



EUROPEAN CENTRAL BANK
EUROSYSTEM

ECB Legal Conference 2021

Continuity and change – how the challenges of today prepare the ground for tomorrow

Thursday to Friday, 25 and 26 November 2021

Room HS41.01

European Central Bank

Sonnemannstrasse 20

60314 Frankfurt am Main

Programme



Thursday, 25 November 2021

08:30 Registration and coffee

09:00 **Welcome address and opening of the Conference**

Chiara Zilioli, Director General Legal Services, European Central Bank

09:10 **Keynote speech**

Frank Elderson, Member of the Executive Board, European Central Bank

09:30 **Panel 1**

Dialogue between courts: what is the future for legal pluralism?

For decades, legal pluralism has been the preferred intellectual device in academic and judicial circles to facilitate interaction between the European Union and the national legal orders and their respective courts. Recently, some national courts – including constitutional courts – have challenged decisions of the Court of Justice of the European Union (CJEU) on the basis of arguments which can be described in terms of either alleged *ultra vires* conduct of the CJEU, or alleged breach by the CJEU of constitutional national identity. These challenges to the decisions of the CJEU, while not compromising the solidity of the system as long as they remain exceptions, nonetheless raise questions regarding the reliability of legal pluralism as a device to ensure effective cooperation through dialogue between courts in the European Union. In light of recent developments, the panel will also consider whether this doctrine has reached its limits with regard to its capacity to ensure cooperative interaction, or whether changes to preserve the doctrine (and ensure that it delivers positive outcomes for the future) are still possible. The panel will also consider what could replace the doctrine if it is considered to have reached its limits.

Chair

Frank Elderson, Member of the Executive Board, European Central Bank

Panellists

Ineta Ziemele, Judge at the Court of Justice of the European Union

Miguel Poiares Maduro, Professor of the School of Transnational Governance at the European University Institute, Florence

Juliane Kokott, Advocate General at the Court of Justice of the European Union

Daniel Calleja Crespo, Director-General Legal Service, European Commission

Discussion with questions from the audience

End of Panel 1

11:00 Coffee break

11:30**Panel 2****Rule of law: what is the fate of the rule of law in the EU?**

The European Union is founded on the principle of the rule of law. What would have appeared as a trivial observation some years ago, has become (at least for some) a contentious issue, probably due to both a lack of agreement among the Union's Institutions and its Member States on the meaning of the principle, and the fact that it is not currently being always enforced in a way that ensures its effectiveness. Both aspects of the issue will be analysed by the panel, which will also review the increasing importance of the principle of the rule of law in academic discussion, as well as in the action of courts and EU institutions.

Chair

Edouard Fernandez-Bollo, Member of the Supervisory Board, European Central Bank

Panellists

Armin von Bogdandy, Director of the Max Planck Institute, Heidelberg

Renáta Uitz, Professor of Law, Department of Legal Studies at the Central European University, Vienna

Michal Bobek, former Advocate General at the Court of Justice of the European Union

Laura Codruța Kövesi, European Chief Prosecutor at the European Public Prosecutor's Office

Discussion with questions from the audience

End of Panel 2

13:00

Lunch

Symposium on Proportionality

The symposium takes inspiration from a discussion between the ECB and a group of academics at a roundtable organised as part of the ECB's strategy review, and from recent developments in the jurisprudence of the CJEU and of the national courts of various Member States. Those discussions and developments indicate that agreement on the full meaning, nature and use of the principle of proportionality is not settled.

Against this background, the first panel will focus on the different meanings of the principle of proportionality in the EU legal order, both in the light of the various approaches followed by the CJEU, depending on the specific issue under consideration, and in the light of the jurisprudence of selected Member States, in particular as regards the different role of jurisdictional authorities, administrative authorities and Member States. After a short break, the second panel will focus on the jurisprudence of the Court of Justice and the legislative activity of the Council to reflect on a possible taxonomy, and consider a comparative analysis against the experience in third countries, in particular in relation to the way judicial activism and judicial restraint characterize the relationship between constitutional courts and democratically elected bodies.

