



Programm

EUROPAS GERECHTIGKEIT

Donnerstag, 19. November - Freitag, 20. November 2015

Programme

EUROPE'S JUSTICE

Thursday, November 19th - Friday, November 20th, 2015

Internationale
8. Jahreskonferenz

des Exzellenzclusters
„Die Herausbildung normativer Ordnungen“

Annual
8th Conference

*of the Cluster of Excellence
"The Formation of Normative Orders"*

Goethe-Universität Frankfurt am Main, Haus „Normative Ordnungen“, Campus Westend

Goethe University Frankfurt am Main, Building "Normative Orders", Campus Westend

NORMATIVE ORDERS

Exzellenzcluster an der Goethe-Universität Frankfurt am Main

GOETHE
UNIVERSITÄT
FRANKFURT AM MAIN

Partner:



TECHNISCHE
UNIVERSITÄT
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HSKF



Vorwort

Liebe Kolleginnen und Kollegen,
sehr geehrte Studierende,
sehr geehrte Damen und Herren,

wir möchten Sie herzlich zur 8. Jahreskonferenz des Frankfurter Exzellenzclusters „Die Herausbildung normativer Ordnungen“ begrüßen. Der diesjährige Titel lautet „Europas Gerechtigkeit“ – ein Thema, dessen Aktualität wir nicht gesondert begründen müssen. Denn was die Europäische Union als „normative Ordnung“ ausmacht, fragen wir uns seit einiger Zeit intensiv, als Bürgerinnen und Bürger, Wissenschaftlerinnen und Wissenschaftler.

Drei der Panels sind wie auf den Jahreskonferenzen üblich angelehnt an die Forschungsfelder des Clusters und nehmen je die politisch-philosophische, historisch-ethnologische und juristische Dimension einer (möglichen) europäischen Infrastruktur der Gerechtigkeit in den Blick. Sie werden ergänzt von einem vierten Panel, das sich mit den ökonomisch-finanzwirtschaftlichen Fragen der Eurozone beschäftigt, sowie von einem Abendvortrag von Prof. Offe, der sich dem Thema „Schuldfragen in der europäischen Schuldenkrise“ zuwenden wird.

Die Jahreskonferenzen des Exzellenzclusters zielen darauf ab, zentrale Themenstellungen unseres Forschungsnetzwerkes mit Gästen aus dem In- und Ausland zu diskutieren. Auch dieses Jahr schätzen wir uns deswegen sehr glücklich, dass wir namhafte Gäste als Vortragende gewinnen konnten: neben Prof. Claus Offe (Hertie School of Govern-

nance, Berlin) sind das (der zeitlichen Reihenfolge ihrer Vorträge folgend) Prof. Kalypso Nicolaidis (Oxford University), Prof. Francesco Mongelli (EZB, Goethe-Universität), Prof. John Milios (National Technical University of Athens), Prof. Dr. Hartmut Kaelble (Humboldt-Universität, Berlin) und Prof. Helene Sjørnsen (Arena Centre for European Studies, Oslo). Von Seiten des Clusters und seiner Partner wird es Beiträge geben von Dr. Lisa Herzog, Prof. Dr. Christoph Burchard, Dr. Kolja Möller, Prof. Dr. Susanne Schröter, Dr. Kerstin Weiland, Prof. Dr. Harald Müller (HSFK) und Dr. Michael Ioannidis (MPI Heidelberg). Moderiert werden die Panels von Prof. Dr. Rainer Forst, Prof. Dr. Klaus Günther, Prof. Dr. Rainer Klump (Universität Luxemburg), Rebecca C. Schmidt, Dr. Dominik Müller und Prof. Dr. Stefan Kadelbach.

Den Forschungsfeldkoordinatoren Andreas Fahrmeir, Gunter Hellmann, Stefan Kadelbach und Susanne Schröter möchten wir herzlich für die Organisation der Panels danken. Außerdem gilt unser herzlicher Dank allen an der Realisierung dieser Tagung Beteiligten, ganz besonders Jonathan Klein.

Die folgenden Seiten dienen der Vorstellung unserer Referentinnen und Referenten, Chairs, Vorträge und Panels. Wir wünschen Ihnen allen eine interessante Konferenz, erkenntnisreiche Vorträge und anregende Debatten!

Klaus Günther und Rainer Forst

Preface

Dear Colleagues,
Students,
Ladies and Gentleman,

we cordially welcome you to the 8th annual conference of the Cluster of Excellence “The Formation of Normative Orders.” This year’s title is “Europe’s Justice” – a topic whose timeliness needs no special justification. For the question of what constitutes the European Union as a “Normative Order” is one that we have been asking ourselves intently for some time, both as citizens and researchers.

As is common in our annual conferences, three of the conference’s panels have been allocated to the research areas of the Cluster, focusing respectively on the political-philosophical, historical-ethnological and legal dimensions of a (possible) European Infrastructure of Justice. They will be supplemented with a fourth panel that deals with the economic-financial questions of the Eurozone, as well as with an evening lecture by Prof. Claus Offe that addresses the topic of “Schuldfragen in der europäischen Schuldenkrise” (“Questions of Guilt in the European Debt Crisis”). (The lecture will be in English, but the title remains in German because the shared root of the German words for guilt (Schuld) and debt (Schulden) mean that it cannot be translated satisfactorily into English.)

The annual conferences of the Cluster of Excellence aim to discuss central themes of our research network with national and international guests. Thus this year we again consider ourselves very lucky

to be able to welcome a number of esteemed and distinguished guest speakers to our conference: in addition to Prof. Claus Offe (Hertie School of Governance, Berlin), we welcome (in the order in which they will speak) Prof. Kalypso Nicolaidis (Oxford University), Prof. Francesco Mongelli (ECB, Goethe University), Prof. John Milios (National Technical University of Athens), Prof. Dr. Hartmut Kaelble (Humboldt University, Berlin) and Prof. Helene Sjørnsen (Arena Centre for European Studies, Oslo). From among the members of the Cluster and our partners we will have contributions from Dr. Lisa Herzog, Prof. Dr. Christoph Burchard, Dr. Kolja Möller, Prof. Dr. Susanne Schröter, Dr. Kerstin Weiland, Prof. Dr. Harald Müller (PRIF) and Dr. Michael Ioannidis (MPI Heidelberg). The panels will be chaired by Prof. Dr. Rainer Forst, Prof. Dr. Klaus Günther, Prof. Dr. Rainer Klump (Luxembourg University), Rebecca C. Schmidt, Dr. Dominik Müller and Prof. Dr. Stefan Kadelbach.

We would also like to express our sincere gratitude to the coordinators of the research areas Andreas Fahrmeir, Gunter Hellmann, Stefan Kadelbach and Susanne Schröter for organizing the panels. Furthermore, we would like to cordially thank all those who have contributed to realizing this conference, in particular Jonathan Klein.

The following pages are intended to introduce the speakers, chairs, lectures and panels of this year’s conference. We wish you all a stimulating conference, instructive lectures and inspiring debates!

