



**CORPORATE
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**FROM LEAKS TO JUSTICE: CHALLENGES
AND OPPORTUNITIES FOR THE JUDICIARY
IN THE AGE OF DISCLOSURE**

Panama Papers

Leaked Documents, Public Officials, Corruption, Shell Corporation, Offshore Entities, Politicians, Tax Noncompliance, Scandal, Documents, Leaked Documents, Kleptocracy, Public Officials, Tax, Noncompliance, Politicians, Tax, Offshore Investment, International, Electronic Documents, Corruption, Scandal, Kleptocracy, Electronic Documents, Offshore Accounts, Offshore Investment, Tax Paradieses, International, Tax Evasion, Offshore Entities, Tax Noncompliance, Fraud, Shell Corporation, Offshore Investment, Documents, Tax Noncompliance, Tax Havens, Investment, Tax Evasion, Leaks, Shell Corporation, Fraud, Documents, Tax Noncompliance, Tax Havens, Politicians, Public Officials, Leaked Documents, Tax Evasion, Shell Corporation, Leaks, Tax, Politicians, Offshore Accounts, Service, Politicians, Offshore Accounts, Noncompliance, Offshore Accounts

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FROM LEAKS TO JUSTICE: CHALLENGES AND OPPORTUNITIES FOR THE JUDICIARY IN THE AGE OF DISCLOSURE

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OVERVIEW AND METHODOLOGY

The event “*From Leaks to Justice: Challenges and Opportunities for the Judiciary in the Age of Disclosure*” will serve as a comprehensive platform for exploring the impact of leaks such as Panama Papers, Paradise Papers, and LuxLeaks on the pursuit of justice. The scientific coordinators of this event – **Diane Ring**,* **Costantino Grasso**,** and **Donato Vozza***** – have conceived the following research structure and line of inquiry that will be used to guide the discussion.

This scientific event, tailored for investigators, members of the judiciary, and other legal professionals, will be divided into two main sessions.

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The first session will introduce the phenomenon of leaks and aim to demonstrate how these disclosures are crucial in unveiling covert activities, not only related to the illicit financial flows associated with offenses like tax evasion, corruption, and money laundering, but also concerning ethically questionable practices such as tax avoidance and undisclosed conflicts of interest, particularly among public officials. A special focus will be placed on discussing how the leaks may shed light on the roles played by professionals such as lawyers, accountants, and financial advisors, in enabling or facilitating such malpractices. The discussion will illuminate the role of investigative journalism in bringing these issues to light as well as the processes involved in these disclosures, including how documents are explored, analyzed, stored, and made accessible. It will also highlight the relationship between legal practitioners and journalists.

The second session will seek to provide legal practitioners, especially prosecutors and judges, with an understanding of some of the difficulties in translating the leaked pieces of information into legal actions.



Specifically, the discussion will focus on how prosecutors may utilize these revelations to further their investigative efforts, and how the disclosed information may be used as admissible evidence in legal proceedings. The discussion will also offer insights into the ways in which legal practitioners may engage with financial institutions or other relevant stakeholders post-leak. This session will also include discussions on the balance between transparency and confidentiality as well as the legal and ethical dilemmas that may arise when handling this sensitive information.

One of the primary objectives of this event is to foster a constructive dialogue and create synergy between investigative journalists and legal practitioners. Often, the work carried out by journalists, who expose wrongdoings thanks to the documents and pieces of information disclosed by leakers and whistleblowers, operates in a parallel yet disconnected dimension from the actions undertaken by the judiciary. This discussion aims to bridge this gap, emphasizing the importance of collaboration between these

two spheres. By exploring the methodologies journalists use to bring sensitive information into the public domain, and then discussing how investigators and other legal operators may translate this information into actionable legal proceedings, this initiative seeks to unlock a significant potential for enhancing the pursuit of justice. The synergistic approach not only aims to amplify the impact of disclosed information but also to ensure that such exposure leads to tangible legal outcomes, thereby upholding fundamental democratic values by promoting transparency and accountability in compliance with respect for human rights.

The following line of inquiry includes a cohesive and interconnected set of research questions, serving both as starting elements of discussion and groundwork for subsequent research. By encouraging an open discussion of these questions and utilizing an interdisciplinary approach, this event aims to provide practical guidance on leveraging the potential of leaks to support efforts in investigating and prosecuting otherwise obscured financial malpractices. Specifically, the event seeks to raise awareness among legal practitioners and offer assistance in navigating the intricate terrain presented by leaks. This initiative ultimately seeks to improve their ability to uphold justice principles in the age of disclosure, where significant pieces of information that were once shrouded in mystery are now more vulnerable to exposure to the public.

