

International Workshop

Effectiveness and Proportionality

Modern Challenges in Security Law and Criminal Justice

17–18 October 2019

Max Planck Institute for Foreign
and International Criminal Law
Freiburg, Germany



Max-Planck-Institut
für ausländisches und
internationales Strafrecht



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EUROPEAN &
INTERNATIONAL
CRIMINAL LAW
INSTITUTE

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THE ARCTIC
UNIVERSITY
OF NORWAY

Date: 17–18 October 2019

Location: Max Planck Institute for Foreign and International Criminal Law (MPICC), Günterstalstraße 73
79100, Freiburg i.Br.
GERMANY

Organizers: MPICC (Otto Hahn Research Programme)
University of Bergen (Faculty of Law)

Sponsors: European & International Criminal Law Institute (EICLI, Athens)
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Scientific committee: Dr. *Emmanouil Billis* / Dr. *Nandor Knust* / Prof. *Jon Petter Rui*

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More information: www.mpicc.de/proportionality

List of speakers and discussion moderators

Prof. *Hans-Jörg Albrecht* (MPICC)

Prof. *Ilias Anagnostopoulos* (University of Athens)

Prof. *Lorena Bachmaier* (Universidad Complutense de Madrid)

Dr. *Emmanouil Billis*, LL.M. (MPICC)

Prof. em. *Michael Bothe* (University of Frankfurt)

Prof. *Johan Boucht* (University of Oslo)

Prof. em. *Nestor Courakis* (University of Athens)

Prof. em. *Antony Duff* (University of Stirling)

Prof. *Thomas Elholm* (University of Copenhagen)

Emanuela-Chiara Gillard, LL.M. (Royal Institute of International Affairs, London)

Prof. *Tatjana Hörnle* (MPICC)

Prof. *John Jackson* (University of Nottingham)

Dr. *Konstanze Jarvers* (MPICC)

Dr. *Nandor Knust* (MPICC)

Prof. *Claes Lernestedt* (Stockholm University)

Prof. *Russell Miller* (Washington and Lee University)

Prof. *Valsamis Mitsilegas* (Queen Mary University of London) (tbc)

Prof. *Christos Mylonopoulos* (University of Athens, President EICLI)

Dr. *Vagia Polyzoidou* (University of Nicosia)

Prof. *Ralf Poscher* (MPICC)

Prof. *Julian Roberts* (University of Oxford)

Prof. *Jon Petter Rui* (University of Bergen and University of Tromsø)

Prof. *Ulrich Sieber* (MPICC)

Prof. *Robert Spano* (Vice-President ECtHR)

Prof. *Richard Vogler* (University of Sussex)

Prof. em. *Thomas Weigend* (University of Cologne)

Prof. *Lucia Zedner* (University of Oxford)

PROGRAMME

Day 1 – Thursday, 17 October 2019

- 08:30** **Registration**
- 09:00** **Welcome**
- 09:15** **Introduction: Effectiveness and proportionality – typological considerations**
Emmanouil Billis / Nandor Knust / Jon Petter Rui
- 09:45** **Keynote: What should be proportionate to what, and why?**
Antony Duff
- 10:30** * * * **Coffee break** * * *
- Session 1:** **The concepts of effectiveness and proportionality (philosophical, constitutional, criminological, and socio-legal aspects)**
Discussion moderator: *Tatjana Hörnle*
- 10:40** **Proportionality and the legal bindingness of fundamental rights**
Ralf Poscher
- 11:20** **Ends and means: why effective counter-terrorism requires respect for proportionality and rights**
Lucia Zedner
- 12:00** **The contribution of fuzzy logic and comparative concepts to the rational application of proportionality in the narrow sense**
Christos Mylonopoulos
- 12:40** * * * **Lunch and coffee** * * *
- 13:40** **The proportionality principle in comparative public, European Union, and international law – reflections on the ‘proportionality equation’ (part I)**
Michael Bothe

14:20 **Defence of self, defence of others, and defence of the legal order – and proportionality**
Claes Lernestedt

15:00 * * * **Coffee break** * * *

15:10 **The historical evolution of the principle of proportionality**
Nestor Courakis / Vagia Polyzoidou

15:50 **Does the (modern) symbolic purpose of criminal law leave any room for effectiveness and proportionality?**
Thomas Elholm

16:30 * * * **Coffee break** * * *

Session 2: **Effectiveness and proportionality in different models and systems of crime control**

Discussion moderator: *Hans-Jörg Albrecht*

16:50 **Effectiveness, proportionality, and security law**
Ulrich Sieber

17:30 **Contrasting penal and non-penal responses to terrorism: proportionality and human rights**
John Jackson

20:00 * * * **Dinner for speakers and discussion moderators** * * *

Day 2 – Friday, 18 October 2019

- 09:00** **Max Planck Institute and library tour**
Elisabeth Martin (Head of Library)
- 09:30** **Proportionality at sentencing: exploring the diversity of approaches
in common law jurisdictions**
Julian Roberts
- 10:10** **Proportionality and the confiscation of proceeds of crime**
Johan Boucht
- 10:50** * * * **Coffee break** * * *
- 11:10** **Proportionality and its limits in the security cases of the U.S. Supreme
Court and the German Federal Constitutional Court**
Russell Miller
- 11:50** **Effectiveness, proportionality, and the abstract and concrete forms of
decriminalization. The example of Italy**
Konstanze Jarvers
- 12:30** * * * **Lunch and coffee** * * *
- Session 3:** **Supranational, international, human rights,
and international humanitarian law dimensions**
Discussion moderator: *Nandor Knust*
- 13:30** **Proportionality and effectiveness in punishing perpetrators under
international criminal law**
Thomas Weigend
- 14:10** **The proportionality principle in comparative public, European Union, and
international law – reflections on the ‘proportionality equation’ (part II)**
Michael Bothe / Emanuela-Chiara Gillard
- 14:50** * * * **Coffee break** * * *

- 15:00** **The ECtHR proportionality model**
Robert Spano
- 15:40** **Proportionality, surveillance, and criminal investigation:
Strasbourg Court facing Big Brother**
Lorena Bachmaier
- 16:20** **Big data and criminal justice. Proportionality, efficiency,
and risk in a global context**
Richard Vogler
- 17:00** * * * **Coffee break** * * *
- 17:10** **Defence rights in CJEU case law**
Ilias Anagnostopoulos
- 17:50** **Dissecting the principle of proportionality in European criminal law**
Valsamis Mitsilegas (tbc)
- 18:30** **Summary of Days 1 & 2**
Jon Petter Rui
- 19:00** **Closing remarks**
Emmanouil Billis



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