art. 47 of the Charter of



Fundamental Rights under the heading “Right to an effective remedy and to a fair trial”, which together with art. 13 ECHR, reaffirms the peculiarity of the technical defence as an expression of the right to defence. It is stated in the Explanations to art. 47 of the Charter that according to the case-law of the European Court of Human Rights, legal aid must be granted where “*the absence of such aid would make it impossible to ensure an effective remedy*” (ECHR judgment of 9 October 1979, *Airey*, Series A, Volume 32, p. 11). There is also a system of legal assistance for cases before the Court of Justice of the European Union. For this reason, it was deemed necessary to highlight the issues relating to the exercise of the profession of lawyer in European Union law, as an economic activity that is exercised outside national borders within the single market and the AFSJ, showing how the lawyer is called upon to comply with deontological rules in the performance of his/her activities, without prejudice to national competences (**Mazzei**).

The Public debates on the “functioning” of cross-border cooperation in criminal matters have made it possible to highlight that judicial cooperation in criminal matters is an important component of European integration and serves to promote respect for fundamental rights, based on the principle of mutual recognition of judgments and judicial decisions, including the approximation of the laws and regulations of the Member States in this area. Specifically, the principle of mutual recognition, as the pivot of the entire European construction, has made it possible to realise the four fundamental freedoms (goods, services, persons, capital) and has concretised a fifth freedom, that of the circulation of judgments and judicial decisions through the adoption of a series of regulatory instruments that have harmonised (to a *minimum*) the respective national legislations (to which the acceding States are also called upon to conform, **Zeko**). All this by the virtue of another cardinal principle of European construction, namely mutual trust.

As is known, while the principle of mutual recognition of judgements and judicial decisions advanced through the political impulses provided by the European Council in Cardiff in 1998 and the following year in Tampere, the concept of mutual trust emerged in more detail in the *Programme of Measures to Implement the Principle of Mutual Recognition of Decisions in Criminal Matters* of 2001, which stated: “*Implementation of the principle of mutual recognition of decisions in criminal matters presupposes that Member States have trust in each others’ criminal justice systems. That trust is grounded, in particular, on their shared commitment to the principles of freedom, democracy and respect for human rights, fundamental freedoms and the rule of law*”. There is, moreover, a clear differentiation that results from the Hague Programme of 2005, where one part is defined as “*confidence-building and mutual trust*”, even more so in the Stockholm Programme of 2010 where there is a broad articulation distinguishing the two concepts.

However, it has emerged that while mutual recognition is based on the substantive and procedural harmonisation rules that have been and are being adopted by Member States and their application by national authorities and courts, mutual trust between States is an essential precondition of judicial cooperation in criminal matters (and of the AFSJ in general), which is based on the commonality of values under art. 2 TEU, but also under art. 67(1) on respect for fundamental rights, as well as for the different legal systems and traditions of the member states (**Dalia**). This is not only because the AFSJ falls within the field of shared competences and includes, besides policies on border controls, asylum and immigration (Chapter 2), judicial cooperation in civil matters (Chapter 3), judicial cooperation in criminal matters (Chapter 4), and police cooperation (Chapter 5), but also because it has been “genetically” conceived as an area of differentiated integration or integrated cooperation (or aimed at integration through the enhanced cooperation procedure) between the Member States.