Klaus Günther and Rainer Forst

Donnerstag, 19. November 2015 / Thursday, November 19th, 2015

13:00 Uhr - 13:15 Uhr, Raum EG 01+02 /
1 p.m. - 1:15 p.m., Ground floor Room 01+02

**Eröffnung der Jahreskonferenz 2015:
EUROPAS GERECHTIGKEIT / Opening of the
Annual Conference 2015: EUROPE'S JUSTICE**

Begrüßung / Opening Address

**Prof. Dr. Klaus Günther & Prof. Dr. Rainer
Forst** (Directors of the Cluster of Excellence
"The Formation of Normative Orders")

13:15 Uhr - 15:15 Uhr, Raum EG 01+02 /
1:15 p.m. - 3:15 p.m., Ground floor Room 01+02

**Panel I:
EUROPA ALS GERECHTIGKEITSKONTEXT /
EUROPE AS A CONTEXT OF JUSTICE**

Moderation/Chairs:

**Prof. Dr. Rainer Forst & Prof. Dr. Klaus
Günther** (Directors of the Cluster of Excel-
lence "The Formation of Normative Orders")

Prof. Kalypso Nicolaïdis
(Oxford University)
*How can a Democratic Polity be Just? The
Puzzles of Solidarity, Reciprocity and Choice
in the EU*

Dr. Lisa Herzog (Goethe University)
Prices and Dignity in the Eurozone

Prof. Dr. Christoph Burchard
(Goethe University)
*The Contexts of Europe as a Context of
Justice - in Light of the Administration of
Criminal Justice*

15:15 Uhr - 15:45 Uhr / 3:15 p.m. - 3:45 p.m.
Foyer im Erdgeschoss / Ground floor Lobby

Kaffee und Kuchen / Coffee and Cake

15:45 Uhr - 17:45 Uhr, Raum EG 01+02 /
3:45 p.m. - 17:45 p.m., Ground floor Room 01+02

**Panel II:
KRISEN DER EUROZONE / CRISES OF THE
EUROZONE**

Moderation/Chairs:

Prof. Dr. Rainer Klump (Universität
Luxembourg) & **Rebecca C. Schmidt**
(Managing Director of the Cluster of Excel-
lence "The Formation of Normative Orders")

Prof. Francesco Mongelli (ECB, Goethe Uni-
versity) & **Jean-Francois Jamet** (ECB)
*How to Exit the Crisis: Reflections on the 4
Unions. Why Do We Need Them?*

Prof. John Milios
(National Technical University of Athens)
*Crisis and Austerity. Is there a Chance for the
Welfare State?*

Dr. Kolja Möller (Goethe University)
*From the Constitutionalisation of Austerity to
Destituent Power: Democratic Challenges in
the Context of the Euro-Crisis*

18:00 Uhr - 20:00 Uhr, Raum EG 01+02 /
6 p.m. - 8 p.m., Ground floor Room 01+02

**SCHULDFRAGEN IN DER EUROPÄISCHEN
SCHULDENKRISE** (lecture in English)
Abendvortrag / Keynote

Prof. Dr. Claus Offe
(Hertie School of Governance, Berlin)

Freitag, 20. November 2015 / Friday, November 20th, 2015

10:00 Uhr - 12:00 Uhr , Raum EG 01+02 /
10 a.m. - 12 a.m., Ground floor Room 01+02

Panel III:
UNGLEICHHEITEN IN EUROPA /
INEQUALITIES IN EUROPE

Moderation / Chair:

Dr. Dominik Müller (Goethe University)

Prof. Dr. Hartmut Kaelble (Humboldt
University Berlin)

*Warum milderte sich die soziale Ungleich-
heit im westlichen Europa während des 20.
Jahrhunderts ab?*

Prof. Dr. Susanne Schröter

(Goethe University)

*Gerechtigkeit in der Einwanderungsgesell-
schaft*

Dr. Kerstin Weiland

(Goethe University)

*Ungleichheit als politisch-sozialer Spreng-
stoff? Zur (Un)ordnungsfunktion eines
Strukturprinzips in der Frühen Neuzeit*

12:00 Uhr - 13:00 Uhr: Raum 5.01 und Lounge /
12 a.m. - 1 p.m.: Room 5.01 and Lounge

Kleiner Mittagsimbiss / Lunch Snack

13:00 Uhr - 15:00 Uhr, Raum EG 01+02 /
1 p.m. - 3 p.m., Ground floor Room 01+02

Panel IV:
POLITIK UND GERECHTIGKEIT – ZUM
PROBLEM DER EU, GRENZEN DURCH
RECHTLICHE MITTEL ZU ZIEHEN / POLICIES
OF JUSTICE – ON THE EU'S PROBLEM WITH
DRAWING BORDERS BY LEGAL MEANS

Moderation / Chair:

Prof. Dr. Stefan Kadelbach

(Goethe University)

Prof. Helene Sjørus (Arena Centre for
European Studies, Oslo)

*A Duty to Expand? The Question of Obligations
Towards "the Other" in a European Context*

Prof. Dr. Harald Müller (Peace Research
Institute Frankfurt)

*International Political Justice in Europe: The
Distribution of Security and Opportunity for
Influence in Security Policy*

Dr. Michael Ioannidis (Max Planck Institute
Heidelberg)

*Weak Members and the EU Rule of Law: The
Case of Greece*

15:00 Uhr / 3 p.m.

Ende der Jahreskonferenz 2015 /
End of the Annual Conference 2015

Thursday,
November 19th, 2015

1:15 p.m. – 3:15 p.m.

Ground floor Room 01+02

Panel I:
EUROPE AS A CONTEXT
OF JUSTICE

In times of crisis, we count on “normative orders” to live up to their own standards of justice and legitimacy—or to revise those standards in light of the challenges faced. But when it comes to the EU, there is massive disagreement as to what its standards of fairness, justice, and solidarity entail when it comes to solving financial or other crises. This panel thus asks: What are the justificatory standards by which we should measure EU policies, and how do we ground them? More precisely, what role does the EU play vis-à-vis national judicial systems and how can a European legal regime be justified? How should the EU be understood as a polity, and what principles of social justice—or solidarity—does it encompass?



Chair: Rainer Forst

Professor of Political Theory and Philosophy

Co-Director of the Cluster of Excellence “The Formation of Normative Orders”

Rainer Forst is Professor of Political Theory and Philosophy at the Goethe University Frankfurt. He is Co-Director of both the Research Cluster on the “Formation of Normative Orders”, and the Centre for Advanced Studies “Justitia Amplificata” and is a member of the Directorate of the Institute for Advanced Study in the Humanities in Bad Homburg. He has previously taught at the Free University Berlin, the New School for Social Research in New York and Dartmouth College. His work in moral and political philosophy focuses on questions of practical reason, justice and toleration; his major publications are *Contexts of Justice* (Suhrkamp 1994, Univ. of California Press 2002), *Tolerance in Conflict* (Suhrkamp 2003, Cambridge UP 2013), *The Right to Justification* (Suhrkamp

2007, Columbia UP 2012), *Justification and Critique* (Suhrkamp 2011, Polity Press, 2013), *The Power of Tolerance* (with W. Brown, Columbia UP 2014), *Justice, Democracy and the Right to Justification* (with Replies by Critics; Bloomsbury 2014) and *Normativität und Macht* (Suhrkamp 2015). In 2012 he received the Gottfried Wilhelm Leibniz Price of the German Research Foundation. He is a member of the Berlin-Brandenburg Academy of Sciences, Associate Editor of *Ethics*, a member of the Executive Editorial Committee of *Political Theory* and serves on the boards of numerous other international journals. He is co-editor of the book series “Theorie und Gesellschaft” and “Normative Orders” (Campus).



Chair: Klaus Günther

Professor of Legal Theory, Criminal Law and Criminal Procedure

Co-Director of the Cluster of Excellence “The Formation of Normative Orders”

Klaus Günther, born in 1957, is Professor of Legal Theory, Criminal Law and Criminal Procedure in the Faculty of Law at the Goethe University Frankfurt. Since 2007 he has been Co-Director of the Cluster of Excellence “The Formation of Normative Orders” (with Rainer Forst). He is a member of the board of directors of the Institute for Social Research in Frankfurt and Permanent Fellow of the Institute for Advanced Study in the Humanities of the Goethe University in Bad Homburg.

Klaus Günther studied philosophy and law in Frankfurt. From 1983 to 1996 he was a research assistant and university assistant in Frankfurt in, *inter alia*, a DFG-funded legal theory working

group (Leibniz-Programme) with Jürgen Habermas, where he received his doctorate in 1987. His habilitation in 1997 was followed by appointments to professorships at the EUI Florence and at the universities of Rostock and Zurich, which he declined.

His most important publications include: *Der Sinn für Angemessenheit* (1988; English translation: *The sense of Appropriateness*, 1993; Portuguese translation 2004) and *Schuld und kommunikative Freiheit* (2005).

