Criminal Law and Internet of Things: Challenges and Threats

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Abstract : The development of information and communication technologies (ICT) and a consequent growth of cyberspace have become a reality of modern societies. The newest addition to this complex structure has been Internet of Things which is due to the appearance of smart devices. IoT creates a new dimension of the network, as the communication is no longer the domain of just humans, but has also become possible between devices themselves. The possibility of communication between devices, devoid of human intervention and real-time supervision, generated new societal and legal challenges. Some of them may and certainly will eventually be connected to criminal law. Legislators both on national and international level have been struggling to cope with this technologically evolving environment in order to address new threats created by the ICT. There are legal instruments on cybercrime, however imperfect and not of universal scope, sometimes referring to specific types of prohibited behaviors undertaken by criminals, such as money laundering, sex offences. However, the criminal law seems largely not prepared to the challenges which may arise because of the development of IoT. This is largely due to the fact that criminal law, both on national and international level, is still based on the concept of perpetration of an offence by a human being. This is a traditional approach, historically and factually justified. Over time, some legal systems have developed or accepted the possibility of commission of an offence by a corporation, a legal person. This is in fact a legal fiction, as a legal person cannot commit an offence as such, it needs humans to actually behave in a certain way on its behalf. Yet, the legislators have come to understand that corporations have their own interests and may benefit from crime – and therefore need to be penalized. This realization however has not been welcome by all states and still give rise to doubts of ontological and theoretical nature in many legal systems. For this reason, in many legislations the liability of legal persons for commission of an offence has not been recognized as criminal responsibility. With the technological progress and the growing use of IoT the discussions referring to criminal responsibility of corporations seem rather inadequate. The world is now facing new challenges and new threats related to the 'smart' things. They will have to be eventually addressed by legislators if they want to, as they should, to keep up with the pace of technological and societal evolution. This will however require a reevaluation and possibly restructuring of the most fundamental notions of modern criminal law, such as perpetration, guilt, participation in crime. It remains unclear at this point what norms and legal concepts will be and may be established. The main goal of the research is to point out to the challenges ahead of the national and international legislators in the said context and to attempt to formulate some indications as to the directions of changes, having in mind serious threats related to privacy and security related to the use of IoT.