

The 2018 Conference on International Extradition and the European Arrest Warrant



Report

Stefano Maffei

Academic and practising lawyers from around the world gathered in Sarnico, Italy in the last week of June 2018 to brainstorm on current developments in extradition law in several countries, including the UK, Scotland, USA, Italy, Albania, Australia, Germany, and Switzerland. A poll of participants indicated that virtually all considered the two-day conference a “complete success,” said *Robert Fleming*, a JD student at the University of the Pacific McGeorge School of Law

The third edition of the global conference on International Extradition and the European Arrest Warrant was held at Hotel Cocca, on the shores of beautiful Lake Iseo (Italy) and attracted over 30 experts from the United States, Australia, the United Kingdom, Scotland and Continental Europe. High on the agenda was an examination of the comparative practice of extradition in several jurisdictions, the current state of the European Arrest Warrant (EAW) mechanism and the plan for future publications on extradition.

Over the course of two days, the seminar sessions covered the theory and practice of a number of domestic extradition laws, noting that few universities, law societies and bar associations around the world focus on extradition as an independent area of legal practice.

No university in the world offers *ad hoc* programmes in international extradition. “Despite the sharp increase of high-profile extradition cases in recent years, international extradition is still not taught as an independent subject in undergraduate and graduate courses in law across the world,” said *Stefano Maffei* of Italy, one of the principal organizers of the conference. “As a result, with the exception of the UK, no established class of extradition lawyers exists in most countries.”

The seminar began with a comparison of the EU’s enhanced extradition model with the more mature American interstate extradition system. Most participants disagreed with the argument that the U.S. model could serve as a blueprint for the European arrest warrant, which was advanced by *Auke Willems* in a 2016 publication in the *Criminal Law Forum* journal.

Discussion then moved on current developments in International Extradition to/from Australia (with Australian academic and lawyer *Ned Aughterson*), Albania (with lawyer and former officer of the Ministry of Justice *Arben Brace*) and Switzerland (with lawyers *Gregoire Mangeat* and *Alice Parmentier*)

An entire session was devoted to the German theory and practice of extradition. *Anna Oehmichen* (a lawyer and University lecturer) and *Ole Boeger* (Judge at the Higher Regional Court of Bremen) reported on the ba-

AUTHOR

Stefano Maffei

Senior lecturer in Criminal Procedure, expert in Human Rights, criminal justice and extradition
Università di Parma

ISSN: 1862-6947

<https://eucrium.eu>



sics of German extradition law, including the steps of basic extradition procedure and the importance of the German *ordre public* clause as a refusal ground for surrender. Oehmichen also covered the repercussions in Germany of the European Court of Justice decision *Aranyosi Caldaru*, concerning poor prison conditions in Romania. "We note an increase in requests for preliminary rulings as the conditions under which extradition can be denied on basis of poor prison conditions is unclear." said Oehmichen. In a recent decision, the CJEU ruled on a preliminary ruling from Germany and held that the fact that the concerned person has certain legal remedies against the prison conditions at domestic level does not per se rule out a real risk of inhuman treatment.

Thomas Wahl (an extradition expert from the Max Planck Institute for Foreign and International Criminal Law) then offered a comprehensive analysis of the controversial Puidgemont case, with specific reference to the decision held by the Higher Regional Court of Schleswig-Holstein according to which the surrender for the Spanish crime of "rebellion" was *ab initio* inadmissible. A few days after the seminar, Spain's supreme court withdrew its EAW against the former Catalan president.

UK barrister *Mark Summers* QC of Matrix Chambers - who appears on a regular basis in extradition cases, including *Assange v. Sweden* in 2012 - and *Mungo Bovey* QC from the Faculty of Advocates of Scotland, outlined the similarities and differences in the extradition system of England/Wales and Scotland. "Although there are differences between every jurisdiction, this seminar emphasised the common ground we can find, often surprisingly", said Bovey. On the issue of prison conditions, Summers noted that the UK has developed over the years a 'serious system for the monitoring of assurances given by foreign countries.

Nicola Canestrini, a criminal lawyer from Italy, reported on the procedure to secure the removal of an Interpol red notice (for example once the extradition procedure is finally denied) and noted that a serious infringement of freedom of movement occurs especially when non-democratic countries target individuals through the red notice mechanism.

Other participants included Italian academic lawyer *Gianrico Ranaldi*, *Alessandro Lazzaroni*, *Maria Beatrice Cavarretta* and *Giulia Talignani* (all lawyers from Italy), *Frances Olsena* (a law Professor from UCLA), *Gerry Leonard* (a law Professor from Boston University), *Sibel Top*, a PhD student at the Institute of European Studies (IES), and *Rebekah Wrobleske*, *Brianna Nielsen* and *Heidi Weinrich* (from the University of the Pacific McGeorge School of Law, USA).

The fourth International Extradition Conference will be held in Northern Italy at the end of June 2019. All those interested should email the team of organisers at stefano.maffei@gmail.com

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and "criministrative" law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



Co-funded by
the European Union