EDITORIAL

GLOBALISATION AND HUMAN RIGHTS AFTER THE 11TH SEPTEMBER

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Prior to the 11th September 2001 attack, the discussion on globalisation focused on ways of reconciling economics and solidarity, with special reference to the negative consequences of globalisation of trade and information, while neglecting other equally important topics. The 11th September terrorist attack, due to its global characteristics and objectives, requires a response that is also global. It introduces another aspect into the globalisation debate, along with those of economics and solidarity. This aspect is security, which integrates greatly with the other aspects, simultaneously conditioning them as well as globalisation itself. The reflections prior to the attack on the relationship between criminality and globalisation offer guidelines to help us to develop rules against global terrorism, according to a logic that harmonises globalisation with security, economy, and solidarity. These rules, keeping in mind the increase in quality of global terrorism, and criminality, must be based upon values with which everyone agrees. The European experience may give concreteness to this perspective, due to the effort to pass from a sectoral globalisation of the market to a globalisation that is more open, and incorporates political and institutional values. This is also due to significant events taking place during this transformation, for example the creation of a common juridical European area of liberty, security, and justice, and the Declaration of Fundamental Rights of the European Union.

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[1] The opinions expressed in this Article are an expression of the writer's personal opinions in his capacity of citizen and scholar and they do not aim to reflect the opinions of any institution of which Professor Flick might form part.

1. The terrorist acts of the 11th September 2001 and their aftermath have profoundly and irreversibly changed both the terms of and the ways of responding to, the debate on globalisation. This debate had previously matured gradually, both as regards the relationship between the advantages and the risks entailed in this process and, in particular, as regards the rules which govern globalisation, as well as the underlying principles and content of these rules. Until the 11th September, the debate on globalisation had progressively developed on three fronts. These were: firstly, that of cultural and specialist analysis; secondly that of political and institutional reflection, culminating in the warnings of Pope John Paul II and of the UN Secretary General Kofi Annan and lastly that of the awareness of the media and civil society, through the anti-globalisation demonstrations from Seattle up to Genoa.

In other words, the common factor which emerges from the various components of this debate may be represented by the fact that globalisation, through technological development, leads to an increase in the level of exploitation of resources; and also to a decrease in the spatial and temporal dimensions (through the overcoming of distances, of borders and of relative costs), producing a constant interweaving between real and the virtual domains. These characteristics are particularly evident in the economy and market sectors and also in the information sector. In the economy and market sectors, it suffices to mention the fragmentation and dislocation of the various segments of multinational enterprises, according to the most favourable conditions that would warrant the choice of a particular territory as against another one. It is enough to refer to the concept of financial growth when compared with real economic growth. For the information sector, it suffices to recall the development of the Internet and of global information, as well as the interconnections and reciprocal synergy between global market and information infrastructures.

The positive effects of the process of globalisation are too many and have too long a history to list them here. Lately, however, the negative effects of globalisation have been brought into the limelight. In short, these are the uneven distribution of resources, the increased perception of inequality and the contradictions from which this derives in the context of the global village, the possible collision route between sectoral globalisation (of information flows or of market exchanges) on the one hand

and the fundamental human values of dignity, equality and solidarity on the other hand.

2. The protection of fundamental human values, particularly the value of solidarity, was traditionally – even if this tradition dates back no more than two centuries – entrusted to the state. However, the state, as also the concept of state sovereignty, is facing an ideological crisis that derives from the overcoming of the spatial and territorial dimensions typical of the globalisation process. The state is no longer capable of mediating so as to ensure the effective regulation of the co-ordination between the needs of the economy and those of solidarity when faced with de-territorial economic phenomena. There are a substantial number of symptoms and confirmations that support this statement. They can be traced to the crisis of law as understood traditionally; to the shift from national law to a law which is not only international but supranational in scope; to the shift from the principle of reciprocity in the relationships between states to that of interdependence and the overcoming of the principle of non-interference; to the correlative affirmation of fundamental rights, in regional supranational institutions; to the search for rules and supranational institutions which support the state, without obliterating it, on the regional (in the case of the European Union) and global levels.

