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Active personality and non-extradition of nationals in international criminal law at the dawn of the twenty-first century : adapting key functions of nationality to the requirements of International Criminal Justice

Deen-Racsmány, Z.

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Zs. Deen-Racsmány

Active Personality and Non-extradition of Nationals in
International Criminal Law at the Dawn of the Twenty-first Century

In the era of international(ized) criminal courts and tribunals, traditional fields of international criminal law such as principles and rules of extradition and of extraterritorial jurisdiction have fallen into oblivion. At the same time, globalization and the establishment of international criminal jurisdictions have brought about fundamental changes of relevant attributes of the international system, justifying and necessitating renewed scholarly attention to these seemingly over-analyzed areas.

Due in major part to these systemic changes, the non-extradition of nationals comes increasingly under fire. As a consequence, several attempts were undertaken in recent years to disallow or at least considerably limit it. Focusing on two such endeavors (under the European Arrest Warrant and in the context of the International Criminal Court), this study attempts to identify the status and the role of the non-extradition of nationals and of its counterpart, the active personality principle in international (criminal) law. Recognizing that the non-extradition of nationals cannot easily be discarded, in theory or in practice, the author considers ways to adapt these long-standing concepts of international criminal law to the modern requirements of international criminal justice.

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Active Personality and Non-extradition of Nationals in International Criminal Law at the Dawn of the Twenty-first Century

Adapting Key Functions of Nationality to the Requirements of International Criminal Justice

Zs. Deen-Racsmány