

OCTOPUS INTERFACE

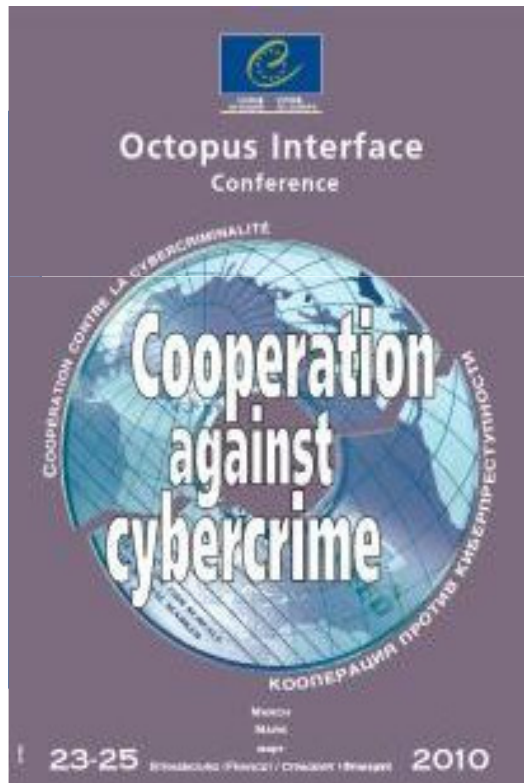
COOPERATION AGAINST CYBERCRIME

Council of Europe, Strasbourg, 23.-25 March 2010

Dr. Ivan Salvadori, LL.M.
University of Verona- Faculty of Law



www.ivansalvadori.blogspot.com

ivansalvadori@gmail.com



THE COURTS' APPROACH TO POSSESSION OF CHILD PORNOGRAPHY

CRIMINALIZING POSSESSION OF CHILD PORNOGRAPHY. EUROPEAN APPROACH

-  **BELGIUM (Art. 383-bis.1 CP)**
-  **CYPRUS (Art. 11.1.e)**
-  **FRANCE (Art. 227-23.5)**
-  **GERMANY (§ 184.V.2 StGB)**
-  **FINLAND (§ 19 CP)**
-  **ITALY (Art. 600-quater CP)**
-  **PORTUGAL (Art. 172e CP)**
-  **SWITZERLAND (Art. 197 CP)**
-  **SPAIN (Art. 189.2 CP)**
-  **ROMANIA (Art. 51(1) L. n.161/2003)**
-  **LITHUANIA (Art. 309 CP)**
-  **HOLLAND (art. 240b CP)**
-  **SLOVAK REPUBLIC (Art. 369 CP)**
-  **CZECH REPUBLIC (Art. 205a CP)**
-  **UNITED KINGDOM (S. 160(1) Act)**



CRIMINALIZING THE POSSESSION OF CHILD PORNOGRAPHY. US APPROACH

-  **ALASKA** (Ala. Code § 13A-12-192b)
-  **ARIZONA** (Ariz. Rev. Stat. Ann. § 133553(A)(2))
-  **FLORIDA** (Fla. Stat. § 827.071.5)
-  **TENNESSEE** (Tenn. Code Ann. § 39-17-1003(a)(1)-(2))
-  **COLORADO** (Colo. Stat. Ann. § 18-6-403(3)(b.5))
-  **VIRGINIA** (Va. Code Ann § 18.2-374.1:1)
-  **NEW YORK** (N.Y. Pen. Code § 263.11)
-  **TEXAS** (Tex. Pen. Code § 43.26)
-  **MASSACHUSETTS** (Mass. Gen. L. Ch. 272 § 29c)
-  **UTAH** (§ 76-5a-3 Criminal Code)



CRIMINALIZING POSSESSION OF CHILD PORNOGRAPHY. NON-EUROPEAN COUNTRIES APPROACH

-  **ARGENTINA (Art. 128.2 CP)**
-  **UNITED STATES (18 U.S.C. §§ 2252A
(a)(5)(B), (b)(2))**
-  **CANADA (163.1(4) Criminal Code)**
-  **AUSTRALIA (Sect. 474.20 CP)**
-  **MEXICO (Art. 202, 202bis CP)**
-  **DOMINICAN REPUBLIC (Art. 24.2 CP)**
-  **COLOMBIA (Art. 218 CP)**
-  **SRI LANKA (Art. 286A, III CP)**
-  **BRAZIL**
-  **EL SALVADOR**
-  **PERU**