Lecture 1:

Kalypso Nicolaïdis: How can a Democratic Polity be Just? The Puzzles of Solidarity, Reciprocity and Choice in the EU

In order to suggest a grounded normative assessment of Europe as a context of justice, I characterize the European context as a democracy in the making, that is a Union of peoples who govern together but not as one. In such a polity, we must avoid two pitfalls. First that of apprehending social justice between European peoples simply as enlightened mutual advantage or reciprocity as the price to pay for sustained cooperation. The second is to fall in the mimetic fallacy which considers the EU as a polity akin to a state-writ-large with similar habits and rationale available to underpin the kind of socio-economic justice advocated by John Rawls.

Instead, the EU needs to adopt principles of jus-

tice faithful to its commitment to national autonomy as well as to its progressively greater “togetherness.” What could be the building blocks for such an approach? First, to respect the EU’s liberal legitimacy these principles must not preempt the processes of democratic deliberation, both at the national and continental levels. Instead, they can serve as contested referents in a variety of localized democratic debates over the ends we deem desirable in the wielding of political power. Second, to respect the EU’s diverse sociological make up, such principles must be constrained by but not reduced to feelings of solidarity. Third, in light of the EU’s powers and actions, such principles need to build on fair reciprocity conditions to take into account the con-

tribution afforded by the recognition by some (countries, peoples) of rules that disproportionately favor others. Finally, we need to consider the extent to which the choice that is made to belong to the EU or the Eurozone is effectively constrained to different degrees for different actors, and therefore deserves to be treated at least partially in the same way as the kind of non-voluntary membership we find in classic states which leads to redistributive obligations.



Kalypso Nicolaïdis...

... is Professor of International Relations and director of the Center for International Studies at the University of Oxford. She was previously associate professor at Harvard University’s Kennedy School of Government. She is chair of Southeastern European Studies at Oxford and Council member of the European Council of Foreign Relations. In 2012-2013, she was Emile Noel-Straus Senior Fellow at NYU Law School (2012-2013). In 2008-2010, she was a member of the Gonzales reflection group on the future of Europe 2030 set up by the European Council. She also served as advisor on European affairs to George Papandreou in the 90s and early 2000s, the

Dutch government in 2004, the UK government, the European Parliament, the European Commission, OECD and UNCTAD. She has published widely on international relations, global governance, trade ethics, law and democracy promotion, as well as the internal and external aspects of European integration in numerous journals including *Foreign Affairs*, *Foreign Policy*, *The Journal of Common Market Studies*, *Journal of European Public Policy* and *International Organization*. Her last books are *Echoes of Empire: Memory, Identity and Colonial Legacies* (ed w/ Sebe and Maas, IB Tauris), *Normative Power Europe Revisited* (ed w/ Whitman, Journal Conflict and Cooperation) and

European Stories: Intellectual Debates on Europe in National Context (ed w/ Lacroix, OUP, 2010). She is a graduate of Sciences-Po (1982) and received her PhD from Harvard in 1993. More information –including publications– can be found on her website: <http://kalypsonicolaidis.com/>

Lecture 2:

Lisa Herzog: Prices and Dignity in the Eurozone

From its beginnings, the European Union has been both an aspirational political project and an economic project. But the relation between political values and economic processes has not always been clear. In this talk, I attempt to read the crisis of the Eurozone through the lens of the Kantian distinction between the notions of “price” and “dignity”. In the architecture of the Eurozone, prices and dignity are intertwined in complex ways: prices, especially prices in financial markets, were distorted by political measures, some of which were presented in a rhetoric of dignity. Human dignity became the plaything of the forces of markets that put the material precondition for a life in dignity at risk. Therefore, we need to reconsider the place and role

of prices, and of the institutions that can secure human dignity, in our societies.

To put it provocatively: in questions of institutional design, dignity without prices is blind, while prices without dignity are empty. Prices have a distinctive function in markets where they are supposed to signal scarcities and to bring about an efficient allocation, including an efficient allocation of risks. They cannot do so unless the risks of bankruptcy or defaults are carried by investors rather than the general public. This perspective also sheds light on how to define the proper place of markets in the Eurozone – not from the perspective of property rights or economic liberties alone, but from a functional perspective, as con-

ducive to a dignified life of all citizens. Institutions that secure the material basis for human dignity, in contrast, need to be insulated from the play of market forces. Here, the solidarity of citizens can and should find its place – for example in a European social insurance system that could be developed in a process of “democratic experimentalism” (Honneth) and institutional learning.



Lisa Herzog...

... is a postdoctoral researcher at the Cluster “Normative Orders” and the Institut für Sozialforschung, Frankfurt am Main, in the project “Moral agents in Financial Markets”. She studied philosophy, economics, politics and modern history at Munich and Oxford. She wrote her doctoral thesis at the University of Oxford as a Rhodes Scholar (*Inventing the Market. Smith, Hegel, and Political Theory*, Oxford University Press 2013). In 2014/15 she was a Postdoctoral Fellow at the Center for Ethics in Society, Stanford University. Her research interests lie at the intersection of philosophy and economics, including the history of economic and political thought and norma-

tive questions about economic institutions and economic phenomena. Currently, she focuses on ethics in organizations and normative questions about the financial system. Recent works include “Ethik im Finanzsystem?” (Schwerpunkt in *WestEnd. Neue Zeitschrift für Sozialforschung* 1-2015, 65-120, edited with Sighard Neckel), “The Normative Stakes of Economic Growth. Why Adam Smith does not rely on ‘trickle down’” (*Journal of Politics*, accepted for publication), and “The Goods of Work – (other than money!)” (with Anca Gheaus, under review).

Lecture 3:

Christoph Burchard: The Contexts of Europe as a Context of Justice – in Light of the Administration of Criminal Justice

“Europe as a Context of Justice” is after Europe as a justificatory means, procedure or standard for the governance by, with and for individuals. Therefore, “Europe as a Context of Justice” is – or so goes my foundational hypothesis – in need of further contextualization. For Europe unites divergent (vertical, horizontal or diagonal; national, supranational or transnational) modes of governance, which need to be focused in detail for their qualification as just or unjust (e.g. in light of possible democratic deficits or shortcomings in the protection of human rights).

In my contribution, I will exemplify the relevance of the contexts of Europe as a Context of Justice with a view to the administration of (in the wider

sense) criminal justice “in” Europe; or more concretely, in the EU’s common space of freedom, security and justice. In my eyes, different justificatory challenges and potentials (be they in degree or in kind) come into play when we look e.g. to the supranational enforcement of EU anti-trust regulations, to a possible European Public Prosecutor’s Office, or to the national administration of criminal justice in the Member States. With regard to the latter, the European legal order becomes more and more important, especially when the Member States wield extraterritorial powers via the mutual recognition principle (think of the European Arrest Warrant). For these extraterritorial powers, which are facilitated by, but not per se rooted in the EU, need checks and

balances. And these checks and balances are in turn provided for by European constitutional law (like the Charter of Fundamental Rights), which thus becomes a justificatory standard for the national administration of criminal justice.



Christoph Burchard...

... is Professor of Criminal Law and Procedure, International and European Criminal Justice, and Comparative Law and Legal Theory at the Goethe University Frankfurt am Main. He is also a Principal Investigator at the Cluster of Excellence “The Formation of Normative Orders”. Previously, he was visiting professor at the Ludwig Maximilians University Munich. He received his Dr. iur. from the University of Passau in 2007 and his Habilitation from the University of Munich in 2015. He also holds an LL.M. from NYU School of Law. He heads a research network, funded by the German Research Foundation, on the “role of comparative criminal law in the Eu-

ropeanization of criminal justice”, and has published inter alia on the Internationalization and Europeanization of criminal justice in German, Spanish and English, including in the *Leiden Journal of International Law*, the *New Journal of European Criminal Law* and the *Journal of International Criminal Justice*. His research focus lies on the foundations of international and European criminal justice. More information – including publications – can be found on his website: www.jura.uni-frankfurt.de/burchard.

Panel II: CRISES IN THE EUROZONE

Thursday,
November 19th, 2015

3:45 p.m. – 17:45 p.m.

