

Criminalizing attacks against information systems in the EU – The anticipated impact of the European legal instruments on the Greek legal order

Prof. Dr. jur. M. Kaiafa-Gbandi

The main axis of countering the so-called electronic crime, which nowadays has undoubtedly an international dimension, consists of criminalizing the attacks against the information systems themselves through a harmonized standardisation of the relevant criminal offences, as far as possible internationally, so that the judicial cooperation of the involved states can be facilitated. This fact is particularly obvious in the European area both in regard of the Council of Europe Convention on Cybercrime and also –especially- in view of the recent initiative of the E.U. for a Directive on attacks against information systems (COM (2010) 517 final), that is expected to replace the Framework Decision 2005/222/JHA.

The goal of the proposed Directive appears to be the protection of the information systems, as informational infrastructure and essentially as a prerequisite for the safeguard of all possible legal interests that might be affected via the use of the information systems. In tandem, however, the effort of the E.U. to connect the attacks against the information systems with the organized crime and terrorism is obvious and this fact explains the clear tendency towards the austerisation of the criminalisation that is expressed by the new proposal for a Directive.

The paper, based on the new institutional framework of the Lisbon Treaty, analyzes the main criminalisation choices that are formulated in the aforementioned proposal with a critical approach, that is based on the respect of the fundamental rights and principles of criminal law in general. It emphasizes the positive and negative elements of the particular forms of criminalisation that are proposed and also the interferences that the entry into force of this particular Directive will bring to the Greek law in terms of countering electronic crime and also the constrained limits of the rule of law that must accompany them.