



Max-Planck-Institut
für ausländisches und
internationales Strafrecht



AIDP International Association
of Penal Law

Young Penalists

The Role of Corporations in Criminal Proceedings

Fifth AIDP Symposium for Young Penalist

Freiburg, Germany

22-23 June 2018

–Version 2018/04/12 –

Venue:

Max Planck Institute for Foreign
and International Criminal Law
Freiburg

Friday, 22 June 2018

9:00 **Welcome addresses**
Prof. Dr. Dr. h.c. mult. *Ulrich Sieber*, Director MPI Freiburg
Prof. Dr. *John Vervaele*, President AIDP

9:30 **Introduction**
Dominik Brodowski
Manuel Espinoza de los Monteros de la Parra
Eduardo Saad-Diniz

BROADENING THE SCOPE: THE MULTIFACETED ROLE OF CORPORATION IN CRIMINAL JUSTICE

10:30 – 12.30 **a) Corporations and Politics of Criminal Justice**
Corporate Interest Groups in Criminal Copyright Policy
Esther Tabitha Earbin

b) Corporations as Victims of Crime:
Victimized Institutions and Organizations before the International Criminal
Court. Critical Analysis of Theoretical Underpinnings
Patryk Gacka

c) Corporations as Third Parties and Witnesses in Criminal Proceedings:
Criminal Justice Access to Evidence in the Cloud: the Microsoft Ireland Case
and Other Recent Developments
Isabel Haider

d) Corporations as Targets of the Criminal Justice System:
The Collaboration of Corporations in Criminal Proceedings
Susana Aires de Sousa

Moderator: *Dominik Brodowski*

*** **Lunch** ***

PROSECUTING CORPORATIONS – AS CULPRITS, AS SCAPEGOATS, AS VICTIMS?

- 13:30 – 15:00 *Reactive Fault: the “New” Frontier of Corporate Criminal Liability*
Amalia Orsina
- Some Biases in Judgement of White-Collar Crimes
Lorena Varela
- Restorative Justice for Victims of Corporate Crime and Corporate Violence:
Existing Practices and Approaches for the Future
Victor Yurkov
- Moderator: *Charlotte Schmitt-Leonardy*

TO PROSECUTE OR NOT TO PROSECUTE, THAT IS THE QUESTION

- 15:30 – 17:30 Is Criminal Procedure Suitable to Promote Self Regulation? A Perspective
from Spanish Legal System
Jordi Gimeno Bevia
- Corporate Liability and Diversion: Towards a New Criminal Law for
Collective Entities?
Federico Mazzacova
- Corporate Criminal Liability and Negotiated Justice in Italy: Something New
under the Sun?
Marco Colacurci
- The Effects-Oriented Approach in Criminal Proceedings against
Corporations
Martina Galli
- Moderator: *Stefan Schumann*

INVITED LECTURE

- 17:45 – 18:45 Corporate Criminal Law in an Era of Convergence and Disruption
Prof. Dr. *William S. Laufer*, The Wharton School, University of Pennsylvania

Saturday, 23 June 2018

DOUBLE JEOPARDY PROTECTION IN CRIMINAL PROCEEDINGS AGAINST CORPORATIONS

9:00 – 10.30 Ne bis in idem and Corporate Liability: are Corporation and its Agent really two Different Persons?

Annarita De Rubeis

Double Jeopardy (“ne bis in idem”) in Transnational Criminal Proceedings against Corporations

Kilian Wegner

Human Rights of Corporations: What the Application of ne bis in idem Principle to Corporations can Imply on the Nature of Human Rights in the Modern Criminal Justice System

W.M.A. Mahmoud

Moderator: *Manuel Espinoza de los Monteros de la Parra*

INTERNAL INVESTIGATIONS, SELF-INCRIMINATION, AND HUMAN RIGHTS

11:00 – 13.00 Search and Seizure of Documents generated in Internal Investigations – Lessons to learn from European Law

Anne Schneider

Corporations as Rights Holders in Criminal Proceedings. Special Reference to the Right against Self-Incrimination

Ana Neira Pena

Compliance Programs and Legal Entity’s Guarantees in Criminal Proceedings

Anna S. Valenzano & Silvia Massi

Corporations in Criminal Proceedings: How do Internal Investigations affect Employees’ Human Rights?

Ana E. Carillo del Teso

Moderator: *NN*

*** **Lunch** ***

COMPLIANCE AND ITS EFFECTS ON CORPORATE CRIMINAL JUSTICE

14:00 – 16.00 (The American Way of) Conducting Internal Investigations in Corporations
Sergio Herra R.

Criminal Compliance and Corruption: a cost-effectiveness analysis –
Compliance in Corporations and the Rule of Law
Matheus L. Puppe Magalhães

The Impact of Compliance Measures on the Criminal Liability and
Sentencing of Corporations
Melena Krause

Carrot and Stick: Liability Regime and Compliance Program
Yuning Ruiheng

Moderator: *Eduardo Saad-Diniz*

16:00 – 16.30 **Concluding Remarks**
Dominik Brodowski
Manuel Espinoza de los Monteros de la Parra
Eduardo Saad-Diniz

LIST OF SPEAKERS

Prof. Dr. *Susana Aires de Sousa*, University of Coimbra

Dr. *Dominik Brodowski*, LL.M. (UPenn), Saarland University

Dr. *Ana E. Carrillo del Teso*, University of Salamanca

Dr. *Marco Colacurci*, University of Campania

Dr. *Annarita De Rubeis*, Sapienza University

Manuel Espinoza de los Monteros de la Parra, President, AIDP Young Penalist Committee

Patryk Gacka, University of Warsaw

Martina Galli, Tuscia University

Prof. Dr. *Jordi Gimeno Bevia*, University of Castilla-La Mancha

Univ.-Ass. Mag. *Isabel Haider*, University of Vienna

Sergio Herra R., Msc., University of Barcelona

Melena Krause, University of Cologne

W.M.A. Mahmoud, Utrecht University

Silvia Massi, Sapienza University

Federico Mazzacuva, University of Bologna

Prof. Dr. *Ana Neira Pena*, University of A Coruña

Amalia Orsina, University of Catania

Matheus L. Puppe Magalhães, University of Frankfurt

Yuning Ruiheng, Max Planck Institute for Foreign and International Criminal Law, Freiburg

Prof. Dr. *Eduardo Saad-Diniz*, University of São Paulo, Campus Ribeirão Preto

Dr. *Anne Schneider*, LL.M., University of Bonn

Prof. Dr. Dr. h.c. mult. *Ulrich Sieber*, Director Max Planck Institute for Foreign and International Criminal Law, Freiburg, Vice-President of the AIDP

Esther Tabitha Earbin, Max Planck Institute for Foreign and International Criminal Law, Freiburg

Prof. Dr. *Anna S. Valenzano*, Sapienza University

Dr. *Lorena Varela*, Saarland University

Prof. Dr. *John Vervaele*, Utrecht University, President of the AIDP

Kilian Wegner, Bucerius Law School, Hamburg

Dr. *Victor Yurkov*, LL.M., Max Planck Institute for Comparative Public Law and International Law, Heidelberg

DRAFT