Ground floor Room 01+02

Shortly after the collapsing financial markets had been rescued but the global economy had plunged into recession, the Eurozone became the center of economic turmoil. The sovereign debt crisis of several member states (Portugal, Ireland, Italy, Greece and Spain) was answered with the provision of European and international public loans on a hitherto unseen scale, which

at the same time attached strict conditions to the receiving states. These conditions primarily concerned the implementation of economic reforms aimed at regaining the trust of the financial markets and boosting the competitiveness of the respective economies. Yet, as the recession worsened, the overall indebtedness of the states increased, and as the social fabric of the societies was on the point of rupturing (specifically due to extreme levels of unemployment, especially among young people) ever more actors began to oppose these prescribed reforms. In Greece a new left-wing party (Syriza) rose to power with the promise of ending what it referred to as the undemocratic and unconstitutional politics of financial austerity. After five months of fierce negotiations

with the so-called Troika, however, this government accepted a reform package that consists to a large extent of austerity measures.

This panel brings together contributions from economics, political economy and political theory that seek to explore the ongoing crisis tendencies of and within the Eurozone. From their respective viewpoints they ask how the framework of the EU and the specific nature of the Eurozone have contributed to these tendencies, as well as to the answers offered to the crisis; how the framework of economic governance within the Eurozone and the EU may have changed in the course of the crisis; and what prospects there are for dealing with the various dimensions of the crisis in the future.



Chair: Rebecca Caroline Schmidt

Rebecca Caroline Schmidt studied law focusing on criminal law, criminal procedural law and sentencing law at Goethe University Frankfurt am Main. Between 2007 and 2012, she worked as a research associate with Professor Dr. Klaus Günther in the fields of legal theory, criminal law and criminal procedural law as well as from 2010 until 2012 as a research associate and research coordinator with Prof. Dr. Dr. h. c. Andreas von Hirsch focusing on the theory and ethics of criminal law. She gained legal experience as an intern with Freshfields Bruckhaus Deringer and management experience as coordinator of several research projects at Goethe University. Since

November 1st 2012, she has been managing director of the Cluster of Excellence “The Formation of Normative Orders”.



Chair: Rainer Klump

Rainer Klump was born in 1958 in Darmstadt. He studied economics at the universities in Mainz, Paris I and Erlangen–Nuremberg and received his PhD in 1986. In 1987 he was awarded the Heinz-Maier-Leibnitz-Prize in economic politics. Subsequently he was a visiting researcher in the International Finance Division of the Federal Reserve Board in Washington, DC. In 1991 he received his ‘Habilitation’ in economics.

Between 1992 and 1997 he was professor for economics and development at the University Würzburg. From 1997 until 2000 he held the Ludwig-Erhard endowed professorship and a position as

chair of the department of economic politics at the University Ulm. From 2000 to 2014 he was Professor for economics, development and integration at the Goethe University Frankfurt am Main and principal investigator of the Cluster of Excellence “The Formation of Normative Orders”. Since January 2015 he is the president of Luxembourg University.

Lecture 1:

Francesco Mongelli: How to Exit the Crisis: Reflections on the 4 Unions. Why Do We Need Them?

Co-authored with Jean-Francois Jamet
(ECB)

We briefly review various causes of the euro area crisis, examining in particular the flaws in the institutional framework of the European Monetary Union. Based on this analysis we will then provide an account of how the economic and financial adjustments need to be accompanied by institutional reforms and new forms of governance. Hence there is a lot of “repair work” ongoing. Subsequently, the lecture provides an account of what has been done already (Fiscal Compact, ESM, and recently SSM). Moreover, the Single Market withstood the crisis as did monetary and financial infrastructures. These are “shared assets”. Key question today: if so much has been done already why are we still in a crisis? Consider that there is also a global crisis with “debt-overhang”

in various regions. Global Trade and Growth are slowing down especially in the BICS. Looking at Europe, reforms take time to display their positive effects. They must be completed, explained, and understood. And they are only as good as they are implemented. Not surprising that confidence and some “European impetus” are still badly affected. Key issue today: there is agreement that EMU’s architecture must be completed by advancing along 4-Unions: fiscal, financial, political and economic unions. There are many synergies between these unions. But, there is also a political economy problem behind these unions: interdependencies between them suggests a need for sequencing or packaging but both have their difficulties. Sequencing is easier politically (al-

lows to deal with legacy for instance) but it takes more time (which is not necessarily there, particularly in crisis times) and in some cases it may even not be optimal according to us (when there are two-ways interdependencies). Packaging is a priori optimal but not always possible (consumes political capital and reforms do not all take the same amount of time to be implemented).



Francesco Mongelli...

... is Senior Adviser in the European Central Bank in the Directorate General Research, and honorary Professor at the Johann Wolfgang Goethe University of Frankfurt. He holds a Master’s degree and a Ph.D. in Economics from the Johns Hopkins University in Baltimore. He has worked at the ECB since 1998 holding various positions, including as organiser of the analytical agenda of DG Economics, editor of the ECB Occasional Paper Series, and in Directorate Monetary Policy. Prior to that he spent several years as an economist at the International Monetary Fund in Washington. His main area of research pertains to the transmission of monetary policy impulses, the effects of the euro on the

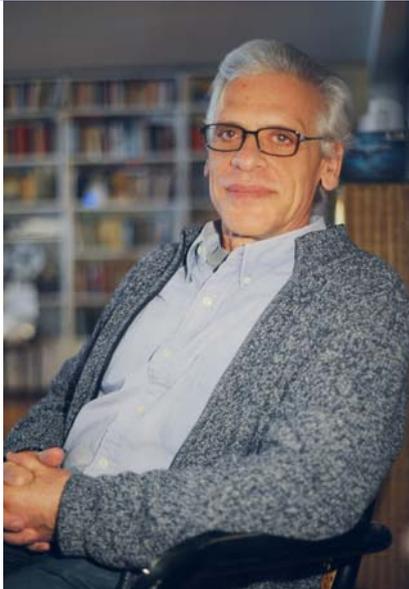
functioning of EMU, the links between monetary policy and heterogeneity in the euro area, and the links between economic integration and institutional integration. He also teaches Economics of Monetary Unions at the Johann Wolfgang Goethe University of Frankfurt. His papers have been published in various journals, such as the *Journal of Money Credit and Banking*, the *Journal of Common Market Studies*, *Integration and Trade*, *Economie Internationale*, *Bancharia*, and the *Journal of Economic Integration*.

Lecture 2:

John Milios: Crisis and Austerity. Is there a Chance for the Welfare State?

After the outbreak of the 2008 global economic crisis, extreme austerity policies prevailed in many parts of the developed capitalist world, especially in the European Union (EU) and the euro area (EA). Austerity has been criticized as an irrational policy, which further deteriorates the economic crisis by creating a vicious cycle of falling effective demand, recession and over-indebtedness. However, these criticisms can hardly explain why this 'irrational' or 'wrong' policy persists, despite its 'failures'. The first aim of the present paper is to give an answer to this discrepancy. The 'unconventional' role of the ECB, which does not function as a traditional lender of last resort, establishes a policy-making regime in which austerity is the only way to deal with

economic imbalances. In other words, austerity is offered as alternative to economic instability. What is urgently needed is a progressive policy setting that overrides this unfortunate trade-off. The paper will address this issue mainly from the viewpoint of political economy.



John Milios...

... is Professor of Political Economy and the History of Economic Thought at the National Technical University of Athens (NTUA), Greece. He has authored more than two hundred (250) papers published or forthcoming in refereed journals (in Greek, English, German, French, Spanish, Portuguese, Italian, Chinese and Turkish) including the *Cambridge Journal of Economics*, *History of Political Economy*, *History of Economics Review*, *Review of Political Economy*, *European Journal of the History of Economic Thought*, *The American Journal of Economics and Sociology*, *Science & Society*, *Rethinking Marxism*, *Review of Radical Political Economics*, and has participated as invited speaker in nu-

merous international conferences. He has also authored or co-authored some twelve scholarly books. His most recent books in English are *Rethinking Imperialism. A Study of Capitalist Rule* (Palgrave-Macmillan 2009, co-authored with D.P. Sotiropoulos) and *A Political Economy of Contemporary Capitalism and its Crisis. Demystifying Finance* (Routledge 2013, co-authored with D.P. Sotiropoulos and S. Lapatsioras). He is director of the quarterly journal of economic theory *Thesiseis* (published since 1982 in Greek) and serves on the Editorial Boards of four scholarly journals.