The alternative – which should be rejected since it is probably unrealistic, but which is evident under a number of aspects and stems from various parties – to a "global" government and to "global" development and not only sectoral globalisation, is represented by the rejection of globalisation to defend one's own identity, which it is feared will be lost. Experience teaches us that this rejection may be translated, with increasing frequency, into manifestations of intolerance, xenophobia, and racism, ethnic and religious conflicts, exasperated nationalisms, and "wars of civilization".

The most evident example of this search for a global and non-sectoral globalisation, (i.e. not limited to the market and information sectors), to co-ordinate the needs of economy and solidarity, may be represented by the regional experience of the EU. In this region, there has been a reasonable globalisation of the market and of the currency. Even if this has encountered many difficulties and various alternatives have been mooted, nowadays accentuated by the political debate which arose in the wake of the post-11th September crisis,

there has matured the knowledge that there is a need to further develop this process of globalisation in the political and institutional domains, in a manner which parallels the process of enlargement. This necessity is required for the future of the world. It could be expressed in the slogan: *"work now for a globalisation made to measure for Europe, so as to have a Europe made to measure for globalisation."*

The terrorist attack of 11th September was aberrant and yet so typical of globalisation, in the way in which it was carried out, in the instruments employed for its actuation, and in its objectives and effects. As regards the tools employed, that attack utilized the information network in all its components for the management and increase of resources, as well as the transport network for its execution. Moreover, it utilized to the full the characteristics of mobility of persons and financial resources typical of the process of globalisation, and exploited the shortcomings that developed in the system of security and control as a result of the efficiency and rapidity of movements in the context of the requirements of the economy. From this there emerges the symbolic value of a similar aggression that brings together the maximum simplicity and efficiency and levers internally on the limits and on the contradictions of sectoral globalisation, through an attempt to provoke its implosion.

As to its objects and effects, that attack was carried out both against the US, considered, rightly or wrongly, as the leader of sectoral globalisation, through the specific individuation of symbols that are associated worldwide with its political, economic and military power (The White House, the Capitol, the Pentagon, the Twin Towers), and also contemporaneously against moderate Arab states and against the West. That instils a state of non-traditional war that is totally new, between non-homogeneous entities and has strong ideological connotations, provoking a response with analogous radical characteristics to reinforce the sense of a crusade. Ultimately, that attack had the global effect of destabilization on various levels: political, social, financial-economic and cultural.

From this fact the significance of a similar aggression emerges: it is an aberrant response not so much to the problem, more typical and immediate as regards the effects of sectoral globalisation, that is represented by the inequality of distribution of resources, or at least by the major perception of that inequality. It is rather a response to the problem, in a certain sense linked to the former one, of the

reaction of closure intolerance and conflict, when faced with the possible loss of one's "identity", that is also a consequence of sectoral globalisation. Of course, it is easy to also interpret that aggression as having overall political and economic objectives, such as for example, acquiring control of the energy sources through a revolution of the political order of the Middle East.

3. Even the response to the terrorist attack of 11th September, that equalled it in scale, could not but have characteristics of globalisation. For reasons of principle and also of efficacy, this response could definitely not consist simply in a purely national response stressing the legitimacy and dutifulness of self-defence. The stress on the need for a global, as opposed to a national, response, is required both in the case where the aggression is considered an act of macro terrorism and also in the case in which it becomes also, in the technical sense, an act of war, beyond any terminological dispute. In both cases, the supranational dimension is evident, and is necessary in the response. In this regard it suffices to recall, with regards to terrorism, the exigency which has been amply proven of inter-state collaboration (i.e. between police forces and judiciaries in the struggle against money laundering), or with regards to war, the new problems which globalisation poses (the heterogeneity of the parties, the wide-ranging projects of the aggressors, the direct involvement on a wide scale of civilian populations, etc).

On the other hand, one of the first actions of the US as the violated state after 11th September, was to create a policy of coalition, both through ignoring the traditional alliance scheme and through the establishment of new alliances which might influence the precarious European order through the reinforcement of bilateral relationships and through the request for UN intervention. This request is based on a reasoning which is certainly different in the case of the violated state (which in that intervention sees a form of further legitimisation of its right to self-defence) and in the case of other states (which see UN intervention as a form of control over, and a limit to the scope of, the self-defence of the violated state).

