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**DOTTORATO DI RICERCA IN SCIENZE GIURIDICHE
XXXIV CICLO**

TESI DI DOTTORATO IN SCIENZE GIURIDICHE
curriculum internazionalistico-europeo-comparato

abstract in English

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ABSTRACT

The cyber revolution has marked the fate of society and is contributing to radical social and economic changes. Scientific and technological progress has amplified the boundaries of consciousness and knowledge by changing social and relational structures. In criminal proceedings, it may prove necessary to acquire electronic data on the internet. These have their own characteristics that require a rethinking of transnational cooperation relations, if they have an alien nature.

Therefore, it is useful to focus on the present and future tools developed in the field of judicial cooperation in criminal matters for the acquisition of digital evidence.

In particular, the subject of analysis are the instruments currently existing and being developed, whose function consists in the acquisition by an issuing authority of electronic data stored abroad by an *internet service provider*.

In this sense, the question arises as to whether existing instruments have proved effective and why the state systems and service providers have reacted to the regulatory gaps with *voluntary disclosure* pending a more efficient discipline. Specifically dedicated instruments of judicial cooperation are the object of evaluation, analyzed by considering the relationship between authority and freedom, in order to establish whether they succeed in ensuring a balance between the opposing requirements, represented on the one hand by the interests of crime suppression and international and internal security, and on the other hand by the interest of individuals in respecting the fundamental rights involved in electronic data acquisition activities.

The study also explores the European Union's work in creating state-of-the-art tools. A further objective is to understand if a progressive abandonment of the principle of territoriality has been initiated, if there is an overlap between instruments and if the excessive production of legislation does not risk making the context in which the judicial authorities will operate chaotic.

The structure of the work is the result of a careful analysis of the sources and discipline dedicated to the theme. A strict methodological approach based on the systematic interpretation of the institutes is adopted, read under the magnifying glass of the protection of fundamental rights balanced through the application of the principle of proportionality, in search of a delicate balance between opposing values.

Teleology and axiology will be the elements that will guide the analysis of the instruments, in search of possible regulatory gaps or imperfections of the system being trained dedicated to the acquisition of transnational electronic evidence.

To this end, the work consists of five chapters. A first chapter, with the aim of explaining the topicality of the survey and the social context in which the need for tools for the acquisition of transnational electronic evidence has developed; a second chapter, useful to outline the structural principles on which judicial cooperation in criminal matters is based, which will frame the tools for the acquisition of electronic evidence; a third chapter, which specifically analyses international instruments; a fourth chapter, which explores the instruments of the European Union; a final chapter, where the conclusions of the work are drawn, following the study of the data collected.