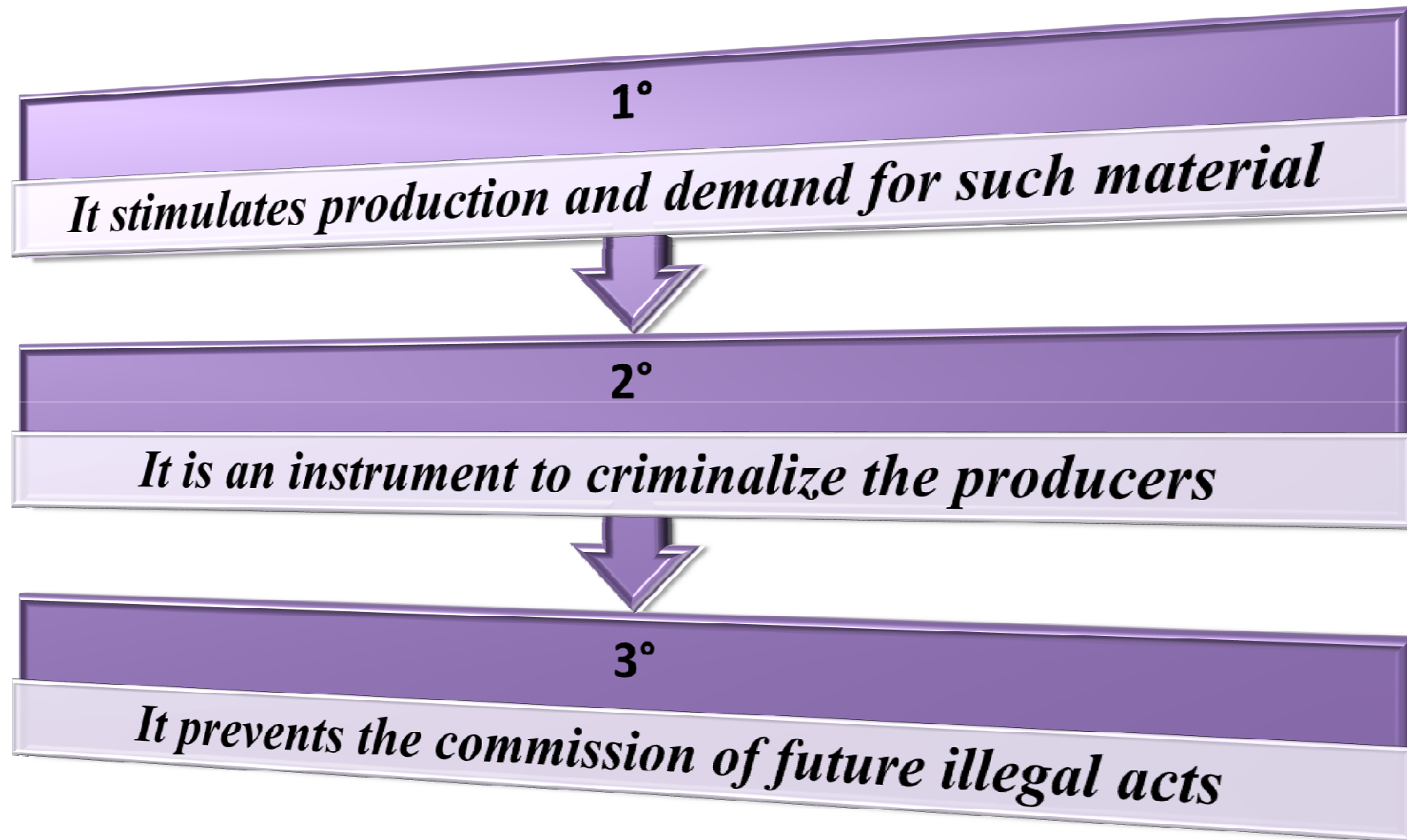
POSSESSION OF CHILD PORNOGRAPHY. AVAILABLE DEFENCES

