

# ABSTRACTS & BIOGRAPHIES

31 March 2023

## INTRODUCTION & CHAIR:

***Teresa Russo, Opening Remarks on the Good Administration of Justice and the Role of Lawyers***

### Abstract

This introduction aims to emphasize the role of the lawyer under Article 6 ECHR and Article 47 of the Charter of Fundamental Rights of the EU as a building block that concretizes the good administration of justice, as well as a ‘guarantor’ of the application of Union law in the exercise of its activities.

### 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

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

## KEYNOTE SPEAKERS:

### Adriano Maffeo, *The Exercise of the Profession of Lawyer in European Union Law*

#### Abstract

The exercise of the profession of lawyer has been the subject of several harmonization directives by the European Union. In the course of the presentation, through an examination of the jurisprudence of the Court of Justice, an analysis will be made, first of all, of the European regulatory sources governing the practice of the legal profession in the European Union, both under the regime of establishment and the freedom to provide services. Through, then the valorisation of both national and European procedural rules, a reconstruction of the importance of the lawyer's role in the assertion and application of EU law will be offered.

#### Biography

Adriano Maffeo is Associate Professor of European Union Law at the Department of Law of the University of Naples “Federico II” where is charged of the course of EU Procedural Law. He is Member of the Scientific Board of the Postgraduate Course in "European Union Law: the protection of rights" and of the Ph.D. Course of Economic Law at the same Department and is Author of several publications including two monographs, editorships, contributions in books, commentaries, articles (also in English and French) on European Union law. He practices as a lawyer before international jurisdictions.

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## Francesco Mazzei, *European and National Sources of Forensic Deontological Rules*

### Abstract

An individual lawyer of a Member State of the European Union, practicing within its own State of origin as well as in the other host Member States, must also deal with the core deontological principles provided by both the Member State and the European Union. In this respect, each Member State must create the basic legal conditions according to which its own domestic deontological rules regarding the practice of the profession of lawyer and the relevant disciplinary rules might have their legal and mandatory sources in the domestic law of each Member State as well as in the legislation of the European Union. The deontological European principles (freedom, autonomy, confidentiality) regarding the practice of a lawyer have their own sources both in the wide legislative production of the European Institutions and in the rulings and decisions rendered by the CJEU in different economic and social sectors. Furthermore, the deontological European principles also integrate, by a referral mechanism, the internal relevant rules of each Member State which however maintains the disciplinary competence when a domestic deontological rule is breached by a lawyer professional conduct. Over the years, the Council of European Bar Associations (CCBE) has adopted three basic documents: the Code of conduct for European lawyers (1988), the Charter of core principles of the European legal profession (2008) and the Model Code of Conduct for European Lawyers (2021). The European deontological principles of lawyers are found both in second-level regulatory sources (directives) concerning the implementation of some fundamental Community freedoms (circulation of services and establishment) in the economic market, and in the so called "Bills of Rights" regulating the area of freedom, security and justice involving the fundamental human rights and the values of human dignity, freedom, equality and solidarity. The rulings and decisions of the CJEU in the fields of market competition and freedom to provide services, have also contributed to create and strength a common statute of forensic deontological principles (conflicts of interest, confidentiality, freedom, independence) among the Member States. The European Union however has yet neither a multilevel legal environment in order to implement an own mandatory system of forensic deontological rules deriving exclusively from European regulatory sources, as well as neither a central European judicial body having the disciplinary competence to assess any infringements of European deontological rules committed by lawyers in the exercise of their profession within the territory of the European Union. Despite of the process of functional and substantial integration of European

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mandatory legal system into the national ones, the European legislation and the European deontological core principles seek neither to modify the substantial and deontological rules regulating the profession in each Member State nor to remove such a lawyer from the ambit of those rules. Each Member State (as State of origin of the lawyer or as host State) still maintains the competence in ruling the access to and permanence in the professional legal order, as well as the functioning and application of a binding deontological system and the relevant domestic disciplinary function.

## Biography

Francesco Mazzei studied at the University of Naples “Federico II” and admitted to the Bar in 1992. He is also licensed to practice before the Supreme Courts. As a lawyer, his area expertise mainly focuses on individuals, having regard to the domestic and international family law, juvenile law, canon matrimonial law, property law, gifts and donations, inheritance law. He is the former Secretary of the District Attorney Grievance Commission (2015-2022) and the author of several publications, a speaker at various seminars. He is in charge with the Continuing Training Educational Program in Deontology at the Salerno Bar.