Together with the global and supra-national characteristics that the response to the aggression of the 11th September has to have, there are difficulties that it has to face. These are difficulties which consist firstly in the well-known problems of the UN in the political plane; relating for instance to the structural allocation of resources

and instruments of intervention, to the heterogeneity of the partners of the coalition, to the political instability of some such partners and their different levels of sensitivity to the values of democracy and human rights. Secondly, there are difficulties that relate to terrorism, for instance, the obstacles that are being met when it comes to defining "terrorism". There are also difficulties which influence the capacity to elaborate an effective response proportionate to the 11th September attack, which fall under the joint aspects of repression and prevention. As regards repression, the involvement of the innocent population has to be avoided as far as possible; if not for any other reason, so as not to create further factors of destabilization, and not to increase the numbers of sympathizers and followers (both potential and actual) of that attack. Moreover, there is the need to avoid a response which exhausts itself in the repression of the mass media symbol of the aggression, whilst laying down the principles on which others would be created; or which utilizes and takes up means which are subject to becoming eventually possible means of carrying out terrorism (as recent experience unfortunately teaches us). With regards to prevention, evidently, there has to be the avoidance of a vengeful attitude that may lead to a situation where repression, far form preventing further terrorism, may in turn become, if not the cause at least the occasion of further acts of terrorism.

But the following question has to be posed (even though the answer is quite easy and intuitive): is repression through the identification and punishment of the responsible persons, the dismantling of the various support networks and, the persuasion and dissuasion of the allied states in reality sufficient? Or is it necessary to co-ordinate the repressive response with a wider spectrum of interventions on the inequality in the distribution of resources and for the diffusion of the values of democracy and civilization, in such a way as to overcome the barriers and the defensive reactions when faced with a purely sectoral globalisation?

4. The characteristic of globality that respectively typifies both the attack of the 11th September and the response that it elicited, injects a new element into the debate on globalisation. This element is security. With regard to economy and solidarity, on which the debate was formed before the 11th September, security is an element that is as important (or perhaps even more) as the two that have already

been taken into consideration. It appears destined to integrate and fuse with them.

As regards the appropriate way to deal with this critical element, one should avoid emphasising the level of security beyond the point that is objectively necessary, because this would aggravate the emotional impact and the climate of insecurity and destabilisation, sought and partly achieved by the terrorists of September the 11th. It is also important to avoid a situation where the level of security is reduced to that of the past. The interdependence between security and economy is evident. On one hand, security is strictly necessary and functional to the development and the growth of the market. In the context of the global economy it suffices to think of the phenomenon of economic destabilization pursued and partly realized, through the 11th September attacks. On the other hand, and from the opposite point of view, security concerns may create obstacles to the market. It suffices to consider the effects of the introduction of filters and controls on the mobility of persons (such as, for instance, border checks and controls on air transport) and on financial circulation (because of the need for transparency to prevent money laundering), in slowing down this circulation and increasing its costs. Essentially, there is the possibility of re-introducing those coefficients of space and time (and the relative costs), the elimination of which seemed to be a positive result and a specific consequence of the process of globalisation. However, it is unthinkable to neglect to respond to the financial aspect of terrorism, that has been an integral part of the response to the attacks of the 11th September.

5. The interdependence between security and solidarity also parallels that between security and economy. On the one hand, security is strictly necessary and functional to the protection of the human values which lie at the basis of solidarity: foremost amongst which are the right to life and the right not to be held responsible for the deeds of others. It is enough to recall in this regard, the problem which has been debated after September 11th, with regard to the authorities and the rules which could be put into place to permit the shooting down of an aeroplane hijacked with the purpose of suicide and destruction. On the other hand, the pursuit of the objective of security may in some ways run counter to fundamental values, as in the relationship between security and privacy or security which can reduce one's rights to data protection. In the first instance, the

requirements of control over the mobility of persons may produce results, which while they may even be positive for security, are very near to those typical, as it were, of a totalitarian society and thus heavily influence the nucleus of privacy and reduce the level of respect for diversity. In the second instance, the need to prevent the media from being an instrument of terrorist organizations (reference here is being made to the television diffusion of the messages of terrorism) may run the risk of bringing about censorship and self-censorship and therefore, of creating the repression of dissent, diversity and pluralism, which are essential factors for democratic development, apart from being fundamental values of the human condition.