Lecture 3:

Kolja Möller: From the Constitutionalisation of Austerity to Destituent Power: Democratic Challenges in the Context of the Euro-Crisis

There is a widespread concern that European integration is more than ever a technocratic process which has lost its connection to the foundational dimension of democracy. According to many observers, the powerful role of the European Central Bank and the so-called “Troika” (ECB, European Commission and International Monetary Fund) as well as the mandatory character of austerity politics as enshrined in the fiscal treaty announce a postdemocratic shift in the overall architecture of supranational constitutionalisation. In my talk, I will scrutinize these tendencies and ask to what extent they can be contextualized as postdemocratic. Against this backdrop, I will discuss possible strategies to rehabilitate the foundational dimension of democratic constitutionalism and to

deal with the profound abyss between the reference to „we-the-people“ as a central resource of political legitimation and the constitutionalisation of austerity politics. In the light of the emerging austerity constitution, constituent power must be reframed as destituent power on the European level – a counter-power which aims at a re-negotiation of hegemonic structures.



Kolja Möller...

... (1983) is a post-doctoral fellow at the cluster of excellence “Normative Orders”. His research focuses on transnational constitutionalism and international political theory. Before joining the cluster, he worked as a research associate at the collaborative research centre “Transformations of the State”, University of Bremen. He obtained his Phd at the University of Flensburg and received a grant from the German National Academic Foundation. His recent book *Formwandel der Verfassung. Die postdemokratische Verfasstheit des Transnationalen* (transcript 2015) outlines a critical approach to the changing role of constitutionalism in world society. Further publica-

tions include: *A Critical Theory of Transnational Regimes. Creeping Managerialism and the Quest for a Destituent Power*, in: *Contested Collisions* (Cambridge University Press, forthcoming); *From the Ventotene Manifesto to Post-Democratic Integration. A Reconstructive Approach to Europe’s Social Dimension*, in: *Europe at a Crossroad. From Currency Union to Political and Economic Governance?* (Nomos 2015); *Formwandel des Konstitutionalismus. Zum Verhältnis von Postdemokratie und Verfassungsbildung jenseits des Staates*, in: *Archiv für Rechts- und Sozialphilosophie* 2/2015.

Thursday,
November 19th, 2015

6 p.m. – 8 p.m.

Ground floor Room 01+02

Keynote:

Schuldfragen in der europäischen Schuldenkrise

(lecture in English)

The EU has adopted its common currency without providing an institutional framework that would have been needed to absorb and buffer the damages the Euro has predictably caused. After this 'naked' monetary regime has created a deep division between a core of Euro-winners and a periphery of losers, a vehement exchange of mutual accusations has set in. The lecture explores the discursive patterns and normative arguments that are being invoked in this 'blame game'.

(The lecture will be in English, but the title remains in German because the shared root of the German words for guilt (Schuld) and debt (Schulden) mean that it cannot be translated satisfactorily into English.)



Claus Offe

Claus Offe, born 1940, was (until his retirement in 2005) Professor of Political Science at Humboldt University, Berlin, where he has held a chair of Political Sociology and Social Policy. He earned his PhD (Dr. rer. pol.) at the University of Frankfurt (1968) and his *Habilitation* at the University of Constance (1973). Since 2006 he has been teaching at the Hertie School of Governance, a private professional school of public policy, where he held a chair of Political Sociology. Previous positions include professorships at the Universities of Bielefeld and Bremen, where he has served as director of the Center of Social Policy Research. He has held research fellowships and visiting pro-

fessorships and taught courses in the US, Canada, Australia, Russia, Hungary, Poland, Austria, Italy, and the Netherlands. He was awarded an honorary degree by the Australian National University in 2007. His fields of research include democratic theory, transition studies, EU integration, and welfare state and labor market studies. He has published numerous articles and book chapters in these fields, a selection of which is reprinted as *Herausforderungen der Demokratie. Zur Integrations- und Leistungsfähigkeit politischer Institutionen* (2003). Book publications in English include *Contradictions of the Welfare State* (1984, Chinese translation 2005), *Varieties of Transition*

(1996), *Modernity and the State: East and West* (1996), *Institutional Design in Post-Communist Societies* (1998, with J. Elster and U. K. Preuss), *Reflections on America. Tocqueville, Weber, and Adorno in the United States* (2006) and *Europe Entrapped* (2014).

Panel III: UNGLEICHHEITEN IN EUROPA

Freitag,
20. November 2015

10:00 Uhr - 12:00 Uhr

Raum EG 01+02

Die Erforschung von Ungleichheit gehört zum institutionalisierten Korpus der sozialwissenschaftlichen und historischen Wissenschaften und bildet die Grundlage von handlungsorientierten Theorien, die auf ihre Beseitigung zielen. Das betrifft sowohl soziale und ökonomische Ungleichheiten wie solche, die in den Kategorien Geschlecht, Hautfarbe, Kultur, Herkunft, Religion oder sexuelle Orientierung gefasst werden. Gemeinsam ist den Forschungsansätzen die Kon-

struktion von Gruppen, die durch asymmetrische gesellschaftliche Strukturen benachteiligt werden. Der Analyse von außen steht dabei die Selbstwahrnehmung der diskriminierten Subjekte und ihre mögliche, keineswegs aber zwangsläufige, Selbstverortung in einer oder mehreren definierten Gruppen gegenüber. Die Fokussierung auf Mehrfachdiskriminierungen wird seit Ende der 1980er Jahre von feministischen und postkolonialen Wissenschaftler/innen im Rahmen der Intersektionalitätstheorie vorangetrieben.

Das Panel befasst sich in diachroner Perspektive mit normativen Dimensionen von Ungleichheit in Europa und umfasst dabei eine Zeitspanne von der frühen Neuzeit bis zur Gegenwart. Die Referent/

innen gehen der Frage nach, unter welchen historischen Bedingungen sich Ungleichheiten verschärfen und welche Voraussetzungen notwendig sind, um Entwicklungen in Richtung Gleichheit voranzutreiben. Sie behandeln Konfliktpotentiale von Ungleichheit, diskutieren aber auch mögliche konfliktreduzierende Momente. Grundsätzlich wird erörtert, was in unterschiedlichen Kontexten unter Gleichheit oder Ungleichheit verstanden wird und in welchem Verhältnis Gleichheit und Gerechtigkeit unter Berücksichtigung ihrer sozialen, ökonomischen, rechtlichen, politischen und religiösen Besonderheiten stehen.

Chair: Dominik Müller

Dominik Müller ist Post-Doktorand am Exzellenzcluster „Die Herausbildung normativer Ordnungen“. Er studierte Ethnologie, Philosophie und Rechtswissenschaft in Frankfurt und Leiden (2003–2008) und promovierte als Stipendiat des Exzellenzclusters in Frankfurt (2008–2012). Seine ethnologische Dissertation zur Entstehung des „Pop-Islamismus“ in Malaysia wurde 2012 mit dem Forschungsförderungspreis der Frobenius-Gesellschaft ausgezeichnet. Er war DAAD Post-Doc Stipendiat an der Stanford University (2013), Gastwissenschaftler an der University of Brunei Darussalam (2014), und Visiting Senior Member am St Antony's College, University of Oxford

(2015). Er ist Mitbegründer des dem Exzellenzcluster zugehörigen Frankfurter Forschungsinstituts Globaler Islam (FFGI). Sein gegenwärtiges Forschungsprojekt befasst sich mit dem Verhältnis zwischen der staatlichen Bürokratisierung des Islam und kulturellen Veränderungsprozessen im Sultanat von Brunei Darussalam.

Ausgewählte Publikationen: *Islam, Politics and Youth in Malaysia: The Pop-Islamist Reinvention of PAS* (Routledge, 2014); *Islamic Politics and Popular Culture in Malaysia: Negotiating normative change between shariah Law and electric guitars (Indonesia and the Malay World, 2015)*; *Sharia*

Law and the Politics of Faith Control in Brunei Darussalam: Dynamics of socio-legal change in a Southeast Asian Sultanate (International Quarterly for Asian Studies, 2015); *Islamic Law and the ASEAN Human Rights Declaration: Paradox normativities in Brunei Darussalam and Malaysia (Asian Survey, 2016 im Erscheinen)*.