## Gaspare Dalia, *Deontological Limits and Procedural Rules: The Effectiveness of the Right to Defend Oneself by Investigating*

### Abstract

The speech will focus on the theme of defensive investigations, increasingly relevant in a context of anticipation of the judgment threshold in which the right to carry them out has turned into an imperative need. However this can occur with stringent limits, some of which are due to privacy as well as the numerous difficulties related to judicial cooperation in criminal matters. The first aspect to consider concerns the legal regime to be applied, i.e. the rules in the place where the means of seeking evidence are carried out (and/or defensive investigations, even if "delegated", particularly useful in cases of gender violence). With regard to this aspect, the disruptive criticality that generally characterizes judicial cooperation emerges: gaps and inconsistencies that distinguish the rules in force on the subject, both at national and supranational level. Such flaws are highlighted when individual States demonstrate they cannot free themselves from obsolete bureaucratic schemes, even with respect to the irrepressible development of information technology. The judicial systems



of the different countries should conform to each other and, indeed, measure themselves with the disruptive digitization, especially in light of the consideration that alongside the idea of operating in well-defined physical spaces, there is also the need to use investigative tools capable of covering increasingly large physical and virtual spaces and, as such, capable of "invading" the spheres of jurisdiction of several States, therefore, no longer attributable to the exclusive jurisdiction of a specific State..

## Biography

Gaspare Dalia, (Ph.D.) is Senior Researcher of Criminal Procedural Law at the Department of Legal Sciences (School of Law), University of Salerno (Italy) since 2005. At the same University, he is also Aggregate Professor of Comparative Criminal Law since 2014, former Aggregate Professor of the General Theory of Process (2009–2014). In 2000 he received a fellowship in criminal law from the University of Munich. He has practiced as a criminal lawyer since 2002 and serves as Professor of Criminal Procedural Law and Deontology at the School of Specialization for Legal Professions in the Department of Legal Sciences (School of Law) at the University of Salerno. He has been invited to various universities to lecture on matters of criminal procedural law. He has also been a member of the Scientific Committee and speaker at many conferences in Italy and abroad. He is the author of several scientific publications in criminal law and criminal procedural law, particularly in matters of judicial cooperation and criminal investigations between Italy, EU, and non-EU countries.

## Luigi Palmieri, *The New Perspectives of the Lawyer in the Light of the European Public Prosecutor's Office*

### Abstract

After four years of long negotiations and more than ten years after the approval of the art. 86 TFEU of the Lisbon Treaty, on 12 October 2017 the Council adopted the regulation on the establishment of the European Public Prosecutor's Office. Eppo (from European Public Prosecutor Office) is based in Luxembourg and is entitled to investigate and prosecute before the competent national courts and according to the procedural rules of the latter exclusively for crimes that harm the financial interests of the Union. Regulation 2017/1939 confirmed a broad extension of the EPPO's legitimacy for crimes affecting the Union's financial interests, giving the supranational body, for these crimes, powers of investigation

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and prosecution. During the negotiations aimed at approving the European Public Prosecutor's Office, the need was felt to include in the text of the regulation suitable defensive guarantees for suspects/accused for one of the crimes attributed to the legitimacy of the EPPO. The lighthouse that has guided the policy of the supranational legislator is represented, first of all, by the respect for the fundamental principles contained in the fair trial or for the minimum standards of the European Union regarding the rights of the person subjected to criminal proceedings. With the new European investigative phase, a new challenge has also opened up for the defender called to carry out his function in the context of a supranational investigative context. The defendant's defense moves in a complex European scenario that involves multiple procedural systems not only through the functions of the European delegated prosecutor, but with a strong incidence of the central level of the community body made up of the European chief prosecutor, the college, the chambers and by the European Prosecutors for each Member State. The new frontier of the "European criminal process" requires the expansion of the catalog of the "charter of fundamental principles of the European lawyer" and of the "code of ethics for European lawyers" through the recognition of a statute to introduce suitable guarantees of freedom of the lawyer criminal law common to all European procedural systems..

## Biography

Luigi Palmieri is a Criminal Lawyer. After achieving the Law Degree – with a thesis in Criminal Procedure Law entitled “ – , Dr. Palmieri obtained the Ph.D. in Legal Sciences at the University of Salerno. In recent years, he conducts his research activities in the field of judicial cooperation in criminal matters and, in particular, examining Eurojust and EPPO. Dr. Palmieri is also enrolled in political forensic and since 2019 he is member of the Salerno Bar Association.

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