Therefore, a number of problematic aspects in the field of criminal law and criminal procedure law have emerged as profiles for discussion and debate. First, the question of the evolution of the EU's criminal jurisdiction, which made its way through the integration process also thanks to the case-law of the Court of Justice and which subsequently found formalisation in the treaties, remains open. The "European criminal policy" ended up requiring not only the extension of domestic incriminating offences or the introduction of new ones (art. 83 of the Treaty on the Functioning of the European Union (TFEU)), but, as foreseen in the 2011 Commission Communication (COM/2011/0573 final), to ensure the effective implementation of EU policies through criminal law, also admitting the extension of the Euro-crimes referred to in art. 83(1) TFEU, such as in the case of the Council Decision that led to the recent Proposal for a Directive of the European Parliament and of the Council on *the definition of criminal offences and penalties for the violation of Union restrictive measures* (COM/2022/684 final) or rethinking the existing EU legal framework combating corruption with the Proposal for a Directive of the European Parliament and of the Council on *combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council*, 3 May 2023 (COM/2023/234 final). Furthermore, procedural difficulties remain open, such as for the parallel proceedings ongoing in different Member States in respect of the same crime, on which was submitted the Proposal for a Regulation of the European Parliament and of the Council on *the transfer of proceedings in criminal matters*, 5 April 2023 (COM/2023/185 final, 2023/0093(COD)), as well as for procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions (8 December 2022, C(2022) 8987 final). In addition, scientific debates and research have highlighted the digital evolution of justice with the introduction of new regulatory tools and investigative techniques (**Curtotti-Nocerino**), that require regulatory interventions for the digitisation of cooperation to combat "transnational criminal activities", such as the Directive (EU) 2023/977 of 10 May 2023 on *the exchange of information between the law enforcement authorities of the Member States and repealing Council Framework Decision 2006/960/JHA*.

All these trends were highlighted in the short reports submitted by the Young Observers of the EUVALWEB Legal Observatory (Cross-Border Security and Migration, EU Values and Fundamental Rights, Transnational Crimes and Judicial and Police Cooperation).

The concluding conference of the EUVALWEB Law Clinic on *Promoting Public Awareness on the Fight Against Transnational Crimes, the Role of Police and Judicial Cooperation and Respect for Fundamental Rights*, held on 19 June 2023 at the University of Donja Gorica in Podgorica (Montenegro) provided an opportunity to discuss with Montenegrin academics, practitioners, and policy makers the role of the European Union in the fight against transnational crime as a global problem. Specifically, in my opening speech I emphasised the connection between transnational crimes and globalisation, hence the implication that transnational crimes are perceived as a global problem, and then I focused my attention on the EU's criminal competence in the fight against transnational crimes, which is one of the main topics of the activities of the Jean Monnet Chair EUVALWEB. The Conference, which had a wide media resonance also thanks to the press release of the Delegation of the European Union to Montenegro, allowed to discuss the difficulties in the fight against transnational crimes and the AFSJ, which

represents a challenge for all Member States, not only the acceding ones, representing a sort of puzzle whose pieces (approximation, mutual trust, mutual recognition, judicial and police cooperation, respect for fundamental rights and Member States' systems) do not yet fit perfectly.

Finally, the launching of the Mid-July and Late-July Agenda on Planning EUVALWEB Educational, Didactic and Scientific Activities, as part of the activities of the EUVALWEB Legal Observatory on "*What Role for Science, Technology and Innovation in Promoting EU Studies?*" with the participation of Dr. Alba Gërdeci, Dr. Eglantina Farruku, Prof. Heliona Miço, Prof. Dr. Endri Papajorgji, Dr. Gelande Shkurtaj, of EPOKA University of Tirana (Albania) allowed the planning of new and interesting joint educational and scientific research initiatives: such as the discussion of the dissertation for two Albanian students Andrea Kokomeci and Eglja Leci, as well as the seminar on *Enhancing New Interdisciplinary Perspectives of EU Law* and the *Roundtable Debate among Italian and Albanian Students and Professors on Different (and Controversial) Aspects of the EU Enlargement*.

I am very grateful to the Chair's team (**Bodrozic, Cascone, Di Stasi, Nikodinovska, Pasquali, Salazar and Saranovic**) and to all those who took part in this first edition of the Jean Monnet Chair EUVALWEB, contributing to its success both in terms of number of participants and scientific results, which exceeded my expectations. My special thanks go to the EUVALWEB Tutors (**Busillo, Vannata**) who have worked so hard, to the Young Observers of the EUVALWEB Legal Observatory (**Boccia, Carabotta, Chiarello, Di Florio, Mainenti, Russo**), to their Supervisor (**Lambiase**), and to the technical-administrative staff of the Department of Legal Sciences (**Di Nenna, Moscariello, Patrizi, Pedullà**) and of the International Relations/Erasmus Office of the University of Salerno (**Governatori, Varani**) included in the Chair's team, for their valuable support.

I am very proud of a job well done! Thank you all!

31 July 2023

**The Editor-in-Chief**  