14:30 Introductory Remarks

Christine Lagarde, President, European Central Bank

14:40 Keynote speech

Koen Lenaerts, President, Court of Justice of the European Union

15:40 Panel 1 Chair

Chiara Zilioli, Director General Legal Services, European Central Bank

Panellists

Diana Urania Galetta, Professor of Administrative Law at the University of Milan
Tomi Tuominen, Lecturer at the University of Lapland, Rovaniemi
Dieter Grimm, Professor for Public law at Humboldt University, Berlin

16:40 Discussion with questions from the audience

Coffee break

17:00 Panel 2 Chair

Chiara Zilioli, Director General Legal Services, European Central Bank

Panellists

Vasiliki Kosta, Assistant Professor of European Law at Leiden University
Iddo Porat, Associate Professor of Constitutional Law at the College of Law and Business, Tel Aviv
Thérèse Blanchet, Director-General, Legal Adviser to the Council of the European Union

Discussion with questions from the audience

18:00 End of Day 1

Friday, 26th November 2021

08:30 Registration and coffee

08:55 **Welcome address – Day 2**

Chiara Zilioli, Director General Legal Services, European Central Bank

09:00 **Keynote speech**

Christine Lagarde, President, European Central Bank

09:30 **Panel 3**

Relationship between law and markets

To what extent do markets need to be considered (and treated by law) as pre-existing entities which any form of regulation will inevitably alter, rather than by-products of law, where the law is understood as a pre-condition and pre-requirement for the existence of markets? The panel will discuss this question, bearing in mind that the answer to this question has an impact on the legitimacy, scope and limits of the power of public authorities to regulate markets through the exercise of their powers, soft law and/or moral suasion.

Chair

Isabel Schnabel, Member of the Executive Board, European Central Bank

Panellists:

Katharina Pistor, Edwin B. Parker Professor of Comparative Law at Columbia Law School, New York

Vivien Ann Schmidt, Jean Monnet Professor of European Integration at Boston University

Marco Dani, Associate Professor of EU and Comparative Public Law at the University of Trento

Barbara Balke, Director General and General Counsel at the European Investment Bank

Discussion with questions from the audience

End of Panel 3

11:00 Coffee break

11:30**Panel 4****Digitalisation of finance: the challenges from a central bank and supervisory perspective**

In the last year several legislative proposals presented by the European Commission on digital economy, digital finance and artificial intelligence have been evidence of the increasing importance of these topics for the economy at large, and the financial services sector specifically. The new technologies which are being deployed represent a paradigm shift which may change the shape of all economic activities as we know them. Against this background, the panel will reflect on the consequences of digitalisation for financial services, and whether the proposed legislation is sufficient to deal with the forthcoming challenges, or whether further changes are needed.

Chair

Fabio Panetta, Member of the Executive Board, European Central Bank

Panellists

Jan Ceysens, Head of the Digital Finance Unit, Directorate-General for Financial Stability, Financial Services and Capital Markets Union at the European Commission

Maria Lillà Montagnani, Associate Professor of Commercial Law at Bocconi University, Milan

Katja Langenbucher, Professor of Banking and Corporate Law at Goethe University, Frankfurt

Diana Wilson Patrick, General Counsel at the Caribbean Development Bank

Discussion with questions from the audience

End of Panel 4

13:00

Lunch

14:30**Panel 5****The COVID-19 crisis: a Hamiltonian moment for Europe?**

The COVID-19 crisis has been a catalyst for change in many respects. In just a few months, reforms which had not been discussed before, or had been discussed for years without ever gaining momentum, have been implemented at a rather impressive speed, especially considering that the EU is often criticised for its alleged inability to promptly react to challenges. Among the measures which were most relevant for the purposes of the European Economic and Monetary Union and its institutional architecture, are the establishment of an unemployment scheme (the Support to mitigate Unemployment Risks in an Emergency, SURE), of a common budget and common debt issuances in the context of the Next Generation EU plan, and the suspension of certain fiscal rules for Member States. The panel will focus on whether these measures could and/or should be seen as permanent changes to the EU institutional framework, or be rapidly dismantled once the exceptional circumstances which justified their adoption have passed.

Chair

Philip Lane, Member of the Executive Board, European Central Bank

Panellists

Bruno de Witte, Professor of European Union Law at Maastricht University

Paul Dermine, Max Weber Fellow at the European University Institute, Florence

Diane Fromage, Marie Skłodowska-Curie Individual Fellow at the Sciences Po Paris

Rhoda Weeks-Brown, General Counsel and Director, Legal Department, International Monetary Fund

Discussion with questions from the audience

End of Panel 5

16:00

Coffee break

16:30**Concluding remarks**

Chiara Zilioli, Director General Legal Services, European Central Bank

17:00

End of the ECB Legal Conference 2021

General information

Dates Thursday and Friday, 25 and 26 November 2021

Venue European Central Bank
Conference Room HS41.01
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60314 Frankfurt am Main

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