

ABSTRACTS & BIOGRAPHIES

11 May 2023

INTRODUCTION & CHAIR:

Teresa Russo

Biography

TERESA RUSSO is 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 EU action, as well as of International Law and International Organizations.

DIPARTIMENTO DI SCIENZE GIURIDICHE
(Scuola di Giurisprudenza)
Università degli Studi di Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
euvalweb@euweb.org
www.euvalweb.euweb.org



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SESSION 1 KEYNOTE SPEAKERS:

Gaspere Dalia, *The Protection of Human Rights in the Execution of Coercion Measures in Surrender Procedures*

Abstract

The procedure activated by the issuance of the European arrest warrant involves significant repercussions on the personal freedom of the requested person, which can be deduced from the regulatory definition provided by art. 1, para. 1, 2002/584/JHA, under which the mandate is issued "*with a view to the arrest and surrender [...] of a requested person*". The topic of personal freedom is outlined by the framework decision in a simple manner, which therefore leaves it to the implementation provisions of the single Member State to lay down a regulation that defines the matter in detail. By limiting itself to indicating the basic principles, such European legislative act seems to express a particular tendency: to ensure the physical availability of the person subject to the European arrest warrant, by attributing to the executing judicial authority coercive powers with different characteristics and conditions, depending on the specific phase of the procedural process. Similar considerations apply in surrender procedures following the execution of a foreign criminal sentence of a third country or for the execution abroad of judicial orders issued in Italy. The intervention tends to highlight the current balance reached between the need to guarantee the surrender of the subject reached by a foreign judicial decision and the need to ensure compliance with the principle of proportionality, without neglecting the aspects relating to real precautionary measures, most recently particularly used by investigators.

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

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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.

Girolamo Daraio, *Transnational Judicial Cooperation in the Enforcement of Prison Sentences and Alternative Measures to Detention*

Abstract

In the absence of a clear and precise internal and Euro-unitary discipline, which allows the execution *ultra fines* of an alternative measure to the detention provided for by the Italian penitentiary system with certainty, the Italian jurisprudence, after an initial reluctance, is increasingly playing a substitute role to the European legislator. The Italian caselaw is indeed opening up to the possibility of enforcement in a foreign State (belonging to the European Union) of the measure of probationary assignment to social services granted by the Italian supervisory magistracy and thus contributing, in fact, to the creation of a framework that tends to be unitary and homogeneous within the EU, with regard to the transnational execution of extra-prison penal measures.

Biography

GIROLAMO DARAIO, graduated *cum laude* in Law at the University of Salerno, obtained the qualification to practice law and is registered, since 1995, in the Register of Lawyers of the Court of Salerno. Since 1 September 1997 he has been Assistant Professor for the scientific-disciplinary sector IUS/16 (Criminal Procedure Law) at the Department of Legal Sciences (School of Law) of the University of Salerno. He is currently a lecturer at the course of Penitentiary Law at the Dpt. of Legal Sciences of the University of Salerno. Previously, always as an aggregate professor, he had taught Judicial System (from the academic year 2000/01 to the academic year 2011/12), Institutions of Criminal Law and Procedure (from the academic year 2012/13 to the academic year 2015/16) and European Criminal Procedure (from the academic year 2016/17 to the academic year 2017/2018) at the Legal Department of the University of Salerno. He has participated as a speaker in numerous

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training and / or refresher courses, as well as in seminars, study meetings and conferences organized in university and non-university environments. He is responsible for research funded by the University of Salerno (*quota ex 60%*).

Nikola Šaranović, *EU Standards of the Judicial Cooperation in Criminal Matters and the Western Balkan Countries Gli standard*

Abstract

This presentation will show the state of play in judicial cooperation in criminal matters between the countries on the Western Balkans, in the light of the EU standards in this field. In the case study of Montenegro he will present how one candidate country strengthens judicial cooperation both with the Countries of the Region and with the EU member states, as well as with the EU as entity.

Biography

NIKOLA ŠARANOVIĆ is a Lecturer of the International Public Law, the Basics of the European Union Law, the Diplomatic and Consular Law, as well as the International Humanitarian Law at the Faculty of Law Sciences and the Humanistic Studies of the University of Donja Gorica (Podgorica, Montenegro). He is PhD. in Law and holder of the two Masters diplomas, one in Law and another in Society, Law and Religion. He currently work as a legal advisor at the EUROL3 (European Union Support to the Rule of Law in Montenegro) Project. His working experience includes 12 years at the different positions within the system of the Ministry of Justice of Montenegro, from the Head of Cabinet of Minister, through the representative at the Mission of Montenegro to the EU in Brussels, to Director General of the Directorate for International Cooperation. He is also the author of three poetry books.

SESSION 2 KEYNOTE SPEAKERS:

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Michele Nino, *The Relationship Between Privacy and Security in the Recent Caselaw of International Courts*

Abstract

The speech will examine the caselaw practice adopted in recent years by international tribunals (in particular, the European Court of Human Rights and the Court of Justice of the European Union), concerning the delicate relationship between the protection of privacy and the protection of security. More specifically, the approaches taken by these courts regarding the compatibility of widespread surveillance of personal information with international and European law will be examined. In particular, after having historically framed the phenomenon of massive data surveillance, the report will deal with the two phases expressed by the courts in question. In the first phase, they affirmed the opposition to the indiscriminate and widespread retention of personal information to the European Convention on Human Rights and the relevant EU legislation on individual privacy. However, in a second stage, the Strasbourg Court and the Luxembourg Court changed their approach by ruling in favour of the compatibility of the mass collection of personal data with the abovementioned legal instruments. In view of this, in the final part of the speech some solutions will be proposed so that the fair balance between privacy and security can be achieved in the international and European legal order.