6. In a wider perspective, there is another important fact that must be considered when debating the necessity of interaction between security, economy and solidarity, in the context of sectoral globalisation and its possible negative effects. The elimination of the more evident situations of inequality in the distribution of resources (through the battle against famine and poverty) and the rectification of those more evident situations of cultural, institutional and democratic deficit, (through interventions to avoid the reactions of closure and opposition to globalisation, whilst respecting identity and favouring integration and participation in the process of globalisation) should, if not eliminate, at least weaken some factors which favour the development of terrorism worldwide and the recruitment of further terrorists. In fact, the soldering together of hunger, poverty and alienation with fundamentalism; the rejection of globalisation, seen as an assault on ones' own identity, and attacked through its own symbols – these are all elements, particularly the latter one, which are clearly recognizable in, even if they are not exclusive to, the terrorist attacks of the 11th September, and in all the different forms of complicity in this attack.

7. To identify the rules and the institutions which are suitable to manage the process of globalisation – through a form of mediation which not only concerns the bilateral relationship between economy and solidarity but also the trilateral relationship between security, economy and solidarity – it is useful to recall some reflections and experiences which had already been developed before the 11th September in the analysis of the relationship between globalisation and criminality. It is also important to bear in mind that the

quantitative and qualitative characteristics of the new "global terrorism" profoundly change the terms of the relationship, insofar as it concerns the method, merits and content of the defensive activity, with respect to the way in which it was previously envisaged in the fight against criminality. In fact, it is no longer a matter of acting in a perspective of individual responsibility and a perspective of profit, but rather in a perspective of declared globality and "total war" which is typical of terrorist aggression.

The analysis of the relationship between globalisation and criminality, had highlighted two factors which may constitute a significant incentive to criminality: these concern both the criminal effects of inequality in the distribution of resources (these range from drug cultivation and trafficking to the trafficking of illegal immigrants, child labour, hidden labour etc); and the criminal effects of situations of intolerance, closure and rejection of globalisation (from tension and radical nationalisms to local ethnic or religious conflicts, etc). Besides being a factor that promotes criminality, globalisation is also an occasion and instrument for criminality at many levels, the first of which is represented by the loss of the capacity of the nation-state to tackle phenomena that transcend its spatial sovereignty. The absence of rules and supranational institutions that are able to effectively substitute for state rules and institutions in the fight against trans-national crime, is due to this fact.

On the other hand, on this level, other effects of globalisation are the facilities notoriously represented by the abolition –for the markets, for financial resources and for individual persons– of borders, which remain for state institutions and for police laws and judiciaries, notwithstanding the fact that significant processes of collaboration and unification have started. Moreover, the technologies which have been created for the shifting of financial resources, and therefore also for their concealment, the reduction of the costs of the mobility of persons and information, the differences in juridical and regulatory regimes between the various countries, the aspects of rigidity and effectiveness in their application, are all elements which have promoted the globalisation and the multinational activities of criminal organizations, which are gifted with a notable ability in the exploitation of financial and technological resources, and of an equally notable flexibility. Ultimately, the differences in legal systems and surveillance capabilities can hinder the localization of criminal

activity, to the extent to which these differences constitute an incentive for the establishment of criminal activities and their associated capital flows. They may even be utilized by poorer states to attract flows of criminal capital that, as has already been widely verified, sooner or later prejudices democracy and stability in those states.

