Welcome to our newsletter. This newsletter seeks to address legal historians, legal theorists and others interested in global history, social sciences, humanities and legal studies more broadly. We keep you updated about events, new publications by our researchers and other news from our Institute. Any feedback and suggestions are more than welcome. We hope you enjoy this month’s edition.

Opportunities

CfA: The Institute is looking for a Library and Information Manager. Deadline 06 February 2022

CfA: The institute is looking for a purchaser. Deadline 13 February 2022

CfA: The Institute is looking for a student assistant (m/w/d). The activity will

Events

Due to the current situation, the scheduled events for the upcoming weeks had to be cancelled.

For current information, please visit https://www.lhlt.mpg.de/all-events
accompany the project *Socio-legal Trajectories in Germany and the UK: Cultures, Actors and Institutions*. Deadline 15 February 2022

CfA: The ERC research group IberLAND is looking for a PhD or Postdoc researcher for the project ‘Beyond Property. Law and Land in the Iberian World (1510-1850)’. Deadline 20 February 2022

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**New Publications**

Marietta Auer

**Two centuries of private legal theory concerning formal and material equality**

At first glance, the relation of private law and equality thinking appears to be one of tension. Private law deals with the self-determined organisation of private individuals’ life circumstances, and within the framework of private autonomy, it is more or less up to the private actors themselves to decide whether, with whom and in what way they want to configure these circumstances. However, certain areas of private law, such as labour, corporate and insolvency law, recognise specific obligations of equal treatment. Moreover, a general duty of equal treatment under private law has also been under discussion for some time now, with the general principle of equality contained in the German Basic Law being used as a justification. My contribution aims to conceptually classify these developments and to examine their normative viability. In a first step, I provide distinctions between formal and material freedom, equality and justice. This enables the development, based on the principles of rational law, of the relationship between freedom and equality in private law. Against this background, the historic first step towards the realisation of private law thinking about equality consisted in the successive production of the formal legal equality of all private actors. It is only on this basis that the mentioned specific norms of equality, in a second step, could evolve into modern anti-discrimination law under private law. The article concludes by asking whether a general principle of equal treatment under private law can be derived from these developments, one which no longer represents an exception that requires justification, but rather has become the rule – even in private law.
Distinguished

Excellence Award for Final Thesis

Our student assistant Anna Hoberg was awarded the Excellence Prize of Deutsch-Französische Hochschule (DFH). She received the award, which is endowed with 1500 euros, for her final thesis 'Die Entstehung des Europäischen Gerichtsstands- und Vollstreckungsübereinkommens vom 27. September 1968 (EuGVÜ)'.

Featured event

28 February – 4 March 2022

14th Frankfurt Investment Arbitration Moot Court (2021/2022)

The Frankfurt Investment Arbitration Moot Court will once again be hosted by the Max Planck Institute for Legal History and Legal Theory in cooperation with the international law firm Morgan, Lewis & Bockius LLP. It is the oldest and most prestigious student competition in the area of investment protection law. The event will take place in a virtual format from 28 February to 4 March 2022. Further information can be found here https://www.investmentmoot.org.

This year's case study is based on the historical events surrounding the Fugger family and the Spanish state bankruptcy that took place in 1557. Originally focusing on weaving and trade, the Fugger family later expanded into silver mining and banking. Among others, they lent money to the Emperor of the Holy Roman Empire and to the Spanish Crown.
This year’s case deals with these loans and what happened to them as a result of the Spanish state bankruptcy.

The Fugger banking business and the family’s preeminent role in this area began when they supported Charles V in his candidature to become Emperor of the Holy Roman Empire. His election in 1519 made him both Emperor and King of Spain and Portugal. During his reign, Charles borrowed heavily from the Fuggers; a practice that was later continued by his son and heir, Philippe II, who ascended the Spanish throne in 1556. When severe financial difficulties arose, Philippe decreed that no further payments should be made and started negotiating with his creditors. While the Fuggers did not initially accept the conditions, they were eventually forced to agree to a less favourable settlement in 1562. Consequently, they lost a significant part of their claims.

This year’s case presupposes that a Constitution of Commerce, the 'Constitutio Commercialis Carolina' (CCC), has been implemented in all territories governed by Charles V. In their letter to the ICSID, the Fugger claim payment of debts owed, based on violations of Articles 10, 13 and 14 of the CCC regarding their investments.

