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RECON
Reconstituting Democracy in Europe

Integrated Project
Priority: 7 - Citizens and Governance in a Knowledge-Based Society

Deliverable No. 82
Workshop: after globalization: new patterns of conflict

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Lead contractor for this deliverable:
Partner 14 UniHB
University of Bremen, Germany

Final Version

Project co-funded by the European Commission within the Sixth Framework Programme (2002-2006)		
Dissemination Level		
PU	Public	
PP	Restricted to other programme participants (including the Commission Services)	
RE	Restricted to a group specified by the consortium (including the Commission Services)	X
CO	Confidential, only for members of the consortium (including the Commission Services)	

1. Introduction

RECON Deliverable No. 82, *workshop: after globalization: new patterns of conflict*, is part of work package 9 – Global Transnationalisation and Democratisation Compared. The objective of WP 9 is to examine how globalisation and transnationalisation processes shape the conditions for democracy within and beyond Europe, and to compare the European case with certain particularly relevant non-European instances of democracy and democratisation. WP 9 is divided into two collaborative sub-projects. Sub-project 1 explores the impact of globalisation processes, in particular the liberal trading regime of the WTO, on nation state democracies and on the democratisation of the European Union. Sub-project 2 examines the cosmopolitan pull on the state-centred model, through comparing the EU with Canada, the latter as a possible example of ‘state-based cosmopolitanisation’, and assesses the democratic implications of these processes.

During the months 37 to 54 of the project, WP 9 continues to refine relevant conceptual distinctions and empirical indicators in view of the theoretical frameworks, with the goal of establishing the character of key EU governance norms and processes in comparison to other transnational fora. Within the first sub-project, work focuses on transnational governance and regulation in the fields of GMOs and chemicals, social regulation, and governance arrangements considered in terms of administrative law, legal and institutional analysis.

2. Presentation of the workshop

The interdisciplinary workshop ‘After Globalization – New Patterns of Conflict’ was organised jointly by RECON and the University of Bremen Collaborative Research Centre ‘Transformations of the State’ (CRC 597) on 5-7 September 2010 in Loccum, Niedersachsen. It was a key event within the first sub-project of WP 9 in the fourth year, gathering 23 academics from around Europe to discuss the conflicts law approach to transnational governance. The workshop was organised by Christian Joerges (ZERP, University of Bremen) with the assistance of Tommi Ralli (ZERP, UniHB).

The topic of the workshop was the conflicts of law approach to transnational governance. This is a continuation of the goal of elaborating on a systematic evaluative framework of conflicts law, which is a part of both the third phase of the CRC 597 project A 1 ‘Trade Liberalisation and Social Regulation in Transnational Structures’ as well as WP 9 of the RECON project. During the three workshop days, a total of nine papers were presented, building on the ‘three-dimensional conflicts law’ approach already outlined by Joerges and Godt in 2006.

The first two papers presented normative orientations of the conflicts-law project. Opening the workshop, Christian Joerges introduced conflicts law as a ‘project under construction’. His presentation on ‘the idea of a three-dimensional conflicts law as constitutional form’ (RECON online working paper 2010/05) was commented on by Andreas Maurer and Olaf Dilling (both University of Bremen). Florian Rödl (Johann Wolfgang Goethe University) expanded conflicts law towards a ‘democratically sensitive universalism’ in his paper on ‘democratic juridification without statization: law of conflict of laws instead of a world state’. Discussant Marc Amstutz (University of Fribourg) responded, with a comment on ‘the opium of democracy’.

The second day started with interdisciplinary papers discussing the sociological background for the conflicts-law approach, while at the same time carrying on debates that begun in the joint RECON/CRC 597 workshop ‘The Social Embeddedness of Transnational Markets’ in February 2009. Kolja Möller (UniHB) presented a paper on Michel Foucault’s analysis of governmentality and the social embeddedness of market societies, in a paper entitled ‘Is Michel Foucault a Polanyian?’ This was followed by Martin Herberg’s (UniHB) paper on global governance and conflicts of law from a Foucaultian view, ‘the power/knowledge-nexus revisited’. Michelle Everson (Birkbeck, University of London) commented on both papers. Sabine Frerichs (University of Helsinki) then asked, from an economic-sociology perspective, ‘what sociological backing for the conflict of laws approach?’ Henning Deters (UniHB) commented upon her contribution. Summing up and expanding on these contributions, Domenico Siciliano (European University Institute, Florence) discussed the concepts of governmentality, governance, and society in his comments on Foucault and Polanyi on the concluding day of the workshop.