8. The response to the globalisation of criminality has developed through an awareness that the relationship between economy and criminality, particularly organized criminality, is extremely dangerous. The reaction has addressed first and foremost the financial-economic aspects of organized crime and then it has focused on corruption, since it is an obstacle to good governance and democracy (i.e. the initiatives of the IMF and the World Bank). This reaction has developed, originally through establishing relationships of collaboration, bilateral and multilateral, between states. Subsequently, it changed into a search for uniformity and harmonization of the substantial and procedural rules of the various states, particularly on the level of homogenous regions (such as the EU). Lately and nowadays, the reaction is carried out through the search for rules and unitary institutions, both on the regional level (and once more, the European experience is definitely more significant), and on the global level (and hence the invocation to establish the International Criminal Court for the repression of crimes against humanity in 1998, with the relative procedural and substantial discipline, as well as the convention of the United Nations of 2000, against trans-national crime). The elaboration of a single strategy of global reaction to trans-national crime faces a number of obstacles and difficulties. These difficulties have at their basis cultural, social, economic and institutional differences among states, and therefore range from their different sensitivities in evaluating the interests at stake to the reluctance of states to give up significant and symbolic shares of sovereignty, such as those connected to criminal justice or to self-interest.

9. The difficulties and resistances which have marked the attempt to combat criminal globalisation right from the start and which continue, albeit to a lesser degree into the present, are being reformulated in the same terms as the leap in quality and quantity which the 11th September has marked in the transition to global

terrorism. The first impact, even emotional and cultural – apart from political – of the event, has certainly supported political and normative initiatives to react to the phenomenon, which in normal times would have needed a longer span of time to be accepted and to mature (for example, in the EU, the initiatives as regards the battle against money laundering and the "European" arrest warrant, or in the US, the recent law on security and internal controls). Notwithstanding this, it would be reasonable to foresee that with the passage of time and through living everyday with terrorism and the war against it, the threshold of reaction may in some way be lowered; if in the meantime there are no further serious terrorist acts. Apart from this, with reference to global terrorism, these difficulties combine with those directly caused by the terrorist act and affect efforts to reconcile security, on the one hand, and economy and solidarity on the other. Therefore, to return to the initial question (i.e. how are we to develop common rules to manage globalisation in such a way as to avoid merely sectoral development), the search for these rules has to be based on those principles and values which have to be definitely common and common to all, and which ensure a common restraint which cannot be derogated from in the co-ordination between security, economy and solidarity.

10. The only reference point which is suited to this initiative and is now available, seems to be that of respect (but also of global respect) for fundamental human rights, for these rights have by now acquired and been recognized as possessing the characteristics of universality, commonality and reality. This last characteristic seems to have become a state of facts that is indisputable in the light of the long and tiring iter that has marked the affirmation of fundamental rights. The landmarks in this progression range from the affirmations of the Enlightenment; to their juridical consecration from the point of view of the state in the national constitutions; to the universality which was recognized to them through the legitimization of consent, in the Universal Declaration of Human Rights of 1948, and the other treaties which are annexed to it; to the recognition of the necessity that apart from the Declaration of Human Rights, these rights should have an actual existence; through the overcoming of the principle of non-interference and through the efforts to institute an international jurisdiction ad hoc.

The response to global terrorism must therefore be articulated

globally in such a way as to support the right to self-defence of an attacked state; complementing its inadequacies and further legitimising it, but also in a certain way conditioning it to the respect of fundamental rights. This type of response, or rather, the elaboration of rules to this end, seems to be the salient element. Nowadays it reflects the development of globalisation; which needs global rules also with regards to the relationship between economy and solidarity and even if security is not directly and immediately in play, that is in the parameters of any discussion on globalisation prior to September 11th. This means that the application of and the respect for human rights have to act as guidelines to interventions that aim to co-ordinate the requirements of economy, solidarity and security; so as to ensure that the instruments and the interventions to guarantee security respect certain constraints which may not be surpassed and which protect solidarity and human values. Moreover, these guidelines would have to respect the needs of the economy to the extent that these represent objective necessities and proportionately to the values at stake. A similar co-ordination would also need to be established between the needs of the economy and the most important needs of solidarity.