Biography

Associate Professor of “International Law”, Department of Legal Sciences (School of Law), University of Salerno (2017 -); Habilitated as Full Professor in “International Law” (2018 -); Professor invited in several foreign Universities: University “Carlos III” of Madrid; University “Rey Juan Carlos” of Madrid; University “Ruprecht-Karls” of Heidelberg; University of Utrecht; University of Lisbon; University of Lima; University of Split; University of Mannheim; Ph.D. in International law and national law in international matters, University of Salerno (2006); Guest Researcher at the Planck Institute for Comparative Public Law and International Law (Heidelberg) (2010, 2014, 2015). He is author of two books in (“*International terrorism, privacy and personal data protection*” and “*Land grabbing and territorial sovereignty in international law*”) and of several articles published in prestigious Italian and foreign law reviews.

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Paolo Troisi, *Information Exchange with the Purpose of Law Enforcement and Protection of Fundamental Rights*

Abstract

In the European context the “principle of availability”, elaborated by the Hague Program of 2004, opened new frontiers in the information circulation issue: such novelty proves useful for the fight against cross-border crime, revolutionizing a sector hitherto governed by the opposite principle of exclusive State authorities domination on data acquired in the course of or in connection with criminal investigations. Many initiatives have been taken by the European legislator to translate the directives issued by the Hague Program into regulatory terms, stimulating the direct exchange of information between the Member States and favoring the development of a system of European databases for security and justice purposes. In an area where internal borders are abolished, it was deemed essential to simplify and facilitate the information sharing, so that the law enforcement authorities were effectively enabled to prevent, identify and investigate crimes committed by subjects who freely move on the European territory. However, the introduction of the principle of availability poses significant problems both on the data protection front and on the protection of the fundamental rights of the person involved in the criminal investigation. These issues are accentuated by the trend to use data collected in the private sector for proactive purposes and to establish a framework for interoperability between EU information systems. The debate on the proportionality of strongly invasive privacy measures, affecting the fundamental freedoms and the presumption of innocence, remains open.

Biography

PAOLO TROISI is Associate Professor in Criminal Procedure at the Department of Law of the University of Rome “Tor Vergata” and he is qualified for the role of Full Professor for the SSD IUS/16. He is in charge of teaching Corporate Liability and Criminal Procedure as part of the degree course in Law. He is the author of numerous contributions in scientific journals and volumes, as well as the author of the following monographic works: “Le investigazioni digitali sotto copertura” (Bari, 2022); “La circolazione di informazioni per le investigazioni penali nello spazio giuridico europeo” (Padova, 2012); “L’errore giudiziario tra garanzie costituzionali e sistema processuale” (Padova, 2011); “Le procedure de libertate nei percorsi interpretativi delle Sezioni unite della Cassazione” (Salerno, 2007).

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Gianpaolo Nuzzo, *Cybercrimes Between Legal and Investigative Profiles*

Abstract

The speech intends to, firstly, discuss cybercrimes under their legal profiles. Thus, the regulatory evolution and supranational law will be duly mentioned, leaving some room to outline the domestic framework too, such as L. 23 December 1993, No. 547 “*Modifications and additions the provisions of the Criminal Code and the Code of Criminal*” (615-ter, 635-ter, 640-ter). With respect to the supranational panorama, a relevant role is enacted by the procedure on cybercrime’s recognition of the forms of cyber aggression identified by the Council of Europe in its recommendation “*sur la criminalité en relation avec l’ordinateur*” of 13 September 1989 No. R (89) 9. Another key role is also played by the minimum list and the optional list of offences related to cybercrime which the States must abide to as well as by the existing sanctioning instruments: compulsory ordinary confiscation and equivalent confiscation. The speech will then move on to describe the investigative profiles of cybercrime prosecution (issues with IPs, logs, VPNs, etc.).

Biography

GIANPAOLO NUZZO is Deputy Prosecutor of the Republic at the Court of Salerno, Computer Crime Section. In 2014, he was first appointed, following a competition, as an ordinary magistrate in internship. In 2015, he was assigned the functions of Deputy Prosecutor at the Public Prosecutor's Office of the Court of Locri. In 2018, he was transferred to the Public Prosecutor's Office of Salerno as Public Prosecutor, whereas in 2019 he obtained extra-district employment at the Public Prosecutor's Office of Nocera Inferiore. In 2020, he returned to the Public Prosecutor's Office of Salerno, with an assignment of specialized functions in the field of corporate and tax crimes. Additionally, in 2021, it followed the specialization in crimes against the individuals and computer crimes.

Massimiliano Mormone, *Transnational Tools for Countering Cybercrime*

Abstract

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Cybercrimes are often characterized by a polytopic dimension, as its constituent elements often take place in different places, against a background that spans not only our country, but the whole world. This peculiarity inevitably has an impact on the way cybercrimes are prevented and combated, thus necessitating continuous adjustments of police and judicial activities. In this context, the various forms of transnational police and judicial cooperation, as well as the collaboration between public actors and service providers, are fundamental. This speech will focus on the international and European justice and police cooperation instruments, as well as on the tools that online service providers make available to law enforcement agencies.

Biography

MASSIMILIANO MORMONE, since February 2018, has been Deputy Director of the Operational Centre for Cyber Security - Campania, Basilicata and Molise, for preventing and combating online child pornography, financial cybercrime and hacking. From July 2015 to January 2018, he was an International Relations Officer in the Borders Division at the Ministry of the Interior. From August 2013 to June 2015, he was Head of the Repatriation and Refugees Section at the Police Headquarters of Milano. From January 2013 to July 2013, he was officer in charge of the “*Reparto Mobile*” of Milan.

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