

INTERNATIONAL ASSOCIATION OF PENAL LAW

XIXth International Congress of Penal Law

“Information Society and Penal Law”

(Rio de Janeiro, Brazil, 2014)



University of Verona



Legal Science Department

PREPARATORY COLLOQUIUM OF THE FIRST SECTION

Penal Law – General Part

28-30 November 2012

Faculty of Law, University of Verona
Via Carlo Montanari, 9 – 37122 Verona (Italy)

ORGANIZATION

President:

Prof. Lorenzo Picotti



Vice - President:

Prof. Isidoro Blanco Cordero



General rapporteur:

Prof. Thomas Weigend



AIDP Secretary:

Dr. Stanislaw Tosza



Secretary for the Italian-Group:

Dr. Roberto Flor



Information

Website: <http://www.picotti.vr.it> (temporary url: <http://preparatorycolloquiumvr.blogspot.de>)

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Presentation of the preparatory colloquium of Verona

The topic of the XIX International Congress of the International Association of Penal Law is **Information Society and Penal Law**.

The conference is divided into four sections about: substantive criminal law - general part; substantive criminal law – special part; criminal procedure; international law.

Each section is based on a preparatory colloquium. The Rapporteur General, who prepared the questionnaire approved by the governing bodies of AIDP-IAPL, receives the National Reports of the national groups and presents the General Report. After the discussion about its contents involving the National Rapporteurs and all participants at the colloquium, he formulates a draft resolution, which is approved and published on the *Revue Internationale de Droit Pénal*. This draft resolution will be discussed in details during the corresponding section of the International Conference and may be amended until the final approval by the general assembly of the International Conference.

Other preparatory colloquia for the International Conference of 2014 will take place in Russia (II Section: Moscow, 24-27 April 2013), Turkey (III Section: Antalya, 23-26 September 2013) and in Finland (IV Section: Helsinki, 10-12 June 2013).

We are honored that the **first preparatory colloquium** will take place at the **Faculty of Law of the University of Verona**, Italy, from 28th to 30th November 2012.

The first day (Wed. 28 Nov.) will be open to the public and will be focused on “ICT, cybercrime and computer forensics in the information society”. After the introduction of Prof. Paola Severino, Ministry of Justice of Italy (t.b.c.), representatives of academic, law enforcement, European institutions, Council of Europe, European Anti Fraud Office and private industries will participate at the round table.

The participants at the round table will discuss, from their point of view, at theoretical and practical level, the most actual and important topics posed by the informatization, with regard to the needs and the fight strategy against the crime in the global society.

Thursday 29 Nov. and Friday 30 Nov. will be focused on the presentation by the General Rapporteurs, prof. Thomas Weigend, University of Köln, Germany of his General Report and later on the discussion also of the proposal of the resolution for the first section of the XIX international conference.

Presentation of the topic of the first section

To an extent that was hardly foreseeable even 30 years ago, social life on a worldwide scale depends on the proper functioning of information and communication technology (ICT) and the internet. This dependence extends to both the public and the private spheres. On an individual level, interpersonal communication, but also large parts of leisure activity including information-gathering are ICT-based, and many individuals have heavily invested in the development and maintenance of their digital personality (or personalities), e.g. in personal websites, social network and media (such as Facebook and Twitter) and blogs.

The existence of a worldwide web and the possibilities of computer technology enable persons with criminal intentions to cause maximal harm with minimal effort.

Hacking and data falsification, attacks on the integrity of ICT, violations of the privacy, attacks to the security of systems and data, “identity theft” on the internet, Intellectual Property infringements, incitement to racism and xenophobia, system and data interference, illegal interception of non-public transmissions of computer data are increasing

More in general new communication tools are also useful for the preparation of serious and traditional crimes (such as fraud, terrorism etc.) are threatening the well-being not only of individuals but also of business firms and States and can affect security and the economic system as a whole.

Other features of ICT further contribute to the attractiveness of the net for criminal assaults on individual or collective interests. The possibility of acting anonymously and of using a false identity enables criminals to remain undetected. Detection is further complicated by the extremely high speed of data transfer coupled with routine deletion of transfer data by service providers. The origins of the worldwide web as a device for the quick transfer of secret military information further contribute to the shielding of network users from detection: the worldwide web was purposely devised as a network with many overlapping and independent lines of communication, thus making the web resistant to any attempt of disturbing its functioning through

external intervention. The web structure also makes it highly difficult to trace individual items of information back to one source or to effectively block access to information.

In the fight against new forms of cybercrime and traditional crimes, in which the Internet and new technologies are just the instrument to commit criminal activities, the fundamental question is: **what role should have the penal law?**

The questions in this section generally deal with “**cybercrime**” and, more in general, the criminal activities in Internet. This term is understood to cover criminal conduct that affects interests associated with the use of ICT, such as the proper functioning of computer systems and the Internet, the privacy and integrity of data stored or transferred in or through ICT, or the virtual identity of internet users.

The common denominator and characteristic feature of all cybercrime offences and cybercrime investigation can be found in their relation to computer systems, computer networks and computer data on the one hand and to cyber systems, social networks and data on the other hand. Cybercrime covers offenses concerning traditional computers as well as cloud computing and cyber databases.

