



centrum für verhandlungen und mediation
center for negotiation and mediation

INTERNATIONAL CONFERENCE ON REGULATORY COMPETITION IN CONTRACT LAW AND DISPUTE RESOLUTION

PROGRAM

October 13, 2011 (Thursday)

Session 1

- 13:00 – 13:45 **Registration & Coffee**
- 13:45 – 14:00 **Welcome & Introduction**
HORST EIDENMÜLLER (University of Munich)
- 14:00 – 15:15 **Legal Rules and Economic Growth: Clearings and Thickets**
ROBERT COOTER (University of California, Berkeley)
Discussant: Mathias Siems (Durham University)
- 15:15 – 16:30 **Make it or buy it - a new look at legal transplants**
RALF MICHAELS (Duke University)
Discussant: Gebhard Rehm (University of Munich)
- 16:30 – 16:45 **Coffee Break**
- 16:45 – 18:00 **Law as a Byproduct: Theories of Private Law Production**
LARRY RIBSTEIN (University of Illinois)
Discussant: Anne van Aaken (University of St. Gallen)
- 18:00 – 19:15 **Global Law's Toolbox: How Standards Form Contracts**
DAN WIELSCH (University of Cologne)
Discussants: Axel Metzger (University of Hanover) and Michael Klausner (Stanford University)

October 14, 2011 (Friday)

Session 2

- 09:00 – 10:15 **Private Production of Transnational Regulation through Standard Form Contracts**
HUGH COLLINS (London School of Economics and Political Science)
Discussants: Thomas Ackermann (University of Munich) and Florian Möslein (Humboldt-University Berlin)
- 10:15 – 11:30 **Contracting Employee Involvement: An Analysis of Bargaining over Employee Involvement Rules for a Societas Europaea**
HORST EIDENMÜLLER (University of Munich) and Lars Hornuf
Discussant: Gregor Bachmann (Free University of Berlin)
- 11:30 – 11:45 **Coffee Break**
- 11:45 – 13:00 **Can Living Will Regulations Revive Contractual Approaches to Bankruptcy?**
ADAM FEIBELMAN (Tulane University)
Discussant: Christoph Thole (University of Tübingen)
- 13:00 – 14:00 **Lunch Break**

Session 3

- 14:00 – 15:15 **Choice of Law and Choice of Forum in Europe**
STEFAN VOGENAUER (Oxford University)
Discussants: Michael Coester (University of Munich) and Wolfgang Schön (Max Planck Institute for Tax Law and Public Finance)
- 15:15 – 16:30 **The Choice of Law Framework for Efficient Regulatory Competition in Contract Law**
GIESELA RÜHL (University of Jena)
Discussants: Peter Mankowski (University of Hamburg) and Andreas Engert (University of Mannheim)
- 16:30 – 16:45 **Coffee Break**
- 16:45 – 18:00 **Characteristics of Contract Laws and the European Optional Instrument**
HUGH BEALE (Warwick University)
Discussant: Hans Christoph Grigoleit (University of Munich)
- 20:00 **Conference Dinner at the Reitschule Restaurant**

October 15, 2011 (Saturday)

Session 4

- 09:00 – 10:15 **Dispute Resolution as a Product: Competition between Civil Justice Systems**
GERHARD WAGNER (University of Bonn)
Discussant: Omri Ben-Shahar (University of Chicago) and Dagmar Coester-Waltjen (University of Göttingen)
- 10:15 – 11:30 **The English vs. the American Rule on Attorneys' Fees: An Empirical Study of Attorney Fee Clauses in Publicly-Held Companies' Contracts**
THEODORE EISENBERG (Cornell University)
Discussant: Lars Hornuf (University of Munich)
- 11:30 – 11:45 **Coffee Break**
- 11:45 – 13:00 **Jurisdictional Competition for Dispute Resolution: Courts versus Arbitration**
ERIN O'HARA (Vanderbilt University)
Discussant: Peter Schlosser (University of Munich)
- 13:00 **End of Conference**

Conference Outline

In many regions of the world and across various fields, law has become a product. Individuals and companies seek attractive legal regulations and countries advertise their legal wares globally as they compete for customers. The conference aims at analyzing this development and developing policy recommendations with respect to two important segments of the law market: contract law and dispute resolution.

In the US, the contract law market is dominated not by the law of Delaware, but by the law of New York. Moreover, where a choice of law provision stipulates that New York law shall apply to any disputes arising under the agreement, it is also common to find a clause naming New York as the jurisdiction in which disputes should be settled. In Europe too, jurisdictions which have the reputation of being sensitive to the needs of commerce and businesses are often the jurisdictions selected as governing law in business agreements: a recent empirical survey shows that English law is most popular, followed by Swiss law. Eurobonds of internationally operating European companies are usually subjected to English law. English courts are also the preferred dispute resolution forum.

In addition, large commercial disputes are predominantly resolved within arbitration proceedings. Again, certain arbitration venues are more popular than others. In Europe, Zurich, Paris and London are the market leaders.

The conference seeks to address fundamental questions with respect to regulatory competition in contract law and dispute resolution. What is the current empirical status of the law market in these fields? Who are the market leaders? What is the role of multinational corporations in particular? Why are certain contract laws, courts of a particular jurisdiction, and/or arbitration venues more popular than others? What economic, political, and/or philosophical implications does the law market in these fields have? What are the policy implications that follow? Is there a need to change the international legal framework for the law market with respect to contracts and dispute resolution, and if so, how and in which direction?

The conference will bring together leading scholars in the field of contract law and dispute resolution both from the US and Europe. Important research papers on the law market in these fields will be presented and commented upon by at least one discussant. The results of the conference should be of high interest not only for academics, but also for practitioners and lawmakers.