

## Report – 13th Conference of the Society of Postgraduate Civil Law Researchers, Heidelberg, September 4th – 7th, 2002.

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[1] This years annual conference of *Gesellschaft junger Zivilrechtswissenschaftler e. V.* (Society of Postgraduate Civil Law Reserchers), held in Heidelberg from Wednesday night September 4th to Saturday September 7th 2002, dealt with the topic of "Privatization of Private Law – Legal Arrangements Without Governmental Constraints." The Society promotes scientific exchange between postgraduate researchers in the field of of Private Law from Germany, Austria and Switzerland. Previous conferences have been held in Vienna and Freiburg. In Vienna "The Principles of Private Law and Comparative Law" were debated. In Freiburg the topic of was "The New Obligation Law in the German Civil Code."

[2] The opening lecture was held by Professor Dr. Dr. h.c. mult. Peter Ulmer on the issue of "German Corporate Governance Codex as an Example of Self-made Rules through the Market? – Goals, Legal Effects, Problems of Legitimation." Prof. Ulmer focused on the effects of the codex, and how these promote the confidence of share holders in the quality of the leadership and control of German based publically traded companies.

[3] During the three days of the conference different members of the society held lectures on the official topic, which I believe can be divided into two themes. The first group of lectures covered the historical and methological questions concerning private rule settlement and the question of whether those rules are operative. The second group of lecturers attempted to illustrate various forms of "*ausserbörsliche Wertpapierhandelssysteme*" and the laws of the medical profession, focusing specifically on their application. In his lecture, Peter Ruess spoke on the merging of private rules with governmental law, by giving an example out of the advertising world entitled "The Law of Advertising Between State Control and Self-control." Another example was given by Jens Adolphsen, who analysed International Law as it relates to sports ("*Lex Sportiva*").

[4] As a well known example of the privatization of law and the development of binding rules through commercial actors (*lex mercatoria*), Patrick Schroeder presented the area of commercial law. He emphasized the link between commercial law and the question of arbitration. He focused on international arbitration proceedings. Further, Schroeder proposed that transnational commercial disputes should not be settled by national courts applying national law but rather by international arbitrators applying the *lex mercatoria*. In his oppinion this approach helps to avoid conflicting laws being passed-upon by national courts.

[5] The topic of arbitration was approached from different angles. Martin Auer spoke on the role of arbitration with respect to defective resolutions of disputes in limited liability companies. He titled his lecture: "*Schiedsfähigkeit von Beschlusmängelstreitigkeiten in der GmbH.*" Jacob Jousen's report stressed mediation as a dispute settlement mechanism in different sections of civil law, labour law and social welfare legislation ("*Schlichtung als Beilegung von Regelungsstreitigkeiten im Zivil-, Arbeits- und Sozialrecht*").

[6] The first group of lectures focused on the historical and methological development of legal arrangements outside governmental constraints. In detail, Susanne Hähnchen elaborated on the historical perspective of settlement. Her thesis was that in times of economic stagnation, lengthy lawsuits and/or inadequate legislation, the demand for settlements in general tend to rise. Gregor Bachmann expanded on the fundamental issues underlying the theorie of private legislation. Andreas Engert spoke on the competition of norms and the discussion on Law and Social Norms in the U.S. An interesting approach was undertaken by Lorenz Kähler, who spoke on the private arrangement as it contradicts the rule of law ("*Private Disposition jenseits der Herrschaft des Gesetzes – Zur Abdingbarkeit gesetzlicher Normen*").

[7] The hosts of this years conference assured a well-balanced program including enough opportunities for the informal exchange of ideas. Thanks to the support of various publishing houses the participants were able to continue their discussions during lunch. The different meal times were enjoyed either on a river boat trip or in other nice restaurants in the pittoresque city of Heidelberg. Next September the Society will come together in Salzburg, Austria. The Boorberg Verlag will soon be publishing the lectures of this years conference in the Society's yearbook ([www.boorberg.de](http://www.boorberg.de)). More information on the society can be found at [www.junge-zivilrechtswissenschaftler.de](http://www.junge-zivilrechtswissenschaftler.de).