A formula of this type seems to easily lend itself to the criticism that it is excessively vague, elastic and abstract and does not correspond to any definitive principles. But it is also easy to rebut this criticism by stating that first of all, it is not easy to find an alternative or different formula, notwithstanding how generic and hence unsatisfactory it may be: and that, secondly, and above all, experiences such as the European experience allow a theoretical and operative deepening of that formula in words which are more specific than what at first sight might appear to be simplistic. In other words, the European experience of the last fifty years, including its positive results, and also its aims of further development, (which many hope for), lead to reflection, even in the interests of security and the fight against terrorism, on the slogan of *"building a globalisation for Europe with the aim of building a Europe for 'globalisation'"*. This slogan was already present before 11th September, in the context of the discussion on the need to create rules and institutions to mediate between the economy and solidarity. This is all the more important in the light of the difficulties, uncertainties and questions which the future of Europe faces after 11th September, partly because of the resulting radical geopolitical changes.

11. Europe has a well-known culture and tradition of fundamental rights. These rights, in spite of the serious violations to which they have been repeatedly and systematically subjected, and even though these violations were on a large scale level and utilized a perverse technological organization (such as in the case of the Shoa), have found in Europe their earliest affirmation on the conceptual sphere and then on the juridical-positive sphere. These rights were recognized in Europe for the first time, and not only in a declaration of supranational regional stature but also on the plane of their efficiency and protection, with regard to the abuse of power on the part of the state against the individual; through the recognition of the ability of the individual to sue the state in such cases and his right to be compensated for the violation, and also through the creation of a supranational jurisdiction ad hoc. In this forum, fundamental rights have found specific recognition, not only in principle or by going back to national or supranational pre-existent sources, in the Charter of Fundamental Rights of the European Union.

In the passage from the Community dimension to that of the Union, and in the perspective of the enlargement of the Union, and also of the institutional revision which is necessary for the achievement of this end, Europe has acquired and is always strengthening the awareness that it is indispensable to pass from the common market and financial dimensions, to a common dimension of the political-institutional type. The difficulties, the alternative possible solutions and the incomprehensibilities in this regard, are recurrent and notorious. But they seem to have little effect on this awareness, which motivates efforts to develop a European future. It is this awareness that, together with the political-institutional dimension and with reference to this dimension, promotes the necessity of arriving at an effective European and global identity on the cultural plane, and also the necessity of bringing that identity to the fore, and hence of making the citizens of Europe more aware of that identity.

12. The indicators of the development and deepening of this need and awareness are numerous. It suffices to refer to the recurrent debate on the risk of Eurocracy and the deficit of democracy in the European decision-making institutions; or to that on European citizenship and on the necessity of giving it a cultural and

institutional significance which renders it concretely perceptible and which moves beyond theoretical enunciations. It is also pertinent to refer to the entry into force of the Euro, which – passing from the virtual dimension to the real one – assumes a meaning that is not only economic but also cultural and political. In a certain way, the entry into force of the Euro represents symbolically the point of passage from the dimension of the market to that of civil society: if this is true, (as in fact it is), that currency may become an excellent tool for dialogue.

Apart from this, it is also sufficient to recall the growing demand for a "political Europe", in the field of security and external relations: and even in this context the doubts, uncertainties, and frustrations nourished particularly by the post-September 11th political developments. After the disappointing Balkan experience, after the first traces of a political Europe capable of being the mediator in the Israeli-Palestine conflict, after the CFSP, and after the 11th September, we are now faced with the accentuation of this role in the construction of a relationship between mediation and dialogue with the Islamic world. CFSP is dominant in the debate on the shift of Europe from being a market Europe to a political and institutional Europe. Even this has the role of rendering more evident the necessary and urgency of that shift.

Ultimately, the objective of a European identity through a transition from the economic-financial dimension to the political institutional and cultural dimension has become even more evident through the "reasonable homogeneity" of demands for the construction of such an identity which have come from both the Member states and the candidate states of the EU: in spite of the various differences between them and the various consequent problems with which many view enlargement and its possible consequences. In the scenario of that "reasonable homogeneity" it is important to remember, on the one hand, the precondition of the previous respect of the *acquis communitaire*, for the candidate states and on the other hand, the increasing attention which is being directed towards regional identities with reference both to individual Member states and also to the theory of multinational states. Both these situations, particularly the latter, actually seem to indicate an increase in the value of local identity, that is a *"glocalisation"* which constitutes one of the vital aspects of a non-sectoral globalisation aiming to achieve: *"liberty in diversity"* and *"force in unity"*.

