

# ABSTRACTS & BIOGRAPHIES

14 April 2023

## CHAIR & CONCLUSIONS:

**Luigi Kalb**

### Biography

LUIGI KALB, Full Professor of Criminal law procedure at the Law Faculty of the University of Salerno, holding the chair of Criminal Procedure (since 2005). In 2000: Member of the scientific committee of the Master's degree course in "Diritto processuale comparato per aspiranti avvocati penalisti europei" established by a University of Salerno Rector's decree. Until 2005 – Member of the Teaching Board of the PhD in Criminal procedure at the University of Palermo (administrative headquarters), taking part in the teaching activities as Phd Students' tutor at the University of Salerno. From 2005 to 2013 – Member of the Executive Board at the School of Specialization for the Legal Professions of University of Salerno. In this capacity, he was the supervisor of the teaching programme of Criminal law procedure. In charge of the teaching module 'Procedura penale' at Salerno School of Journalism. Member of the Teaching Board of the PhD in 'Teoria delle istituzioni nazionali e comunitarie tra federalismo e decentramento' academic course «Spazio europeo di libertà, sicurezza e giustizia» at the Faculty of Law of University of Salerno. From 2019 to present

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– Member of the Teaching Board of the PhD in Law at Law Faculty of University of Salerno. Department Head of General Civil law and Theory of Institutions at the University of Salerno (D.R. n. 3375 del 21/11/2006). Department Head of General Civil law and Theory and History of institutions D.R. n. 375 dell'8.2.2011). Director – in the first, second, third and fourth edition – of 'Scienze criminologiche, penalistiche e processualpenalistiche' post graduate specialization course at Law Department. Member of the Judicial Council (Consiglio Giudiziario) of the Appeal Court of Potenza. Coordinator of the International Researcher's activity indicated by the University of Salamanca and financed by the Science and Innovation Ministry in field of «Sistema procesal penal y métodos alternativos de resolución de conflictos: análisis crítico y; propuestas ante la reforma del proceso penal en el espacio judicial europeo». 2015 – Member of the Commission for National Academic Qualification (D.D. 6 luglio 2015). From 2014 to 2017, Supervisor of the Prin research network about 'Damages of judicial criminal activities'. From 2014 to 2018, Member of the Board of Directors of the 'Associazione tra gli Studiosi del processo penale G.D. Pisapia', holding a secretary task. Member of board of directors of University of Salerno (D.R. n. 3172 – 9.5.2017). Member of the Ministerial Commission established at the Italian Ministry of Justice Legislative Office, in Rome, with the Ministerial Decree of July 19, 2017, for the reform of the prison system (chaired by Prof. Glauco Giostra). Member of Steering Committee on criminality and terrorism prevention, established at University of Salerno in cooperation with the Procura nazionale antimafia ed. antiterrorismo (D.R. n. 9084 del 19.12.2017). In 2019: Designated by the Rector for the academic Seminars involving Appeal Court Magistrates' of Salerno and those of Cour d'appel D'Angers. From 1993 to 1998 – Member of the Scientific Committee of the periodical 'Annali dell'Istituto di diritto e procedura penale dell'Università degli Studi di Salerno' directed by Prof. Andrea Antonio Dalia; from 1996 to 1998 he was also coordinator member of the editorial board. Member of the Scientific Committee of the periodicals 'Le Corti salerninate' (ESI), 'Diritto penale e processo' (Ipsoa), 'Penale. Diritto e procedura', 'Diritto di internet. Digital copyright e data protection' (Pacini). Member of the Editorial advisory board of the periodical 'Archivio penale'. Member of the management committee of the periodical 'Processo penale e giustizia' (Giappichelli). Member of the Scientific Committee of the Salerno University Publications Collection by the Dean of the University (D.R. n. 67/2022). Science Desk Co-Director of the Book series 'Studi di diritto processuale penale' (Cedam), 'Stumenti di diritto processuale penale' (Dike Giuridica), 'Studi di diritto e procedura penale' (Pacini ed.) and 'Quaderni del laboratorio G. Sabatini' (Wolters Kluwer ed.). Editorial Group Scientific Research Partner for Wolters Kluwer Italia and Giuffrè Lefebvre Ed.; from 2015 to 2021 Professor Kalb has published six editions of the Criminal Procedure code with the mentioned Publishing Group. Is the

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scientific head of the 'G. Sabatini' multimedia laboratory at the Department of Legal Sciences (School of Law) of University of Salerno. He has given lectures at several national and international conferences and seminars: in the last few years, at the University of Salerno, his lectures have been on restorative justice, scientific investigations, evidential proceedings, criminal execution, reform of the criminal procedure system and the penitentiary system.