SESSION 1) THE ROLE OF LEAKERS AND INVESTIGATIVE JOURNALISTS IN EXPOSING MALPRACTICES: LEGAL AND ETHICAL IMPLICATIONS

1. What is the specific relevance of leaks in countering illegal or unethical practices, especially in relation to financial malpractices?
2. How is the leak typically received by journalists, and what are the processes used to transform data into information?
3. What are the methodologies employed in investigating leaked documents (e.g., digital forensics, cross-border collaboration)?



4. What is the relevance of the use of artificial intelligence in analyzing voluminous data from leaks and what are the main opportunities and challenges?
5. Taking into consideration the magnitude of the disclosed information and the limited amount of time and resources, how specific cases or issues to focus on are or should be selected?
6. How should journalists ensure responsible reporting when dealing with leaked information that may have legal or ethical implications?
7. When this type of information enters the public domain, is the approach based on a perspective focused on public dissemination, implying that the primary aim is to share information with the general public, or centered on actionable legal proceedings, which could more easily involve initiating lawsuits, legal actions, or other formal legal proceedings? What are the differences between these approaches, their implications, and how could they be combined?
8. What could be the advantages and difficulties associated with how the media and the judiciary interact when it comes to leaked information? What is the media's role as a watchdog, bringing to light information that might otherwise remain hidden, and why is it important for the judiciary? In which ways may freedom of the press and administration of justice clash, and what are the underlying tensions? More specifically, what is the potential impact of media coverage on ongoing legal proceedings, and what are the risks represented by "trial by media" and their impact on justice and human rights?
9. How do leaks help uncover the involvement of legal professionals, such as lawyers, accountants, financial intermediaries, in facilitating or enabling illicit activities, such as money laundering, corruption, or fraud?
10. How to navigate the distinction between illegal and merely unethical issues, such as the emergence of tax evasion and tax avoidance, and their relevance for both public awareness/opinion and legal proceedings?

SESSION 2) TRANSLATING LEAKED INFORMATION INTO LEGAL ACTION: CHALLENGES AND OPPORTUNITIES

1. How may investigative bodies effectively explore the relevant data leaked to determine the necessity and scope of an investigation? After a leak, what methods may be used by investigators to evaluate the significance of the leaked information for possible investigations and legal actions in their own jurisdiction? What kind of assistance may journalists give in that regard?



For the purpose of this question please consider the often complex and vast nature of the leaked data and its fragmented nature, which may cover various behaviors across different legal areas and jurisdictions. The published information may only offer hints on the presence of potentially relevant data for a prosecution in a given jurisdiction. In such a context, what is the difference between a proactive prosecutorial approach and a more passive stance?

2. How do investigators and prosecutors assess the relevance and reliability of older leaked data, and in what ways can information published several years ago still be useful and incorporated into ongoing investigations (e.g., the Panama Papers documents released in 2016)? Moreover, what obstacles arise from using information from older leaks?
3. How could the establishment of synergies between the judiciary and the press empower journalists to serve as allies in the fight against crimes by providing insights that may lead to effective investigative efforts? Are these synergies established on an individual basis or may they be structured in a more formal way? What are the advantages and disadvantages of both approaches?
4. What are the challenges investigative authorities face in conducting cross-border investigations related to transnational leaks, particularly when dealing with information disclosed by journalists, leakers, whistleblowers, or other sources in other jurisdictions, and how do you establish a valuable connection that may serve as a way to pursuit justice?

5. What is the active role that journalists may play in legal proceedings, for example in relation to gathering admissible evidence and the related procedural challenges?
6. What is the role that leakers and whistleblowers may play in legal proceedings and the difference of cases in which the identity of the leakers is known (e.g., Football Leaks, LuxLeaks) and in which the leaker is anonymous?
7. What are useful strategies for investigators to effectively liaise with banks, financial entities, and other stakeholders that may be involved in or have information about the facts detailed in the disclosures?
8. What challenges may investigative bodies face in pursuing legal action against professionals implicated in malpractice revealed by leaks, and how can these challenges be addressed?
9. In what ways leaks may prompt professional associations and licensing bodies to reevaluate ethical standards, codes of conduct, and disciplinary mechanisms to deter misconduct and ensure accountability among their members?
10. How should investigating bodies navigate the legal and moral dilemmas which arise in cases where disclosing such information could potentially expose the reporting person to scrutiny and investigation for the leak and its subsequent publication, particularly if relevant legal protections are inadequate?



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The Corporate Crime Observatory is an international platform established by independent academics and experts from different countries and backgrounds devoted to promoting the analysis and discussion of corporate and economic crime issues as well as other forms of corporate irresponsible behavior around the world.

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