

21-22 September 2017

«The metamorphosis of the European Economic Constitution»

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Abstract

The EU's 'Economic Constitution' as established in the Treaties has been radically transformed since the early days of market integration through law. Initially, what was referred to as the Economic Constitution largely consisted of rules related to market distortions such as competition law and State aid control. Successive Treaty amendments as well as further developments in the post-Lisbon era have added matters in a much wider scope of monetary and also economic policy giving powers to get involved in 'macro-economic' questions. Within the EU, there has also been a significant diversification of the bodies, from within the executive branch of powers, dealing with economic matters. These two developments, the branching out of EU powers into economic policy matters and the increase in bodies dealing with such questions has to a certain degree re-defined the relations between domestic, European and international actors and sources of law.

The various elements of the EU's Economic Constitution – the old and the new – interact and can be used to achieve certain economic and fiscal policy objectives. Understanding the economic model pursued by EU law and how far political choices can shape the exercise of economic policy within the EU is thus an important objective of research. Given the current setup, how ideologically 'neutral' can the EU's Economic Constitution be and how amenable is it to the expression of political will through elections? Where is the power located to change economic policy making?

This conference aims to be a forum of discussion and exchange of ideas about the theoretical framework of the transformations in terms of shift of powers and competences (in Day/Part I) as well as of the challenges and consequences for the understanding of the concepts (in Day/Part II). Overall, the conference will explore how the transformations of the EU's Economic Constitution of the past years have changed EU public law, modes of government and governance.

Timetable

(subjected to changes)

Day I: Thursday 21 September 2017

The Metamorphosis of the European Economic Constitution

- Session I: Introduction - The metamorphosis of the European Economic Constitution – some research questions - context of the Transformation of the European Economic Constitution (9:00-11:00)
- Session II: The expansion of economic policy powers and the program countries – the practice of borrowing EU institutions (11:30-13:30)
- Session III: Social Rights and the Economic Constitution? (15:00-17:00)

Day II: Friday 22 September 2017

Challenges and consequences for the legal and political understanding of the European Economic Constitution

- Session IV: Regulatory tools and “building sites” (9:00-11:00)
- Session V: Procedural rights in the European Economic Constitution (11:30-13:30)
- Session VI: Conclusions – where we stand with the European Economic Constitution and what needs to be developed (15:00-16:00)

Description of the Sessions

21 September 2017

Session I: Introduction - The metamorphosis of the European Economic Constitution – some research questions - Context of the Transformation of the European Economic Constitution (9:00-11:00)

This introductory session aims to open the discussion, mapping and analyzing the nature of the ‘Economic Constitution’ and its changes. What changes have we seen since the early Treaty provisions and why? Which forms of action have been added and which actors have taken over powers to decide? What is the institutional leeway to define and implement policy objectives on the European level? What areas are still in fluid development and which are rather settled? Which forms of ensuring compliance with the rule of law, accountability and political responsibility for the executive branch of the EU?

Session II: Powers to influence economic policy – EU institutions and bodies and the situation of program countries (11:30-13:30)

This session looks at the shifting of competences from the Member States to the EU which occurred with the creation of today’s ‘macro’ - Economic Constitution in view of some of the consequences of this transfer from the point of view of the institutions and bodies of the EU as well as from the perspective of Member States benefitting from ‘financial aids’. Similarly, the role played by the EU institutions directly or indirectly outside the framework of EU law is a topic increasingly important for the response to the economic crisis. What role is given to the CJEU in reviewing the acts of the new institutions as well as their role in granting judicial protection to the citizens affected by these measures (see for instance, the *Ledra Advertising* and *Mallis* cases) are topics of interest, in particular under the prism of the Pringle doctrine.

Session III: Social Rights in the Economic Constitution (15:00-17:00)

Measures taken to challenge the economic crisis have an impact on individual rights, in particular fundamental rights and social rights. Is there any concrete example of the effect of the introduction of social rights in the Charter of Fundamental Rights as binding provisions in the Treaty of Lisbon in the response to the economic crisis? What is the effect of the expansion of rights protection in the EU on justification of policies, balancing of positions, review of proportionality of limitations? Who is in charge of balancing the proposals for Member State budgets and limitations of minimum social protection?

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Session IV: Regulatory tools and “building sites” (9:00-11:00)

This session looks at the role played by the EU institutions, bodies and agencies and the regulatory tools they have created in the context of the macro-economic Constitution. Projects like the banking union and the capital markets union are expressed by the works of ESMA and EBA, as well as by the ECB SSM. This development raises the question whether the economic crisis can be resolved through progressive decentralization (and agencification)?

Also, the question is which mix of tools can be best employed in the context of the European Economic Constitution. What is the impact of the MoU to the Member States under financial assistance or the package of economic measures introduced as an attempt to monitor the budgets of the EU MSs? What is the interaction between instruments of public international law (the ESM) and of private international law (MoU)? Further, matters to be discussed are the interaction between traditional economic regulatory tools such as state aids and ‘innovative crisis-induced’ instruments.

Session V: Procedural rights in the European Economic Constitution (11:30-13:30)

This session will look at questions of procedural rights from the point of view of the principles of democracy (Arts. 9-12 TEU) and of an open legal system based on principles of the rule of law and good administration. One issue was raised by the German Constitutional Court in *Gauweiler (OMT)* regarding the role of the right to vote (in EU terms, Art. 39 CFR) as basis for the democratic rights in influencing monetary and economic policy. How do procedural rights and the exercise of powers in the context of the EU’s new Economic Constitution fit together? What sets of rules do procedures have to comply with to be in line with the EU’s constitutional framework? What are the current challenges?

Session VI: Conclusions – where we stand with the European Economic Constitution and what needs to be developed (15:00-16:00)

Venue (tbc):

Maison Robert Schuman 21, Place Sainte Cunégonde, L-2728 Luxembourg <http://www.cere.public.lu/fr/index.html>
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Informations:

Inquiries concerning the academic programme and the allocation of the Sessions can be directed to giovanni.zaccaroni@uni.lu - inquiries concerning registration to izabela.fero@uni.lu