## INTRODUCTION:

### **Teresa Russo, *Cross Border Cooperation in Criminal Matters Among Mutual Trust and Respect of Fundamental Rights***

#### Abstract

This introduction aims to provide a framework for cross-border cooperation in criminal matters between mutual trust, mutual recognition and the protection of fundamental rights. By assessing the similarities and differences between mutual trust and mutual recognition, an attempt will be made to underline their points of connection also in the light of more recent case law of the Court of Justice concerning the execution of the European Arrest Warrant.

#### Biography

Ph. D., Associate Professor of European Union Law, Lecturer of European Union Law, International Law, International Organizations, EU Migration Law, International Law and Cyber Security (University of Salerno); 2022-2025 Jean Monnet Chair “Promoting Public Awareness on Enlargement Policy, EU Values and Western Balkans’ Accession (EUVALWEB); Scientific Coordinator of the 2019-2022 Jean Monnet Module “EU-Western Balkans Cooperation on Justice and Home Affairs” (EUWEB), University of Salerno; Director-in-Chief of the online Journal EUWEB Legal Essays. Global & International Perspectives; Delegate to Communication, Department of Legal Sciences (School of Law), University of Salerno; Lawyer. Her research activities and publications (books, book chapters, articles, etc.) focus on current issues of EU law with specific reference to the constitutional evolution of the EU integration process and the democratization of external

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EU action, as well as of International Law and International Organizations.

## KEYNOTE SPEAKERS:

**Lorenzo Salazar, *The Principle of Mutual Recognition of Judicial Decisions Under the Test of Fundamental Rights***

### Abstract

The principle of mutual recognition of judicial decisions, endorsed by the European Council in Tampere in October 1999, has since become the cornerstone of judicial co-operation in both civil and criminal matters within the Union. As from 2002, when the principle was first implemented with the adoption of the European Arrest Warrant (EAW), twelve instruments have been adopted by the EU in the field of mutual recognition, lastly with the adoption of Regulation (EU) 2018/1805 on freezing and confiscation orders. The compatibility of these instruments with the principles of the EU Charter of Fundamental Rights has been challenged from the very beginning by Academia and practitioners and was submitted to the Court of Justice which repeatedly considered these instruments as respectful of fundamental rights and of the Rule of Law principles. The need for a specific provision on protection of fundamental rights was not felt as necessary in 2001, when the EAW was negotiated in the aftermath of 9/11, nor it was inserted in the subsequent instruments of mutual recognition under the umbrella of the case-law of the Court of Justice, on the understanding that the creation of an area of freedom, security and justice within the Union is based on mutual confidence and a presumption of compliance by other Member States with Union law and, in particular, with fundamental rights. This situation seemed to move as from 2014 with the negotiation on the European Investigation Order (EIO) which contains multiple references to the “guarantees of fundamental rights” both in the preambular part and in the articles as a possible clause for refusal. The principle of proportionality also shyly made its appearance into the text of the Directive as a pre-condition for the issuing of an EIO. With the recent adoption of the regulation on mutual recognition of freezing and confiscation orders, the existence of grounds to believe that the execution of a confiscation order would entail a manifest breach of a relevant fundamental right as set out in the Charter became an explicit ground for refusal of the order itself. In the absence of the definition by the European Council of the strategic guidelines within the area of freedom, security and justice (as required by art. 68 TFEU) and notwithstanding the commendable case law of the

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Court of Justice in the matter, the EU Legislator seems more and more reluctant to leave to the ECJ alone the sole responsibility for the setting of the red lines among mutual recognition and the protection of fundamental rights. The proposal and the future adoption of new binding legislation on the rights of persons involved in criminal proceedings, subject to pre-trial detention and on material detention conditions – along the lines of the recent Recommendation of the Commission (EU) 2023/681 on procedural rights of suspects – might be considered as a possible way out for reacting to the present situation of *impasse*.

