

REGULATING MISMANAGEMENT IN THE CORPORATE FIELD: THE ROLE OF CRIMINAL LAW AND THE FINANCIAL CRISIS

Fourth AIDP Symposium for Young Penalists (São Paulo, Brazil, August 28th-29th, 2014)

The challenges that came along with the financial crisis and the recent transformations in the world economy set a requirement to rethink the role of criminal law. New efforts are needed to comprehend the dynamics of criminal law, its usefulness, but also its potentially severe and long-lasting damages to individuals, to corporations and to the society as a whole.

In this context, regulating mismanagement in the corporate field appears as a complex issue. How can criminal law deal with organizations; how can criminal law lead to risk reduction in corporate behavior and thus regulate the economy? What are constitutional limits to dogmatic and legal innovations like imposing limits to financial transactions, or to the theory of *respondeat superior*?

For all these reasons, classical principles and theories of criminal law – such as the notion that criminal law may only protect (individual) legal interests – need to be put into question. Moreover, the debate on regulating mismanagement in the corporate field suffers from lack of empirical analyses and investigations on the effectiveness of economic criminal regulation and its impacts on society. Sanctioning of corporations is still a controversial issue in some States. In others the debate is concentrated on the extent of the criminal law enforcement, as complementary to self-regulation and civil law enforcement and to administrative law enforcement.

Also in the area of criminal procedure and judicial cooperation in criminal matters there are important discussion points. To which extent do human rights apply to corporations? Are they entitled to specific procedural guarantees? Have they the right to protection against concurring jurisdictions to investigate, prosecute and sanction? In practice several corporations are facing multiple punitive proceedings under US jurisdiction and several national EU jurisdictions for this misbehavior in the financial markets (examples: Libor/Euribor).

Peculiarly motivated by the fact that it is the first AIDP Symposium for Young Penalists in a Latin American country, and also by the fact that the XIX Congress of AIDP will take place in the following week in Rio de Janeiro, Brazil (from August 31th to September 06th, 2014), these matters call for an international review of *regulating mismanagement in the corporate field: the role of criminal law and the financial crisis*, inter alia:

- *The Role of Corporate Criminal Liability in the Financial Crisis
- *Decision-Making and Oversight in Corporations – Consequences for Criminal Liability
- *Human Rights Violations by Corporations
- *Corporate Crimes and Challenges to the Criminal Procedure, including human rights protection for Corporations
- *Transnational Corporate Crimes and International Cooperation, including choice of jurisdiction

Call for Paper

PhD students, post-docs, young academics and other young penalists are invited to submit an abstract (length: 150 – 250 words) in English on these and comparable aspects on “Regulating Mismanagement in the Corporate Field: The Role of Criminal Law and the Financial Crisis” via e-mail (aidpyp.4thsymposium@gmail.com) by 30th May, 2014, along with contact and affiliation information. Decisions on individual submissions and interventions can be expected in June 2014.

Authors of accepted abstracts are invited to present their work in one of the panel sessions; after each presentation of 10 minutes a short discussion will follow. The use of presentation technology (e.g. power-point) is optional. Authors of accepted abstracts are furthermore invited to submit a written version of their presentation (length: 2.000 – 5.000 words including references), which – if finalized and submitted to the organizing committee by August 15th, 2014 – will be published in the conference proceedings in book form.

Costs and Sponsorships

Participation in the symposium is free of charge. Travel and accommodation expenses cannot be covered by the hosts. Depending on funding, we may be able to offer partial travel sponsorships to outstanding participants and/or participants from developing countries. If such a sponsorship is decisive for your participation in the symposium, please let us know when submitting your abstract or – at latest – by May 30th, 2014. We thank the Brazilian Bar Association – Section São Paulo (OAB/SP – Ordem dos Advogados do Brasil – Seccional São Paulo), IBCCRIM (Instituto Brasileiro de Ciências Criminais) and the Brazilian National Group for offering us institutional support.

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