Lecture 1:

Hartmut Kaelble: Warum milderte sich die soziale Ungleichheit im westlichen Europa während des 20. Jahrhunderts ab?

Angesichts der heutigen Verschärfung der sozialen Ungleichheit erinnert man sich kaum noch an die lange Periode der Abmilderung soziale Ungleichheit im vergangenen 20. Jahrhundert. Vor allem für Vermögen und Einkommen ist das belegt worden, zuletzt von Thomas Piketty in seinem international äußerst erfolgreichen Buch. Warum die soziale Ungleichheit damals etwas zurückging, ist umstritten und von hoher Aktualität. Einige Experten sehen die Weltkriege und die Weltwirtschaftskrise als entscheidenden Auslöser, für andere waren die damalige Politik und wirtschaftliche Veränderungen jener Zeit ausschlaggebend. Der Vortrag setzt sich mit dieser Debatte auseinander und schlägt eine eigene Interpretation vor.



Hartmut Kaelble...

... geb. 1940, 1971-1991 Prof. für Sozial- und Wirtschaftsgeschichte an der Freien Universität Berlin, 1991-2008 Prof. für Sozialgeschichte an der Humboldt Universität Berlin. 2004-2009 Professor am Europakolleg Brügge. 2004-2007 Sprecher des SFB 614. 1998-2009 Mitdirektor des Zentrums (später Berliner Kolleg) für vergleichende Geschichte Europas. Forschungsgebiet: Vergleichende Sozialgeschichte Europas im 19. und 20. Jahrhundert, derzeit vor allem Geschichte des Wohlfahrtsstaats, der sozialen Ungleichheit, der Geschichte der europäischen Integration. Wichtigste jüngere Publikationen: *Der historische Vergleich* (1999) (auch chines.); *Wege zur Demokratie* (2001) (auch französ., span.); *Sozi-*

algeschichte Europas (2007) (auch japan., engl., poln., französ.); *Kalter Krieg und Wohlfahrtsstaat. Europa 1945-1989* (2011) (auch japan.)

Lecture 2:

Susanne Schröter: Gerechtigkeit in der Einwanderungs- gesellschaft

„Gerechtigkeit für die Muslime“ lautete die Überschrift eines 2006 in der Zeitschrift „DIE ZEIT“ veröffentlichten Manifests. Die Schrift war die Antwort einer Reihe von Migrationsforscher/innen auf eine Publikation der türkischstämmigen Soziologin Necla Kelek, die muslimische Frauen als besonders unterdrückt und den Islam als frauenfeindliche Religion bezeichnet hatte. In der Kontroverse kamen zwei unterschiedliche Gerechtigkeitsvorstellungen zum Tragen. Während die Forscher/innen Gerechtigkeit als vorurteilsfreie Anerkennung der muslimischen Minderheit unter Verzicht auf pejorative Zuschreibungen definierten, rekurrierte Kelek auf das Prinzip der Geschlechtergerechtigkeit, das, ihrer Ansicht nach, von muslimischen Communities konsequent negiert werde.

Die Kontroverse, die in ähnlicher Form auch in anderen europäischen Staaten geführt wird, fokussiert die Problematik des Gelingens pluralistischer Gesellschaften auf die Auseinandersetzung mit Einwanderern muslimischen Glaubens. Während die einen Islamophobie und muslimfeindlichen Rassismus als größtes Hindernis gerechter demokratischer Gesellschaften sehen, sind andere der Ansicht, der Islam zielen auf die Etablierung einer ungerechten Ordnung, in der Frauen, Homosexuelle und Nichtmuslime zu Menschen zweiter Klasse degradiert werden.



Susanne Schröter...

... ist Professorin für Ethnologie kolonialer und postkolonialer Ordnungen an der Goethe-Universität Frankfurt am Main, Direktorin des Instituts für Ethnologie, Leiterin des Frankfurter Forschungszentrums globaler Islam (FFGI), welches sie 2014 gegründet hat, Principal Investigator im Exzellenzcluster „Die Herausbildung normativer Ordnungen“, Direktorin im Cornelia Goethe Centrum für Geschlechterforschung und Vorstandsmitglied des Deutschen Orient-Instituts. Von 2004–2008 war sie Inhaberin des Lehrstuhls für Südostasienskunde an der Universität Passau. Zwischen 2000 und 2004 lehrte sie als Gastprofessorin an der Yale University, den Universitäten Mainz, Frankfurt und Trier und forschte als Fellow an der University of Chicago.

Ihre Forschungsschwerpunkte sind der Islamische Feminismus und Frauenbewegungen in der islamischen Welt, Konstruktionen von Gender und Sexualität, islamischer Extremismus und Terrorismus, progressiver Islam, Säkularismus und Religion, Flüchtlinge und Integration sowie politische, religiöse und ethnische Konflikte.

Zu ihren kürzlich erschienen Publikationen zählen unter Ihrer Herausgeberschaft *Geschlechtergerechtigkeit durch Demokratisierung? Transformationen und Restaurationen von Genderverhältnissen in der islamischen Welt* (Bielefeld 2013: Transcript) sowie *Gender and Islam in Southeast Asia. Negotiating women's rights, Islamic piety and sexual orders* (Leiden 2013: Brill).

Lecture 3:

Kerstin Weiland: Ungleichheit als politisch-sozialer Sprengstoff?

Zur (Un)ordnungsfunktion
eines Strukturprinzips in der
Frühen Neuzeit

Die Erhebung von ‚Gleichheit‘ zum Grundprinzip rechtlicher Ordnung und zur Voraussetzung für gesellschaftliche und politische Stabilität und Integration ist eine verhältnismäßig junge, möglicherweise kulturell begrenzte Entwicklung. Die Erfahrungs- und Wahrnehmungswelt des Europäers in der Frühen Neuzeit dagegen war geprägt von ‚Ungleichheit‘ oder, besser, von ‚Ungleichheiten‘ im Plural, die das soziale, politische, rechtliche und religiöse Leben bestimmten. Ungleichheit war damit das bestimmende Strukturprinzip der gesellschaftlichen und politischen Ordnung in ihrer ständischen, korporativen und hierarchischen Verfasstheit. Der Vortrag beleuchtet dieses frühneuzeitliche Strukturprinzip näher und fragt nach seinen politischen und sozialen Implikati-

onen: Inwiefern wirkte Ungleichheit destabilisierend auf die politische Ordnung, schürte bzw. verschärfte Konflikte? Konnte sie auf der anderen Seite möglicherweise auch eine stabilisierende, Konflikt entschärfende Wirkung entfalten? Diesen Fragen soll mit Blick auf das entstehende europäische Mächtesystem sowie mit Blick auf die Aufnahme und Integration von Glaubensflüchtlingen nachgegangen werden. So lassen sich Hinweise darauf finden, dass gerade die „Ungleichheit“ von Staaten vor der Durchsetzung des völkerrechtlichen Prinzips souveräner, gleichrangiger Staaten massiv zu der Verdichtung kriegerischer Konflikte im 16. und 17. Jahrhundert beitrug. Auf einer ganz anderen Aktionsebene freilich führten nicht hinterfragte gesellschaftliche und rechtliche

„Ungleichheiten“ offensichtlich dazu, dass die Ansiedlung fremder und zudem häufig rechtlich privilegierter Migrantengruppen weniger konflikthaft verlief, als dies von der Forschung lange Zeit angenommen wurde.



Kerstin Weiland...

