

VARIA

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Report on the First International Conference of the European & International Criminal Law Institute on “International Criminal Law and Contemporary Reality: Challenges and Perspectives” (3-5 June 2016 / Bank of Greece, Athens, Greece)

The European & International Criminal Law Institute (EICLI, www.eicli.gr), which was founded in 2015 and is headquartered in Athens, Greece, held its first international conference under the auspices of the President of the Hellenic Republic on the weekend of June 3-5, 2016. The conference gathered a large number of distinguished representatives of the scientific community, the judiciary, and the legal profession, as well as undergraduate and postgraduate students of criminal law from Greece and abroad. It presented speeches and discussions with some of the most highly acclaimed international legal scholars and academics, as well as renowned criminal law professors of the universities of Athens, Thessaloniki, and Thrace on important contemporary problems and perspectives of international criminal law. The state-of-the-art conference facilities and services included the simultaneous translation into English, German, and Greek.

The three-day conference was formally opened on Friday, June 3, in the presence of Prof. *Prokopios Pavlopoulos*, the President of the Hellenic Republic. In his welcome speech, the President of the EICLI and Member of the European Academy of Sciences and Arts, Prof. *Christos Mylonopoulos*, described this gathering of prominent scholars in times of challenges for national, international, and transnational criminal law theory and practice as an excellent opportunity to enhance the public perception of Greek science and to effectively promote comparative legal knowledge and the mutual understanding between different legal orders. The Greek Minister of Justice, Prof. *Nikolaos Paraskevopoulos*, the General Prosecutor of Greece, Ms. *Esterpi Koutzamani*, and the Public Prosecutor of the Court of Appeal in Athens and General Secretary of the

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EICLI, Mr. *Dimitrios Asprogerakas* gave short opening speeches. A welcome letter by Prof. *Lloyd Weinreb* (Harvard) was also read.

The conference was divided into four main sessions. The first session on the general principles of, and recent developments in international criminal law (in the broad sense) was chaired by the distinguished member of the Athens Academy, Prof. *Nikolaos Androulakis* (Athens). The first speaker was the doyen of German criminal law theory and leading authority of the Greek penal sciences, Prof. *Claus Roxin* (Munich). The focus of his dynamic presentation on the control over the act by means of an organizational apparatus of power was the application of his classic theory on indirect perpetration (*mittelbare Täterschaft*) to the conduct of Nazi officials and to corporate crimes, as well as in the jurisprudence of international criminal courts. Prof. *Ulrich Sieber* (Freiburg), Director of the Max Planck Institute for Foreign and International Criminal Law, and eminent member of the German and international academic community, took the floor next with a lecture on the paradigm shift from criminal law to security law and on the ongoing research by the Max Planck Institute on the limits of crime control in contemporary risk society (*Risikogesellschaft*). Using examples such as the forward displacement of the limits of criminal liability in cases of terrorism and non-conviction based coercive measures, Prof. *Sieber* clearly demonstrated the magnitude of recent changes from the traditionally repressive purposes and functions of criminal justice to more preventive and security-oriented enforcement mechanisms.

The next speaker was Prof. *Ulfrid Neumann* (Frankfurt a.M.), a prominent German scholar who also has close ties to the Greek scientific community, with a lecture on international criminal jurisdiction between law and politics. Prof. *Neumann's* main topic was the issue of discretion and selectivity (along with the accompanying political factors and implications) in deciding on cases to be brought before the international criminal courts by commencing international investigations and prosecutions. The first session and day of the international conference was concluded with a speech by Prof. *Christos Mylonopoulos* (Athens), president of the conference organizing and scientific committee. In his lecture entitled "The general theory of criminal law as prerequisite for effectiveness and justice in international criminal law", Prof. *Mylonopoulos* explored institutional and judicial shortcomings based on paradigms involving, in particular, the safeguarding of the principle of legality and the rule of law in Europe, the preservation of national sovereignty in cases of transnational and international criminal justice, the legitimacy of the function of punishment at the level of international criminal law, and the distinction between criminal and administrative wrongfulness. In view of such complex and still unresolved issues, he emphasized the need for a coherent general theory on international criminal law.