In the five final papers, the focus shifted to individual thematic fields. Poul F. Kjaer (Johann Wolfgang Goethe University) opened the theme of ‘constitutionalising globalization?’ with his paper on ‘the concept of the political in the concept of transnational constitutionalism’, adopting a sociological perspective. Inger-Johanne Sand (University of Oslo) commented on his contribution from a primarily legal point of view. In the next panel, Rainer Nickel (Johann Wolfgang Goethe University) and Alicia Cebada Romero (Carlos III University of Madrid) continued on conflicts law and constitutionalism, this time in the context of European human-rights adjudication. Their paper on ‘conflicting constitutional laws and constitutional pluralism’ was commented upon by Markus Krajewski (University of Bremen/University of Erlangen Nürnberg). In a paper on constitutionalism and administrative governance, Rike Krämer (UniHB) gave a presentation on ‘the notion of diagonal conflicts as a key concept of European conflicts law’, with Olga Batura (UniHB) commenting. Social rights and private governance constituted the theme of the penultimate paper. Isabell Hensel (Goethe University Frankfurt) presented her paper on ‘social rights in global governance structures’, which was commented upon by Josef Falke (UniHB). Finally, Tommi Ralli gave a presentation on global poverty with his paper ‘a covenant to combat poverty’, with Regina Kreide (Justus Liebig University Giessen) acting as a discussant.

The individual contributions of the workshop will be revised with the aim to appear in the RECON Report ‘After Globalization – New Patterns of Conflict’, edited by Christian Joerges, which is forthcoming in 2011 (D84).

3. Participants

Amstutz, Mark	University of Fribourg
Cebada Romero, Alicia	Carlos III University, Madrid
Eveson, Michelle	Birkbeck, University of London
Falke, Josef	University of Bremen
Frerichs, Sabine	University of Helsinki
Gearey, Adam	Birkbeck, University of London
Hensel, Isabelle	Goethe University Frankfurt
Herberg, Martin	University of Bremen
Joerges, Christian	University of Bremen
Kjaer, Poul F.	Goethe University Frankfurt

Krajewski, Markus	University of Bremen
Krämer, Rike	University of Bremen
Kreide, Regina	Justus Liebig University Giessen
Kuo, Ming-Sing	Yale University
Michaels, Ralf	Princeton University
Möller, Kolja	University of Bremen
Nickel, Rainer	Goethe University Frankfurt
O'Brien, Claire	Danish Institute for Human Rights, Copenhagen
Ralli, Tommi	University of Bremen
Rödl, Florian	Goethe University Frankfurt
Sand, Inger-Johanne	University of Oslo
Schulz-Forberg, Hagen	Aarhus University
Siciliano, Domenico	European University Institute, Florence
Viellechner, Lars	University of Bremen
Weimer, Maria	European University Institute, Florence
Zurek, Karolina	European University Institute, Florence

4. Programme

See attachment.

After Globalization – New Patterns of Conflict

RECON Workshop

WP 9 – Global Transnationalisation and Democratisation Compared

Loccum, 5-7 September 2010.

Organiser: Centre for European Law and Politics (ZERP), University of Bremen.

Venue: Academy of Loccum

Programme

Sunday, 5 September 2010

Panel I: The conflicts law approach

15:30 **The idea of a three-dimensional conflicts law**

Christian Joerges

University of Bremen

The notion of diagonal conflicts as a key concept of European conflict law

Rike Krämer

University of Bremen

Discussant

Ralf Michaels

Princeton University

Panel II: Social theory

**Democratic juridification without state building: conflicts law as cosmopolitan
'lawful condition' (Rechtszustand)**

Florian Rödl

Goethe University Frankfurt

Discussants

Mark Amstutz, *University of Fribourg* and **Claire O'Brien**, *Danish Institute for Human Rights, Copenhagen*

Monday, 6 September 2010

**Panel III: Is a sociological backing of conflicts approach conceivable?
Theorizing social embeddedness**

09.00 **Presentation**

Sabine Frerichs

University of Helsinki

Discussant

Hagen Schulz-Forberg

Aarhus University

Panel IV: Transnational governance through expertise: Foucault

The power/ knowledge-nexus revisited:

Interlegality and conflicts of law from a Foucauldian perspective

Martin Herberg

University of Bremen

Comment: Foucault

Kolja Möller

University of Bremen

Tales of law and science: a comment

Michelle Everson

Birkbeck, University of London

**Panel V: The legitimacy problematic of transnational administrative
governance**

Administrative governance and constitutionalism in post-national constellations

Maria Weimer

European University Institute, Florence

How can the law cope with the socio-economic implications of regulatory politics

Karolina Zurek

European University Institute, Florence

Playing with competing levels of governance

Rike Krämer

University of Bremen

Discussant

Lars Viellechner

University of Bremen

Panel VI: Transnational constitutionalism

Constitutionalism beyond the state

Poul F. Kjaer

Goethe University Frankfurt

Conflicting constitutional laws and constitutional pluralism

Rainer Nickel, Goethe University Frankfurt and Alicia Cebada Romero, Carlos III

University, Madrid

Discussants

Markus Krajewski, University of Bremen and Ming-Sing Kuo, Yale University

Tuesday, 7 September 2010

Panel VII: Social rights and private governance

09.00 **Presentation**

Isabell Hensel

Frankfurt

Discussant

Josef Falke

University of Bremen

Panel VIII: Poverty

Poverty as a challenge to the debate on the constitutionalization of international law: Examining Shirin Ebadi's proposal on an international covenant to combat poverty

Tommi Ralli

University of Bremen

Discussant

Regina Kreide

Justus Liebig University Giessen

Panel IX: Concluding observations

13.00 **Adam Gearey**, *Birkbeck, University of London*

Inger-Johanne Sand, *University of Oslo*

Domenico Siciliano, *European University Institute, Florence*