... studierte Geschichtswissenschaften und Klassische Philologie an der Philipps-Universität Marburg und an der Università degli studi in Florenz. Im Jahr 2012 wurde sie in Marburg mit einer Arbeit zur Entstehung und Etablierung normativer Leitbilder im England der Stuartzeit promoviert. Für die Arbeit wurde sie 2013 mit dem Promotionspreis der Universität Marburg ausgezeichnet. Als Wissenschaftliche Mitarbeiterin war Kerstin Weiland an der Società Internazionale per lo Studio del Medioevo Latino (SISMEL) in Florenz, an der Justus-Liebig-Universität Gießen sowie an der Philipps-Universität Marburg tätig. In den Jahren 2010 und 2011 war sie Forschungsstipendiatin am Institut für Europäische Geschichte in

Mainz. Seit Oktober 2013 ist sie Wissenschaftliche Mitarbeiterin (Postdoc) am Exzellenzcluster „Die Herausbildung normativer Ordnungen“. Ihr aktuelles Forschungsprojekt fragt mit Blick auf das römische Papsttum danach, wie sich Normgefüge unter dem Eindruck der als existentiell empfundenen Bedrohung durch die Osmanische Expansion in der Frühen Neuzeit veränderten und welche Auswirkungen dies auf die sich aus diesen Normgefügen ergebenden Handlungsimperative hatte.

Friday,
November 20th, 2015

1 p.m. – 3 p.m.

Ground floor Room 01+02

Panel IV:
POLICIES OF JUSTICE –
ON THE EU'S PROBLEM WITH DRAW-
ING BORDERS BY LEGAL MEANS

The topic of this panel is one of political justice between states. It deals with the tensions between universal claims to justice and political choices of inclusion or exclusion as they occur in the relationship of the EU and outside states, candidate states, or member states. The EU, which likes to define itself as a “legal community” has to take decisions which are political in character, but follows a custom to express and to justify them in normative terms. This behaviour at times creates gaps between normative aspirations and political results which contribute to the volatility of acceptance of the EU both by its citizens and state actors. The problem occurs in various contexts, as Europe’s neighbourhood politics, development cooperation, the financial crisis and,

most recently, the influx of refugees may illustrate. The participants on the panel will focus on questions of international political justice in the field of security politics, i.a. in relation to Ukraine, on the admission of new members along the lines of both politics and predefined normative standards, and on the possible failure of earlier choices and its consequences for the rule of law in the Greek crisis.



Chair: Stefan Kadelbach

Born 1959; 1979-84 studies of literature and law at Tuebingen and Frankfurt; 1986 studies at Academy of Administration in Speyer and Hague Academy of International Law, 1987/88 at University of Virginia; 1984-87 preparatory civil service; 1991 dissertation (Dr. jur.) on preemptory norms of public international law; 1996 PhD (habilitation) on administrative law under the influence of EU law; 1997-2004 professor (tenure) at the University of Muenster (Westphalia). Guest professor and lecturer at the University of Virginia (1999), the European University Institute (2000), the Institute of State and Law of the Russian Academy of Sciences (2002/03) and at Chuo University Tokyo

(2004). Since 2004 at Goethe University Frankfurt. Director of the Institute of Public Law, member of the Cluster of Excellence “Formation of Normative Orders”. Since 2014 Rapporteur of the International Law Association’s Human Rights Committee.

Working Fields:

Constitutional law, public international law and EU law, with an emphasis on foreign relations powers, federalism, multi-level governance, human rights and theory of international law.

Lecture 1:

Helene Sjursen: A Duty to Expand? The Question of Obligations Towards “the Other” in a European Context

Enlargement is considered one of the major successes of the European Union. Yet, the EU’s commitment to include new members is a puzzle for most IR theories. As the cost of expansion has generally been expected to outweigh the benefits, why does the EU not just remain a club for the well off?

Enlargement is usually understood to be the result of the EU’s sense of obligation to secure liberal democratic rule. But the wave of enlargement to Central and East European states in the first part of 2000 suggests that it is bolstered by a specific commitment to Europe. The justifications presented to EU citizens during the Eastern enlargements were that of a duty to enlarge, a duty

to ensure that the “other” Europeans were able to rejoin Europe.

There is a cosmopolitan duty to help (hospitality) but not to membership (residence). But the EU has turned membership into a question of a right for those belonging to a specific community. While making enlargement possible, this self-imposed duty also creates a particular challenge to the EU compared to other Western organisations such as for example to NATO. To the extent that citizens of non-member states refer to the EU’s duty to expand, on what grounds can their appeal be denied?

Enlargement may be an efficient means to resolve the fundamental problem of dominance and arbi-

trariness that is inherent in international politics, but it is only so within a certain scale. At some point a continuous expansion risks creating its own problems of dominance at a global level as well as malfunctioning at the regional level. Ultimately, it presents the Union with the unresolved dilemma of finding legitimate ways to justify the drawing of its borders.



Helene Sjursen...

... is Professor at ARENA, Centre for European Studies at the University of Oslo. Her research interests include the EU as an international actor, transatlantic relations, democracy and foreign policy and EU enlargement. Sjursen has been at ARENA since 1997 and has previously worked as a lecturer in politics at the University of Glasgow and the University College Dublin. She holds a Ph.D. in international relations from London School of Economics and Political Science (LSE). Sjursen chairs ARENA’s research group on EU foreign policy. She is author of more than 60 academic publications, among them one single-authored monograph, five edited and co-edited books, and four edited special issues. She has

been member of a number of government-appointed committees, *inter alia* the Advisory Council for Disarmament and Security Affairs, Norwegian Ministry of Foreign Affairs, and the European Economic Area (EEA) Review Committee on Norway’s relations with the EU. In 2006 she received the Anna Lindh Award for her contributions to research in the field of European foreign and security policy. Her most relevant works regarding the topic of her lecture are: *The EU’s Common Foreign and Security Policy: The Quest For Democracy* (guest editor, Special Issue, Journal of European Public Policy, 18(8), 2011); *Questioning EU Enlargement: Europe in search of identity* (London: Routledge, (ed.) 2006); and *What Kind*

of Power: European ForeignPolicy in Perspective (guest editor, Special Issue, Journal of European Public Policy, 13(2), 2006).

Lecture 2:

Harald Müller: International Political Justice in Europe: The Distribution of Security and Opportunity for Influence in Security Policy

This contribution deviates from mainstream accounts of political justice in three ways. First, while most of the studies on this issue take a normative approach, mine is an empirical one that follows the proposal of David Welch to count “a claim to an supposed entitlement” as justice claim and a contest about an entitlement or a clash of several opposite ones as justice conflict. Second, while most studies look at justice for individuals and take a cosmopolitan orientation, I look at justice among states without a preconception how it should be substantiated. Third, while most work on justice focusses on the distribution of material goods (focus on social justice) or ideational goods (focus on human rights), mine is interested in the distribution of political goods/

values, looking at the way security and influence are distributed among state actors in Europe and through which institutions and practices. For empirical illustration, I draw on the Ukraine crisis as a contest between Russia and NATO, and on disputes on nuclear disarmament within the EU as a contest between France and Austria. I first try to identify what justice claims the actors have uttered, how these claims may coincide or clash, and what the outcome has been until today.



Harald Müller...

... has been Executive Director of the Peace Research Institute Frankfurt (PRIF), a member of the Leibniz Association, from 1996 to 2015. He is now serving as Member of the Board and is head of Program Area I (Security of States). Together with Christopher Daase, he is directing the project “Salafism in Germany”. He is also Professor of International Relations at the Goethe University Frankfurt.

Prof. Müller has been a member of German delegations to the Review Conferences of the Nuclear Non-Proliferation Treaty 1995-2010. From 1999 to 2005 he was member of the Advisory Board on Disarmament Matters of the UN Secretary General, chairing the Board in 2004. Between 2004

and 2005 he was appointed member of the Expert Group on Multilateral Fuel Arrangements of the International Atomic Energy Agency. From 1999 on, he has been co-chairing the Working Group on Peace and Conflict at the German Foreign Office’s Planning Staff. Since 2007 he is member of the Board of Directors of the Frankfurt University’s Cluster of Excellence called “The Formation of Normative Orders” and since 2010 Vice-President of the EU Consortium for Non-proliferation and Disarmament.

His research focuses on disarmament issues, theories of democratic peace, great power relations, disarmament, arms control, and non-proliferation. His latest book is *WMD Arms Control in*

the MiddleEast. Prospects, Obstacles and Options (Farnham (UK)/Burlington VT, Ashgate, 2015).

