

**Max Planck Institute**  
for Comparative Public Law and International Law



**Democracy and Financial Order:  
Legal Perspectives**

Workshop

2 – 3 September 2015



Goethe University Frankfurt  
Building “Normative Orders”, EG.01  
Max-Horkheimer-Str. 2 (Campus Westend)

## Democracy and Financial Order: Legal Perspectives

How to reconcile democracy with a market-oriented financial order? This question has been brought to the fore by global debt and monetary crises of the last decade. The answers emerge along two dimensions. On one hand, it is feared that favoring the interests of the market will do harm to democracy. The financial crisis spurred reform in many sectors, including financial market regulation, debt and fiscal policy, and monetary policy. These initiatives have been criticized for prioritizing an economic logic at the expense of democracy, equality and social rights. Similar concerns are being voiced with regard to new trade and investment agreements currently under negotiation. Further, a market-oriented financial order risks undermining the requirements that some believe to be essential for democracy – both within national polities and across the globe. These critics have in mind a certain degree of substantive equality and welfare as well as the guarantee of basic human rights.

On the other hand, there is a growing belief that democratic decision-making may undermine the financial stability or lead to unsound policy. In the last years America's democratic process has found itself mired in gridlock and produced policy outcomes that led credit rating agencies to downgrade American debt. Another example has involved Europe's efforts to avoid too much democratic "meddling" with the rescue and austerity programs carefully constructed by elites and meant to stabilize Greece and other countries.

The role of law in finance appears to be an under-researched topic. A few innovative studies analyze the role of private law in the structuring of financial markets. Yet, in order to fully explore the complex relationships between democracy and the financial order, such perspectives should be complemented by public law perspectives. The conference will enrich the available legal perspectives. Since they depend on, and differ according to their theoretical foundations, each conference talk will approach the role of law from a particular theoretical angle. In addition, each talk will choose a case study or an issue area which will base it in the realities of contemporary financial and legal orders. Thus, while each speaker will address the key question whether law is capable of accommodating both democracy and a market-oriented financial order, individual talks will contribute to the development of law and policy in a particular issue area or a specific legal order. Each panel will assemble speakers with various backgrounds, including private law, public law, economics and other social sciences, representing an array of theoretical approaches. Case studies and issue areas will comprise European, US, and global perspectives.

Convener: Armin von Bogdandy

Conference Organization: Matthias Goldmann, Franz Ebert, Silvia Steininger

Generously funded by Bundesbank

In cooperation with the German Law Journal and the DFG-funded cluster of excellence "Formation of Normative Orders"



## Workshop Program

### *Wednesday, 2 September 2015*

- 9.15 *Meet in the lobby of Hotel Falk*
- 10.00 – 18.00 German Law Journal Editorial Board Meeting  
(by invitation only)
- 19.00 **Keynote Speech**  
“Sovereign Debt and Democracy: Challenges after the Crisis”  
Henrik Enderlein  
(Jacques Delors Institut, Hertie School of Governance, Berlin)
- 20.30 *Reception*
- 21.45 *Taxi shuttle to hotels*

### *Thursday, 3 September 2015*

- 8.20 *Taxi service from hotels to workshop venue*
- 8.30 *Welcome coffee*
- 9.00 – 10.40 **Panel 1**  
Chair: Armin von Bogdandy  
(Max Planck Institute for Comparative Public Law and International Law)  
“Discourse Theory and Sovereign Debt Restructuring”  
Matthias Goldmann / Silvia Steininger  
(Max Planck Institute for Comparative Public Law and International Law)  
Commentator: Francesco Costamagna  
(Università degli Studi di Torino)  
“System Theory and the Eurozone Crisis”  
Lars Vellechner (University of Bremen)  
Commentator: Frank Schorkopf  
(University of Göttingen)
- 10.40 *Coffee*
- 10.55 – 12.30 **Panel 2**  
Chair: Matthias Goldmann  
(Max Planck Institute for Comparative Public Law and International Law)  
“The Concept of Law in Neoliberalism”  
Thomas Biebricher (University of Frankfurt)

“When Finance is a Pre-Condition for Democracy”

Emilios Avgouleas (University of Edinburgh)

Commentator: Robert Howse

(New York University School of Law)

12.30

*Lunch*

13.30 – 16.00

**Panel 3**

Chair: Silvia Steininger

(Max Planck Institute for Comparative Public Law and International Law)

“Democratic Experimentalism and Monetary Policy”

Isabel Feichtner (University of Frankfurt)”

Commentator: Bernd Goller

(European Central Bank)

“Taxes and Solidarity – International Perspectives”

Francisco Saffie Gatica (Universidad Adolfo Ibáñez, Chile)

Commentator: Stefan Magen

(Ruhr University Bochum)

*Short break*

“Debt, Default and two Liberal Theories of Justice”

Oisín Suttle (University of Sheffield)

Commentator: Jennifer Hendry

(University of Leeds)

16.00

*Coffee*

16.15 – 18.00

**Panel 4**

Chair: Franz Ebert

(Max Planck Institute for Comparative Public Law and International Law)

“Rational Choice and Its Limits”

Emanuel V. Towfigh

(Max Planck Institute for Research on Collective Goods)

Commentator: Agnieszka Janczuk-Gorywoda

(University of Tilburg)

“Constitutional Pluralism and Banking Supervision – a Thought Experiment”

Matej Avbelj

(Graduate School of Government and European Studies)

Commentator: Cristina Fasone

(European University Institute)

19.00

*Dinner at “Neuer Volkswirt”, Kleine Hochstr. 9*

(generously funded by Heidelberger Gesellschaft für ausländisches öffentliches Recht und Völkerrecht e.V.)

## Workshop Venue

The Workshop will take place at Goethe University Frankfurt, Building “Normative Orders”, Max-Horkheimer-Str. 2, 60323 Frankfurt/Main. The Building “Normative Orders” is located on the Campus Westend (corner “Hansaallee”), around 15-20min from Frankfurt Main Train Station.

The Editorial Board meeting of the German Law Journal on 2 September will take place at the Max Planck Institute for European Legal History (by invitation only). The venue is also located on Campus Westend (No. 12 on the map on the next page).

### How to get to Campus Westend:

By underground: U1/2/3/8 to “Holzhausenstraße/Uni Campus Westend”. From the main station “Hauptbahnhof”, take U4 or U5 to “Willy-Brandt-Platz” and change there to U1/2/3/8 (direction Bad Homburg, Oberursel etc.).

By bus: From the hotels (Bockenheimer Warte), take bus lines 36 or 75 to “Uni Campus Westend” or line 64 from the main station “Hauptbahnhof” to “Bremer Straße”.

For more info: <http://www.rmv.de>

### Map of Campus Westend:



## Contact

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht

Im Neuenheimer Feld 535

D-69120 Heidelberg

Dr. Matthias Goldmann ([goldmann@mpil.de](mailto:goldmann@mpil.de), office: +49-6221-482505, cell: +49-173-6337355)

Franz Ebert, LL.M. ([ebert@mpil.de](mailto:ebert@mpil.de))

Silvia Steininger, BA ([steininger@mpil.de](mailto:steininger@mpil.de), cell: +49-173-6884912)