The second day of the conference (Saturday, June 4) was dedicated to the second and third thematic sessions. The second (morning) session on issues of European criminal law was chaired by the Hon. President of the Greek Supreme Administrative Court (*Conseil d'Etat*) and former Prime Minister of Greece, Mr. *Panayotis Pikrammenos*. The scholars invited to speak in this session were from both the civil law and the common law jurisdictions and are widely known for their extensive contributions to re-

search, teaching, and legal policy in this particular field. In his lecture on police operations in Europe, Prof. *Hans Heiner Kühne* (Trier) exemplified the role of the police, the limits of police powers, and the limits set on the investigation of police misconduct in the light of the immunities enjoyed by “police” officials at the level of the EU (especially with regards to EUROPOL and OLAF). Prof. *Kühne* emphasized that such actions on the part of officials must be subject to full and transparent control in accordance with the rule of law principle. Afterwards, Prof. *Helmut Satzger* (Munich) gave an in-depth speech on the approximation of European legislations. He addressed basic questions on the need for, and limits of, harmonization of the various general concepts of substantive criminal law and the variety of punishments across the EU. Prof. *Satzger* noted that criminal law approximation should not be regarded as an end in itself, stating that for purposes of coherent harmonization, criminal law science must be in a position to warn EU legislators about potential risks related to unrestrained intervention in national legal orders and, at the same time, provide them with the necessary theoretical tools for developing a consistent supranational criminal law system in full knowledge of the inherent dangers.

In her lecture on the ongoing internationalization of criminal law in the era of globalization, Prof. *Maria Kaiafa-Gbandi* (Thessaloniki) adopted a very interesting comparative approach: she explored specific fundamental questions and principles of EU criminal law by comparing them with the institutionalized response of the US to these issues, particularly by taking into account the centralized and supranational forms of creating criminal rules in terms of the particularities of federal and supranational systems of government. In his lecture on mutual recognition, mutual trust, and the role of fundamental rights in the post-Lisbon era, Prof. *Valsamis Mitsilegas* (QMU of London) systematically analysed some of the most important issues of current EU law in the field of criminal law and procedure. In particular, he examined the relationship between mutual trust and fundamental rights in the third pillar mutual recognition law (with the European Arrest Warrant as an example), the relationship between mutual trust and fundamental rights before the European judiciary, the possibility to accompany mutual recognition with harmonization, as well as the shift from presumed to earned trust within the EU criminal justice area. The lecture by Ass. Prof. *Georgios Triantafyllou* (Athens) on the rights of the defence in proceedings for the transnational gathering of evidence covered, in a comprehensive manner, another key problem of the EU legal system: the lack of an extensive right and of truly effective means of defence in cases of judicial assistance, especially with respect to the possibility of the accused to independently request the transnational gathering of evidence or to legally protect himself/herself during transnational investigations. The particularities and shortcomings of the European Investigation Order were especially highlighted.

Towards the end of the second session, Dr. *Ioannis Morosinis* took the floor to present the scientific mission and activities of the European and International Criminal Law Institute. Dr. *Emmanouil Billis* presented the main comparative research projects of the Max Planck Institute for Foreign and International Criminal Law as well as the doctoral programme of the International Max Planck Research School for Compara-

tive Criminal Law. It is noteworthy that several participants at the conference were members of the International Max Planck Research School, more specifically, doctoral candidates at the University of Freiburg/Germany from six different countries, who, on invitation by the EICLI, not only had the opportunity to attend lectures by highly acclaimed experts in their fields of interest but also to engage in productive discussions with them and with other legal scholars and lawyers from Greece at the conference's side events. Subsequently, Prof. *Mylonopoulos* highlighted these new forms of support for young scientists and, more generally, the need to enhance communication and academic exchange between Greek and international scientific institutions. Prof. *Sieber* then addressed the audience, calling this international conference in Athens a unique opportunity and ideal start in strengthening existing and establishing new methods of cooperation between the EICLI and the Max Planck Institute.