Lecture 3:

Michael Ioannidis: Weak Members and the EU Rule of Law: The Case of Greece

The contributions offers an approach to the Greek crisis that does not focus on its economic dimensions, but rather on a constitutional concept that is in the core of contemporary European debates: the rule of law. The ongoing crisis has revealed that Greece's economic problems are coupled with systemic, far-reaching problems in application of law by the administration and the judiciary. Corruption, incoherent law formulation, and disproportionate delays in delivering justice suggest that Greece can be treated as a type of weak state within the EU. Without an effective administrative and judicial system, however, able to guarantee that norms do not stay in the books but govern effectively social conduct, the normative quality of law is undermined.

Two types of questions may rise from this observation. Firstly, whether we can conceptualize these problems using categories of EU constitutional law, and, more concretely, the concept of the rule of law, which figures prominently in Art. 2 TEU as one of the values of the EU. Secondly, what should be the response of the EU to this kind of deficiencies, considering that the weakness of a Member might create externalities to the Union as a whole, as the economic and asylum crises indicate. A closer look to the conditionality attached to the financial assistance offered to Greece indicates that the EU recognizes the problem and approaches Greece also as a state-building challenge. This dimension needs, however, to be strengthened and be explicitly treated as a rule-of-law problem.



Michael Ioannidis...

... is a senior research fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. He graduated with distinction from the University of Athens in 2005 and continued his studies, first in Heidelberg (LL.M., 2007), and then in Cambridge (LL.M., 2008). Ioannidis earned his PhD, summa cum laude, from the University of Frankfurt in 2012 with a thesis on participation rights in WTO law under the supervision of Professor Armin von Bogdandy. After the completion of his doctoral studies, he has continued working and publishing on international economic law and EU law. Ioannidis is currently working on two major projects. The first is

connected with the Eurozone crisis, the role of the IMF and the emergence of the new European economic governance, looking especially at how financial assistance conditionality is used at the international and the European level. The second project entails applying a public law approach to the law of international treaties.

The Cluster

The Frankfurt Cluster of Excellence “The Formation of Normative Orders” explores the development of normative orders with a focus on contemporary conflicts concerning the establishment of a “new world order”. The network is funded by the national “Excellence Initiative” and combines a series of research initiatives in Frankfurt and the surrounding area. The Cluster is based at Goethe University in Frankfurt/Main.

The Research Programme

Normative orders play a decisive role in conflicts over a just and fair economic order and the realisation of peace, human rights and democracy. These orders serve to justify a system of political rule and a specific distribution of goods and life chances. The Cluster investigates how such orders are handed down, modified, institutionalised and practised over long periods of time. In the second funding phase, researchers from the fields of philosophy, history, political science, legal studies, anthropology, economics, theology and sociology will focus greater attention on the question of how justifications assert themselves in the reality of social power relationships. The Cluster is divided into three research areas:

I. The Normativity of Normative Orders:

Origins, Vanishing Points, Performativity

With the onset of modernity, the formation of normative orders itself becomes normative – that is, it becomes reflexive and produces critical standards and procedures for examining normative orders. As a result, normative orders become exposed to persistent revision which compels them to change from within. At the same time, normative orders, viewed from a dialectical perspective, produce one-sided justifications or justifications that immunise themselves against criticism and likewise generate discursive power. This is the core idea of the first research area which examines the ‘Normativity of Normative Orders’ with regard to its reflexivity, the genesis of normativity and how it is constituted through narratives, art and the media.

II. The dynamics of Normative Orders:

Rupture, Change, Continuity

The projects of the second research area deal with the transformation of normative orders, whether it be long-term change or change brought about by conflicts between competing orders. On the one hand, the goal here is to develop possible models of transformation; on the other hand, the focus is on the consolidation of normative orders following periods of crisis and radical change. On the programme are case studies on postrevolutionary situations in antiquity up to the transformations currently taking place in North Africa. A further focus is on historical and contemporary constellations in which revitalised religious and

nonreligious discourses engage in negotiation over normative orders. A special point of interest is the broad spectrum of Islamic movements.

III. The Plurality of Normative Orders:

Competition, Overlapping, Interconnection

A variety of competing patterns of order exists at the supranational level. A possible global security order is also an inherently plural construct whose realisation is being pursued by a variety of means. Companies and international organisations are involved in this endeavour in addition to states. The aim of the third research area is to engage in empirical research and normative reflection on new types of legitimation of transnational orders. This also involves the recognition that different types of legitimation and legitimacy of supranational orders compete with each other. Thus a political order is often legitimised by recourse to democratic participation, though also with reference to public interests or social development.

People

Directors of the Cluster:

Prof. Dr. Rainer Forst
(Chair in Political Theory and Philosophy)

Prof. Dr. Klaus Günther
(Chair in Legal Theory, Criminal Law and Law of Criminal Procedure)

Managing Director:

Rebecca Caroline Schmidt

Contact:

office@normativeorders.net

Partners

- › Goethe University Frankfurt am Main (applicant – speaker)
- › Technische Universität Darmstadt
- › Peace Research Institute, Frankfurt am Main
- › Max Planck Institute for European Legal History, Frankfurt am Main
- › Max Planck Institute for Comparative Public Law and International Law, Heidelberg
- › Institute for Social Research, Frankfurt am Main
- › Frobenius Institute, Frankfurt am Main
- › Point Sud, Centre for Research on Local Knowledge, Bamako/Mali

Principal and Partner Investigators:

- › Prof. Dr. Armin von Bogdandy
- › Prof. Dr. Christoph Burchard
- › Prof. Dr. Christopher Daase
- › Prof. Dr. Nicole Deitelhoff
- › Prof. Dr. Mamadou Diawara
- › Prof. Dr. Thomas Duve
- › Prof. Dr. Moritz Epple
- › Prof. Dr. Andreas Fahrmeir
- › Prof. Dr. Rainer Forst
- › Prof. Dr. Nicola Fuchs-Schündeln
- › Prof. Dr. Klaus Günther
- › Prof. Dr. Gunther Hellmann
- › Prof. Dr. Axel Honneth
- › Prof. Dr. Bernhard Jussen
- › Prof. Dr. Stefan Kadelbach
- › Prof. Dr. Rainer Klump
- › Prof. Dr. Karl-Heinz Kohl
- › Prof. Dr. Hartmut Leppin
- › Prof. Dr. Dr. Matthias Lutz-Bachmann
- › Prof. Dr. Christoph Menke
- › Prof. Dr. Darrel Moellendorf
- › Prof. Dr. Harald Müller
- › Prof. Dr. Sighard Neckel
- › Prof. Dr. Alexander Peukert
- › Prof. Dr. Thomas M. Schmidt
- › Prof. Dr. Luise Schorn-Schütte
- › Prof. Dr. Susanne Schröter
- › Prof. Dr. Martin Seel
- › Prof. Dr. Jens Steffek
- › Prof. Dr. Annette Warner
- › Prof. Dr. Marcus Willaschek
- › Prof. Dr. Klaus Dieter Wolf

Board of Advisors

- › Prof. Dr. Seyla Benhabib (Yale University)
- › Prof. Dr. Samantha Besson (Université de Fribourg)
- › Prof. Dr. Kathleen Canning (University of Michigan)
- › Prof. Dr. Olivier Jouanjan (Université Panthéon-Assas, Paris)
- › Prof. Dr. Charles Larmore (Brown University)
- › Prof. Dr. Katharina Michaelowa (Universität Zürich)
- › Prof. Dr. Thomas Pogge (Yale University)
- › Prof. Dr. Claudia Rapp (Universität Wien)
- › Prof. Dr. Hartmut Zinser (Freie Universität Berlin)
- › Prof. Dr. Michael Zürn (Wissenschaftszentrum Berlin für Sozialforschung, WZB)

Kontakt

Cluster of Excellence

The Formation of Normative Orders

Goethe University Frankfurt am Main

Postal Address:

Goethe University Frankfurt am Main

D-60629 Frankfurt am Main

Office Address:

Max-Horkheimer-Straße 2

Building “Normative Ordnungen”

D-60323 Frankfurt am Main

office@normativeorders.net

www.normativeorders.net

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