13. In order to give concreteness to the formula which refers to fundamental rights so as to establish a framework within which to establish rules to co-ordinate security, economy and solidarity in the context of globalisation, it would be useful to refer to the European experience, from which the following may appear as a first result: the increase in value of the tradition of fundamental rights in a project of regional development which proposes to shift from a market dimension to a politico-institutional and common cultural dimension. A second result that is more significant and specifically relevant to the matter of regulation, is represented by two important and closely linked European acquisitions, which are: (1) the state of advanced elaboration of the common area of liberty, security and justice and (2) the formulation of the European Union Charter of Fundamental Rights.

As regards the common area of freedom, security and justice, this is an objective included in the Maastricht Treaty that by now has its own concreteness and consistency. It is an objective which is the result of an early project of creating an area which originally was defined as judiciary, which then evolved into a juridical area: almost to underline the necessity of not stopping only at the theory and networks of procedural collaboration but also to move towards an effective unification of the legal rules, through a process of harmonization and homogenization of the most important laws in the various member states. The difficulties that the realization of the juridical area has had to face have been, and still are, numerous. The first one is the methodological difficulty which is a result of the fact that this task forms part of the third pillar of the EU and is therefore entrusted to the instruments of intergovernmental co-operation, which are very complex in their operations, more than those of direct actuation through community integration, which falls within the first pillar. This is true even if between the sectors of the first and the third pillar there is a channel of reciprocal exchange, of which the shift of civil justice (with the Treaty of Amsterdam) from the third to the first pillar is a typical example.

The common juridical area is closely linked to European citizenship. This is spelt out in a series of binding instructions to Member states, to which they have to adhere both in fields of substantive and procedural rules, with the aim of allowing collaboration between states through institutions that share this

aim. In the field of substantive rules, reference may be made to the interventions to ensure uniformity in criminal legislations of the Member states with regards to money laundering, corruption, drug trafficking, organized crime, exploitation of minors, high tech crimes and terrorism. In the field of procedural rules, reference may be made to the European judicial network, police and judicial collaboration, extradition and interceptions, rogatory procedures and, after the 11th September, to the European arrest warrant and also to the institutions of Europol and Eurojust.

14. The awareness that a single economic and market area may not function well unless it is accompanied by a single juridical area seems to be gaining ground. Proof of this is the fact that the attempt to create a corpus juris (i.e. a body of criminal rules, substantial and procedural) common to the Union and to protect only the interests of the Union, has rapidly evolved into a more ambitious attempt to widen the scope of the fundamental interests with regards to security, to include interests such as those prejudiced by terrorism, organized crime, corruption, violations against the environment and money laundering; even if, up to now, these interests are pertinent to national legislations and not simply to E.U. law. In other words, it is evident that with regards to security, the distinction between national and E.U. interests is not sustainable and it is destined to disappear. Moreover, security brings with it interconnections that include also some aspects of the second pillar (external security) and the third pillar (internal security) of the European structure. These two dimensions of security are closely linked as has been proved from the events of the Balkans, particularly from the example of the connection between conflict, illegal immigration, and its exploitation on the part of organized crime and the former interacts with the latter in such a way that it conditions it.

The European juridical area of freedom, security and justice, is therefore a precise concrete and verifiable hypothesis, which responds to the need for rules to mediate and co-ordinate between them security, economy and solidarity in a context of globalisation: precisely the question, therefore, which after the 11th September has become pressing for globalisation, and that in the European regional context may find a model solution which could be articulated in a dimension which is even wider.

15. With regards to the European Charter of Fundamental Rights, this represents another very significant moment in the transition from the dimension that is only economic to that which is political and institutional; in the shift from a merely sectoral globalisation to one which is broader. The difficulties that have marked the elaboration and the approval of the Charter (in the Nice Summit of December 2000) are well known. They refer, firstly, to the value to attribute to the Charter. Should this be viewed as having solely a political value, or will it in the future also acquire a legal and binding significance? Difficulties also concern the form of its insertion into the European Treaties, in respect of which there are various alternatives in theory. Other difficulties then concern the problem of the content of the Charter and the structural relationship between this Charter, the national Constitutions of the member states and the European Convention of Human Rights, and also, consequently, the problem of the relationship which with regards to the Charter, may be created between the national jurisdictions, the European Court of Justice, and the Strasbourg Court for the protection of human rights.