On Saturday evening, the third thematic session was chaired by the Hon. General Prosecutor of Greece, Mr. *Ioannis Tentis*. This session on international economic criminal law and corruption was characterized by the diverse backgrounds of the renowned speakers along with the transcultural nature of their topics, as well as by the presentation of important practical considerations and empirical data. The lecture by Prof. *Genlin Liang* (Beijing) on Chinese anti-bribery law and –to some extent– its compliance with the UN anti-corruption convention, made an interesting reference to the widespread social transformation and legal reform currently ongoing in China. It then focused on the bribery of national public officials and foreign public officials, the trading in influence, the bribery in the private sector, and the liability of legal persons. The Vice President of the European Academy of Sciences and Arts, Prof. *Brigitte Tag* (Zurich), spoke about developments involving reproductive medicine (especially prenatal diagnosis and pre-implantation genetic diagnosis), their legal and moral consequences, and their international dimensions. Prof. *Frank Saliger* (Munich) provided examples of the impact of EU law on national, particularly German, anti-corruption legislation; he also noted the vague definitions of the concept and scope of corruption, as well as the role and legal position of the different actors involved in it. The topic of the last speech of the third session, delivered by Prof. *Theocharis Dalakouras* (Thrace), was also the widespread phenomenon of corruption; however, the speaker adopted a procedural approach with particular emphasis on the Greek legal order, by focusing on specific problems and rule of law deficits related to the domestic legal framework on criminal investigations and on respective human rights limits set by the ECHR on the authorities. The end of the second day featured a thought-provoking round table discussion on asset recovery in cases of trans-border and international offences. Speakers were Mr. *Nikolaos Pantelis* (Substitute General Prosecutor of Greece), Dr. *Camelia Bogdan* (Court of Appeal Judge in Bucharest), and Mr. *Panagiotis Athanassiou* (Prosecutor of the Court of Appeal in Athens, competent for the prosecution of financial crimes).

The third day of the conference (Sunday, June 5) was dedicated to the fourth thematic session on the law of international offences. It was chaired by the Hon. President of the Supreme Court of Greece (*Areios Pagos*), Mr. *Athanasios Koutromanos*.

With a topic similar to Prof. *Roxin's* first day opening lecture, Prof. *Francisco Muñoz Conde* (Seville) examined, in the first speech of the last day, the application of the doctrine of indirect perpetration by means of an organizational apparatus of power in the case law of Latin America and international criminal courts. His speech focused, *inter alia*, on ways to establish criminal responsibility not only in terms of the conduct of higher but also of mid-level officials within a power apparatus. Prof. *Jesús-María Silva Sánchez* (Barcelona) addressed in his lecture another problem involving the allocation of responsibility, the complex and very important issue (at present and, potentially, also in the future) of targeted killings: he spoke, in particular, on the nature of targeted killings according to international law, the limits set by international humanitarian law, issues related to the targeted killings of alleged terrorists, and, most importantly, the difficulty to provide legal justification for government-ordered killings. The speech by Prof. *Angelos Constantinidis* (Thrace) tackled the subject of terrorism as a matter of global concern, which falls, along with drug trafficking and other crimes of international importance, under the scope of the principle of universality as well as other contemporary issues regarding the application of this principle (e.g., double jeopardy issues). He also critically analysed the possibility to widen the scope of universal jurisdiction rules in order to include money laundering offences.

In a lecture entitled “Odious and Illegal Public Debt as a State Crime”, primarily inspired by the current socio-economic crisis in Greece, Prof. *Ilias Bandekas* (Brunel University of London) examined, in a novel way, the matter of sovereign debt: he focused, *inter alia*, on its creation and the actors involved in it (especially the lender), the factors rendering state debts unlawful, the abhorrent consequences of such debts for people’s lives, as well as the possibility to address the intentional creation of excessive public debts with the means of criminal law and to consider it an offence against humanity. In his speech on the territorial limits of force of penal laws and cybercrime, Ass. Prof. *Dimitrios Kioupis* (Athens) took up another hot topic. He systematically analysed complex issues of extraterritorial jurisdiction and the applicability of domestic criminal law to cybercrime cases. In view of the technical particularities of cybercrime, the lecture focused on the possibility to apply classic criminal law principles, such as the principle of territoriality, in order to establish jurisdiction along with other general jurisdictional limits based on a nexus between conduct and a particular legal order. The final speech of the conference entitled “Cybercrime as a Universal Phenomenon (legislative shortfalls at national and international level)”, given by Greek Police Major General Mr. *Emmanouil Sfakianakis*, referred to cybercrime and electronic crime, through in a more practical and empirical context. In his presentation, Mr. *Sfakianakis* showcased how and to which extent the widespread use of modern and digital technologies resulted in the transformation of crime. He also noted the considerable difficulties encountered by law enforcement authorities in terms of investigation, prosecution, and judicial cooperation. At noon, the conference was declared closed by Prof. *Mylonopoulos*, who expressed his gratitude towards all conference participants, the members of the EICLI, and the volunteers who contributed to its success.