PROVISIONAL PROGRAM**FIRST DAY (Wed., 28.11.2012) 14.00 – 19.00**

Welcome and registration of participants

Topic: Information Communication Technology, cybercrime and computer forensics in the information society*Opening session***Donata Gottardi**

Professor, Director of the Legal Science Department, University of Verona

Gianfranco Gilardi

President of the Tribunal of Verona

Mario Giulio Schinaia

Head of the Public Prosecutors, Tribunal of Verona

Bruno Piazzola

President of the Attorneys Board, Verona

Jose Luis de la Cuesta

Professor, President of the AIDP

Alfonso Maria Stile

Professor, President of the AIDP, Italian-Group

Lorenzo Picotti

Professor, General Secretary of the AIDP, Italian Group

*Introduction***Paola Severino** (t.b.c.)

Professor, Ministry of Justice, Italy

*Round Table - Cybercrime and the information society: an introduction*Chair: **Afonso Maria Stile**

Professor, President of the AIDP-IAPL Italian Group, Roma, Italy

John J. Vervaele

Professor, Vice President and Scientific Coordinator of AIDP, University of Utrecht, The Netherlands

Emilio Viano

Professor, American University, Washington D.C., USA

Carlenrico Paliero

Professor, University of Milan, Italy (National rapporteur for Italy)

Cristina Schulman (t.b.c.)

Head of Section Cybercrime, Council of Europe

Cecilia Malmström (t.b.c.)

EU Commissioner for Home Affairs, European Commission

Giovanni Kessler (t.b.c.)

Director of the European Anti Fraud Office

Nigel Jones (t.b.c.)

Director, 2 Center (Cybercrime Centers of Excellence Network for Training Research and Education)

Nicola di Leone (t.b.c.)

High-tech Centre, Europol, The Netherlands

Francesco Cajani (t.b.c.)

Public prosecutor, Cybercrime team, Milan

Romano Stasi (t.b.c.)

General Secretary of ABI – ABI Lab (Italian Banking Association)

Participation of the representatives of Internet Service Providers

SECOND DAY (Thur., 29.11.2012) – Preparatory colloquium (9.00 – 19.00)

9.00 – 13.00

Chair: **Lorenzo Picotti** - Professor, University of Verona, Italy**Thomas Weigend**

Professor, Institute for Foreign and International Criminal Law, University of Köln, Germany

Topic: Criminalization

1. Differences between the definition of cybercrimes and “traditional” crimes
2. Specific legal interests that need protection by criminal law
3. Definition of the criminal conduct (actus reus)
4. Mens rea
5. Perpetrators and victims

Presentation of the general report and discussion with the national rapporteurs

14.30 – 19.00

Chair: **Isidoro Blanco Cordero** - Professor, University of Alicante, Spain**Thomas Weigend**

Professor, Institute for Foreign and International Criminal Law, University of Köln, Germany

Topic: Legislative technique

1. Problems with respect to the principle of legality
2. Effects on legitimate use of ICT or of the internet
3. Rapid technological innovation and changes in the use of internet and social networks: How does criminal legislation avoid becoming obsolete?
4. Extent of criminalization
5. Relationship of civil and administrative sanctions (payment of damages, closing of enterprise, etc.) to criminal sanctions in the area of ICT
6. Data retention and regulations obliging an internet service provider to register users
7. Internationalization and double criminality
8. Influence of the international legal instruments
9. Participation of the country in discussions about the harmonization of cybercrime legislation
10. Future developments

*Presentation of the general report and discussion with the national rapporteurs***THIRD DAY (Fri., 30.11.2012) Preparatory colloquium (9.00 – 18.00)**

9.00 – 13.00 and 14.30 – 18.00

Chair: **Lorenzo Picotti** – Professor, University of Verona, ItalyChair: **Isidoro Blanco Cordero** - Professor, University of Alicante, Spain**Thomas Weigend**

Professor, Institute for Foreign and International Criminal Law, University of Köln, Germany

*Draft resolution: presentation and discussion**Approval*

18.00 Closing remarks

SOCIAL EVENTS**Coffee breaks:** free

(Thur., 29.11.2012 and Fri., 30.11.2012, Legal Science Department, University of Verona)

Lunches: free

(Thur., 29.11.2012 and Fri., 30.11.2012, Legal Science Department, University of Verona)

Dinners:

Welcome dinner (Wed., 28.11.2012): euro 25,00 (per person)

Dinner 2 (Thur., 29.11.2012): euro 25,00 (per person)

Final Dinner (Fri., 30.11.2012): euro 25,00 (per person)

Due to administrative and organizational requirements, please confirm the participation at the dinners within 1st Nov. 2012 (send an email to: silvia.leardini@univr.it)

ACCOMODATION

See the official website of the conference (<http://preparatorycolloquiumvr.blogspot.com>)

List of hotel closed to the Faculty of Law

(please, use the link in <http://preparatorycolloquiumvr.blogspot.com>):

Grand Hotel Verona (****)

Hotel Giberti (****)

Hotel Firenze (****)

Hotel Verona (***)

Hotel de Capuleti (***)

Hotel Trieste (**)

Hotel Trento (**)