There are difficulties that are linked, ultimately, to the relationship between the Charter and a future institutional order of the EU. The Charter should (or rather, it has to) be the introductory chapter of the EU Constitution. At this stage, the same original question is posed: is it possible to work for a European Constitution when there is not also a European people, or in the absence of a widely-perceived emergency on which to base the first thrust towards this constitutional adventure? This emergency, however, could perhaps be represented by the advent of global terrorism after 11th September.

In this context, one may also refer to those political difficulties which are the result of the accusation that there is an ambiguous and reduced mandate, which is also the result of a democratic and representative deficit which lies at the basis of the Charter itself. This, in fact, has been drafted by an institution which has a low level of representativity, in spite of the original effort to include in the Convention instituted for this end both the European Parliament, and also the national parliaments and government, and also members of civil society, and in spite of the transparency and the openness in which the Convention has operated.

16. Even if one takes all these difficulties into account, and they are neither to be underestimated nor exaggerated, the positive aspects of the European Charter are in any case undeniable. They are the result of the fact that the European system, which is based on the constitutional principles of the Member states and on the European Convention on Human Rights, is now a real and effective framework of values, in terms of which the Member states are now assessing their own rules. Those values, on the other hand, have a reality-content which is higher in the case of the European Convention than in various national Constitutions, because these are now quite outdated in some respects. In fact, the contents of this Charter, whilst abandoning the minimalist perspective of the original mandate for its formulation, are not limited to an updated recognition, compilation and presentation of the fundamental rights that are already in existence. It also deals with the so-called, third and fourth generation rights (such as those connected to the privacy and bioethics sectors), whilst bearing in mind the technological evolution that has characterized the past fifty years.

Hence, the Charter possesses an undeniable significance on the juridical and political planes. That Charter now exists and conditions perspectives on the evolution of the European structure, in any way that these may be expressed, whether in the perspective of a federal Europe or in the perspective of a Europe of nations. In this sense, the Charter is put forward by the more authoritative voices as the first chapter of the European Constitution. Therefore, the European juridical area and its concrete realization, as also the Charter, may represent possible concrete solutions to the demand for rules to mediate and co-ordinate between them security, economy and solidarity, the need from which this discussion has stemmed.

It is important to point out, however, that having said this, there is no intention to affirm, simply that the rules (i.e. the rules which already exist and those which are expected to be drafted), which characterise the experience of globalisation in the European region, may be exported tout court into the global dimension. More simply, it is important to underline that the method elaborated in the European experience, has given good proof of its achievements and that the results which were achieved through that method demand a commitment, today more than ever, to work, hope and believe in Europe, both for its future and both for the future of humanity, in response to facts such as those of September 11th.

17. Perspectives drawn from the European experience, for an action that combats global terrorism by co-ordinating the requirements of security, economy and solidarity, assume an important and weighty meaning for the relationship between Malta and Italy. Naturally, it is not desirable in this forum to interfere in any manner in the internal and international political debate on Malta's position as regards the EU. However, with regards to the various aspects of this debate, it would be suitable to recall the two declarations signed in 1998, at the conclusion of the Council of Association between Malta and the EU: the Declaration on Co-operation in the Field of Justice; and the Declaration on Restarting Political Dialogue with the aim of increasing convergence in the positions on international affairs and of enhancing co-operation on political and security matters, including those related to security and co-operation in the Mediterranean region. One should also recall the first meeting held in Malta during the Summer of 1994 between the Ministers of Justice of the Council of Europe, a meeting which saw the establishment of the institution to fight corruption in Europe, and following which the two essential directives to fight corruption in Europe were enacted. The Declarations of 1998 assume nowadays a meaning which is both specific and highly actual, that is the role which Malta and Italy, in the synergy derived from the good relationship between the two, are certainly able to, and indeed must, carry out. This role is that of a bridge, both ideal and at the same time concrete, towards the other side of the Mediterranean and the role of bearing witness to a common commitment to the universal objectives which are the result of a reflection on what the 11th September has meant for humanity.