



Conference

“The Division of Competences in the EU Legal Order – a Post-Lisbon Assessment”

1. Introduction: theme of the conference

Reflecting the ‘power bargain’ struck between the Member States and their Union, determining the limits of the authority of the EU as well as the limits of the authority of the Member States, the issue of competence division is of fundamental, even existential, importance. It defines the nature of the EU as a polity, as well as the identity of the Member States. Or so the story goes.

Over six years since the entry into force of the Lisbon Treaty, which introduced most of the changes proposed by the failed Constitutional Treaty, bringing an end to the decade-long debate on the Future of Europe, it is high time to take stock of whether the reforms that were adopted to make the Union’s system of division of competences between the EU Member States clearer, more coherent, and better at containing European integration, have been successful. In other words, has ‘the competence problem’ finally been solved?

If the conclusion is (as it is) that this is not the case, it is even higher time to reflect on the causes and consequences of these failures and on alternative approaches to achieve the aims of paramount importance that the system of competence division purports to pursue, namely to respect national identity, subsidiarity and self-determination. Maybe this will entail a fundamental reconsideration of the role that competences have to play in this regard. Are ‘competences’ perhaps a red herring, distracting jurists and others from the real (power) issues in play?

To be meaningful, these issues are to be examined not only in a legalistic way, but against the complex contemporary background of increasing Euroscepticism (with a possible exit from the EU by the UK) and secessionism within Member States (UK, Belgium, Spain), an unstable Euro-zone governed by controversial austerity measures and, more recently, an unprecedented influx of refugees and migrants putting both European and global solidarity to the test. What do (the responses to) these seemingly separate developments tell us about the ‘state of the Union’ and its democratic governance? And what is the role of competence division in that context?

2. Aims of the conference

The aim of the 1.5 day conference is to bring together a mix of scholars and practitioners, to reflect and exchange views on the issues as set out above.

The approach will be to challenge pre-existing notions and ideas about this area of law, in order to move the debate out of its impasse. There should be a healthy combination of constitutional and substantive questions, combining a theoretical critique with pragmatic proposals for the future, tentative as they may be.

The contributions will be published in an edited volume, with a publisher to be determined, early 2017.

3. Date of the conference

Wednesday 20 April 2016 (all-day) and Thursday 21 April 2016 (morning)



College of Europe
Collège d'Europe



Natolin

European Legal Studies
Etudes Européennes Juridiques

Conference Programme

"The Division of Competences in the EU Legal Order – a Post-Lisbon Assessment"

Day 1 (20/04/2016)

Registration

09:45 - 10:15

Welcome address

Jörg Monar, Rector, College of Europe

10:15 - 10:20

Opening speech

Sacha Garben, Professor, European Legal Studies Department, College of Europe

10:20 – 10:30

First session – Setting the scene: contemporary reflections on division of competences between the EU and the Member States

Chaired by Inge Govaere, Director, European Legal Studies Department, College of Europe and Professor, Ghent University

10:30 – 12:30

"The road from Rome to Lisbon – how the current competence constellation came to be, and why"

Alan Dashwood, Professor Emeritus, City University London

10:30 – 10:50

"Competences in contemporary Europe – Brexit, the Eurocrisis and the immigration crisis"

Deirdre Curtin, Professor, European University Institute

10:50 – 11:10

"Federalism and the division of competences - perspectives from the US, DE and the EU"

Robert Schütze, Professor Durham University

11:10 – 11:30

Panel-lead discussion

Freddy Drexler, Jurisconsult, European Parliament

Roman Herzog, former President of the German Constitutional Court

Hubert Legal, Director-General, Legal Adviser to the Council

Luis Romero Requena, Director-General, Legal Service European Commission

11:30 – 12:30

Sandwich Lunch

12:30 – 13:30

Second session – Complementary and shared EU competences: only a limited role for the EU?

Chaired by Elise Muir, Associate Professor, Maastricht University

13:30 – 15:30

“Member State competences – is there such a thing?”

Bruno de Witte, Professor, European University Institute

13:30 – 13:50

“The peculiar competence structure of social policy”

Claire Kilpatrick, Professor, European University Institute

13:50 – 14:10

“The internal market as the ultimate EU competence”

Gareth Davies, Professor, University of Amsterdam

14:10 – 14:30

Panel-led discussion

Kieran Bradley, Judge, European Court of Justice, Civil Service Tribunal

Jean-Paul Jacqu , Former Director, Legal Service of the Council of the EU

Maria-Jos  Martinez, Director, Legal Service of the European Parliament

S ofra O’Leary, Judge, European Court of Human Rights

Ben Smulders, Head of Cabinet, Vice-President Timmermans

14:30 – 15:30

Coffee break

15:30– 16:00

Third session – Exclusive EU competences: an uncontested role for Europe?

Chaired by Sacha Garben, Professor, European Legal Studies Department, College of Europe

16:00 – 18:00

“EMU and ‘EU’ competences”

Michael Waibel, Lecturer, University of Cambridge

16:00 – 16:20

“EU competences – the external dimension”

Marise Cremona, Professor, European University Institute

16:20 – 16:40

“The EU’s exclusive competence in competition law”

Pablo Ib n ez Colomo, Professor, London School of Economics

16:40 – 17:00

Panel-lead discussion

Jen  Czuczai, Legal Adviser, Legal Service of the Council of the EU

Jonathan Faull, Director-General, European Commission UK Task Force

Damien Gerard, Director, Global Competition Law Center

Allan Rosas, Judge, European Court of Justice

17:00 – 18:00

Dinner

19:00 – 22:00

Day 2 (21/04/2016)

Fourth session – Solving the competence problem: towards a new approach to containing EU integration

Chaired by Takis Tridimas, Director, King's College London
09:30 – 13:00

“The legal and practical inconsistencies in the current competence system”
Udo di Fabio, Professor, Bonn University
09:30 – 09:50

“Integration through soft law – no competence needed”
Mark Dawson, Professor, Hertie School of Governance
09:50 – 10:10

“Politicisation, democracy and the competence question”
Fritz Scharpf, Emeritus Director, Max Planck Institute for the Study of Societies
10:10 – 10:30

Coffee break

10:30 – 10:50

“The inherent difficulty in containing EU integration through competence division”
Gráinne de Búrca, Professor, New York University School of Law
10:50 – 11:10

“A fundamental overhaul of the current competence arrangement”
Sacha Garben, Professor, European Legal Studies Department, College of Europe
11:10 – 11:30

Final panel-led discussion
Freddy Drexler, Jurisconsult, European Parliament
Francis Jacobs, former Advocate-General at the European Court of Justice
Hubert Legal, Director-General, Legal Adviser to the Council
Päivi Leino-Sandberg, Adjunct Professor of EU Law University of Helsinki
Luis Romero Requena, Director-General, Legal Service European Commission
11:30 – 13:00

Sandwich Lunch

13:00 – 14:00

END