S. 160(2)
CRIMINAL JUSTICE ACT 1988

- ✓ ***LEGITIMATE REASONS***
- ✓ ***UNKNOWING POSSESSION***
- ✓ ***UNSOLICITED CHILD PORNOGRAPHY IMAGES***
- ✓ ***MARRIAGE AND OTHER RELATIONSHIPS***



WHY POSSESSION OF CHILD PORNOGRAPHY SHOULD BE CRIMINAL?



WHAT CONSTITUTES POSSESSION?


DOMINION AND CONTROL OVER THE IMAGES

US v. TUCKER

The defendant „could control the images in many ways: he could copy them, print them, enlarge them and „zoom-in“, show them to others,



COURTS HOLDING THAT IMAGES IN A CACHE CONSTITUTE POSSESSION

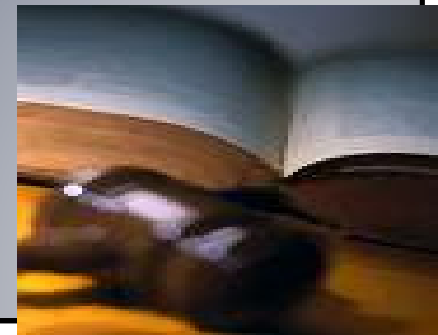
✓  *US v. TUCKER*

✓  *US v. MASON*

✓  *ATKINS v DPP*

✓  BGH, 27.06.2001

✓  CASS. PEN. N. 39282/2005

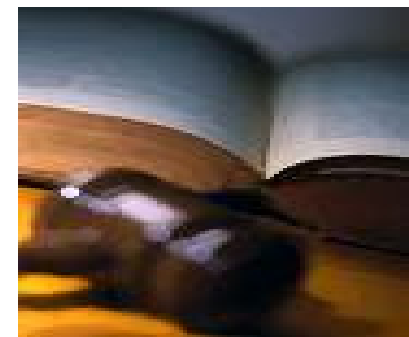


DELETION OF CHILD ABUSE IMAGES. A NEW DEFENCE?

R. v PORTER



R v. CLARK



SHOULD VIEWING CHILD PORNOGRAPHY BE CRIMINAL?

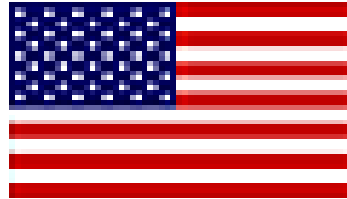


NATIONAL LEGISLATIONS CRIMINALIZING THE VIEW OF CHILD PORNOGRAPHY



CANADA

S. 163.1(4.1), (4.2) Crim. Code



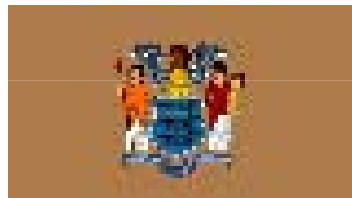
UNITED STATES

18 U.S.C § 2252(a)(4)



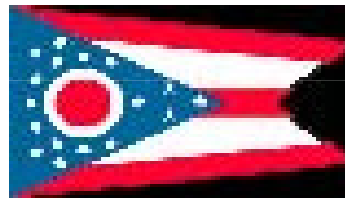
ARKANSAS

§ 5-27-304(a)(2)



NEW JERSEY

N.J. Stat. Ann. § 2C-24-4(5)(B)



OHIO

O. Rev. Code
Ann.(A)(3)§2907.323



NEVADA

Ch. 471, 2009

FRANCE
Art. 227-23.5 CP



GERMANY
§ 184.V.2 StGB

Thank you for your attention.

Contact:

Dr. Ivan Salvadori, LL.M.

University of Verona- Faculty of Law

ivansalvadori@gmail.com

www.ivansalvadori.blogspot.com