Further information on the details of the case, the appendices and the full case study are available at: https://www.investmentmoot.org/case-study.

Further information:
https://www.investmentmoot.org
https://www.linkedin.com/company/frankfurt-investment-moot

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**Guests and Visiting Scholars**


- **Camargo de Godoi, Rodrigo** (Universidade Estadual de Campinas, Brazil): *Press and Normative Knowledge in 19th-century Brazil: The case of Gazeta dos Tribunais (1843-1846)*, Visiting Researcher with Scholarship mpilhlt January – March 2022

- **Cantisano, Pedro** (University of Nebraska, Omaha, USA): *Police Power and Ratione Imperii: Iberian Modes of Governance in Early 20th-century Brazil*, Visiting Researcher mpilhlt Dep. Duve February – May 2022

- **Chiliguay, Alejandro** (Universidad del Salvador, Buenos Aires, Argentina): *La justicia episcopal en la antigua diócesis del Tucumán (1704-1740)*, Visiting Researcher with Scholarship mpilhlt (Beca Doucet) January – March 2022

- **Lillo Castañ, Víctor** (Universitat Autònoma de Barcelona, Spain): *The bull Sublimis*
Interview: Green energy from uranium and gas?

The battle over the so-called ‘green taxonomy’ is growing into a genuine stress test for European energy and fiscal politics. At the core of the controversy is the proposal to regard investments in nuclear and gas power plants as a way forward to achieve a CO2-free system. But the compromise, intended to meet German and French interests in particular, seems bound for failure.

Jan-Henrik Meyer, researcher into

New Affiliate Researchers

Exchange with researchers from all over the world is crucial to our work, and the mpiihlt’s Departments and Research Groups are involved in a large number of diverse national and international cooperations. A special means of deepening such existing contacts and strengthening cooperation is the appointment of individual experts as Affiliate Researchers of the mpiihlt. The affiliation is for a fixed period of time and linked to a specific project, carried out jointly. Affiliate Researchers are closely
transnational history of environmental politics at the mpilhlt, explains the role of the history of European environmental law in this context and describes the long-term impacts this dispute may have for the credibility of the European institutions.

'In the short term, this is a compromise between Germany and France and between natural gas and nuclear energy, that would declare both as sustainable -- and thus present a case of "greenwashing"', says Meyer. 'This compromise stands for the two diverging concepts of energy politics in the context of reaching a CO2-free future in Europe -- in particular, one free of coal-generated energy.'

The German approach aims to secure a steady supply of electricity through renewables. For this, gas power plants are required that can react quickly to the fluctuating performance of wind and solar. 'Opposed to this is the French approach. This model continues to see nuclear plants as providing a stable power base load in order to secure the energy supply.'

Read the full Interview

involved in the academic life of the Institute and have access to most of our research infrastructure.

At the beginning of this year, we welcomed four new Affiliate Researchers to the Institute’s research community. Andrés Iñigo Silva (Universidad Nacional Autónoma de México) will work together with José Luis Egio García on a project entitled Producing normative knowledge in the margins. The handwritten annotations of Alonso de la Vera Cruz. Naomi Creutzfeldt (University of Westminster) and Jen Hendry (University of Leeds) have become Affiliate Researchers as part of the Research Network Socio-legal Trajectories in Germany and the UK: Cultures, Actors and Institutions. Together with Christian Boulanger, they will work on a book project on the formation and development of the non-doctrinal study of law over the past 60 years. Finally, we are delighted that Egas Bender de Moniz Bandeira, who recently left the Max Planck Research Group Translation and Transitions to take up a position at the Universität Erlangen-Nürnberg, will continue to work closely with us as our fourth new Affiliate Research the coming years.

Max Planck Newsletter Iberian Worlds

Just like its big sister, the newsletter of the Research Field 'Iberian Worlds' received a new look with the renaming of the Institute. The researchers of this group are investigating various aspects of legal history of the Iberian Worlds from the early modern age to the present from a global historical perspective.

In our monthly newsletter we are reporting in Spanish and Portuguese about conferences, seminars, calls for papers, announcements for research grants and publications related to the activities our research group. We will also be adding new sections such as presenting new and rare book acquisitions, conferences and even our colleagues.
We will also be adding new sections such as announcing new and rare book acquisitions and upcoming conferences, and feature colleagues in order to get to know them better.

If you have not yet subscribed, you can do so here.

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