## Biography

Graduated in Law “*magna cum laude*”, Lorenzo joined the Italian Judiciary in 1982. Judge in the Court of Busto Arsizio, *Réferendaire* in the Cabinet of the Advocate General in the European Court of Justice, Justice Counsellor in the Italian Permanent Representation to the European Union in Brussels, Member of the Cabinet of the Vice-President of the European Commission and Commissioner for Justice and Home Affairs, Director for International Criminal Affairs in the Italian Ministry of Justice, he is at present Deputy Prosecutor General to the Court of Appeal of Naples. He is the Vice-Chair of the OECD Working Group on Bribery (WGB) and has chaired the European Committee on Criminal Problem (CDPC) and the Multidisciplinary Group on Corruption (GMC) of the Council of Europe. He was coordinator for Criminal matters of the Italian Presidency of the EU Council in 2014 and chaired the COPEN working group which negotiated the proposal for a Council regulation on the establishment of the European Public Prosecutor’s Office (EPPO).

## Jordan Daci, *Protection of Human Rights for Persons Subject of Extradition or Surrender Under the ECHR and the European Arrest Warrant*

### Abstract

Protection of human rights for all persons regardless of their status as person under investigation or as a convict it is an essential requirement for the rule of law states. Constitutions of the European Union member states as well as constitutions of other European countries members of the Council of the Europe and High Contracting Parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols thereto, and to other international law treaties, provide for a special

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protection for persons subject of surrender or extradition. At the same time, the case laws of the European Court of Human Rights and of the Court of Justice of the European Union, as well as domestic legislation including rulings of the supreme courts and constitutional courts, have further defined the protection of human rights for these categories of persons. It is important to underline, that for countries like Germany including Italy, the acceptance of the European Union legal norms is limited to the condition that they should not offer a lower level of protection for human rights than their constitutions. Both extradition and surrender as criminal procedure acts may expose the person to human rights violations and normally all national legislations provide for a set of guarantees that need to be verified by their courts. Nevertheless, contrary to extradition, the surrender under the European Warrant and the domestic legislations provides for less authority for the courts to refuse a surrender request. This approach is based 'inter alia' on the fact that the European Union states share common values and justice standards. However, the current legal approach in many EU states, does not properly address the standards provided under the ECHR since some receiving states may not offer the same guarantees as the sending state and lack respect for some crucial guarantees for a due process and other basic human rights. From this perspective, the surrender of persons under the European warrant, it becomes also a matter of constitutionality which needs to be duly addressed by domestic courts of the EU member states. This lecture 'inter alia', aims to provide a critical analysis of the surrender and extradition processes from the perspective of the ECHR and some countries domestic practice underlining some key issues that need to be further addressed at domestic courts including the revision of domestic legislation via a vis the need for a permanent approximation of domestic legislation with the Acquis and further enhance of mutual assistance and cooperation in criminal matters not only between the EU member states, but also between the EU and the EU candidate countries and countries who have signed stabilization and association agreements with the EU.

## Biography

Jordan Daci is Associate Professor focused mostly in Constitutional Law, International Law, and Human Rights and experienced attorney at law. Academic title and PhD from the University of Tirana, Master Degree in Democracy and Human Rights from University of Bologna and University of Sarajevo, Law Degree from University of Tirana. With 21 years of experience in the industries of higher education, government, judiciary, legal practice, legal reforms etc. Author of several legal reforms, law and bylaws adopted by in Albania and

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Kosovo, author and co-author of several key international reports on Albanian judiciary. Author of two university books and many other papers.

## ***Valeria Sico, The European Public Prosecutor's Office Between the Prosecution of Crimes Affecting the Financial Interests of the Union and the Protection of Fundamental Rights***

### **Abstract**

Brief notes on the foundation, organization and functioning of the European Public Prosecutor's Office, with references to the temporal, territorial and material competence of the European delegated Prosecutors in Italy. Protection of the EU's financial interests, in terms of direct and indirect revenue, such as customs duties and smuggling, but also cross-border VAT fraud, as well as expenditure Fraud, in the context of grants and funding from the EU, the PNRR. First reports, after more than a year of operation, results, critical issues, first questions before the European Court of Justice and repercussions on the fundamental rights of the suspect.

### **Biography**

Valeria Sico has been a Deputy Prosecutor since 2004. In 1994 she graduated in Criminal Procedure at the Faculty of Law of the Naples' University "Federico II" and from 1999 to 2001 she obtained a PhD and a Master Graduate in "Criminal law and procedure". From 2001 to 2003 she held as Chief Commissioner at the Police Headquarters of Naples. From 2004 to 2021 she held the position of Deputy Prosecutor of the Tribunal of Nola and Naples. On may 2021 she became an Italian EDP for the EPPO.

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