

EUI Labour Law and Law & Economics Working Groups

*Roundtable discussion on the *Cartesio* judgment of the ECJ: What implications for European company and labour laws?*

European University Institute, Florence
Department of Law

30 January 2009

15.30 – 19.00

Villa Schifanoia, Sala Triaria

The European University Institute **Working Groups on Labour Law and on Law and Economics**, with the support of **Professor Fabrizio CAFAGGI** and **Professor Marie-Ange MOREAU**, will host a roundtable discussion on the *Cartesio* judgment of the ECJ and on its implications on 30 January 2009.

The workshop will be organized with the participation of **Prof. Simon DEAKIN** (Cambridge University), **Prof. Norbert REICH** (University of Bremen and EUI Fernand Braudel Fellow), **Prof. Fabrizio CAFAGGI** (EUI), **Prof. Marie-Ange MOREAU** (EUI) and **Dr. Arkadiusz RADWAN** (Centrum C-Law.org and Kubas, Kos, Gaertner-Adwokaci). The discussion will be chaired by **Prof. Miguel Poiares MADURO** (EUI and Advocate General at the European Court of Justice).

The roundtable discussion will analyze the direct and indirect impact of the *Cartesio* judgment on national legal systems both from a labour and company law viewpoint. From the macro perspective, the discussion will address the possible implications of *Cartesio* for the process of *regulatory competition* within the European Union. The question whether regulatory competition or legal harmonization should govern European company laws is one that has already generated significant amount of academic discussion. Arguably, in the field of labour law cases like *Viking*, *Laval* and *Centros* together already open up possibilities for employers to access advantageous labour law regimes. A possible implication of *Cartesio* might be an increased '*threat of exit*'. This might lead to amendments in Member States' existing regulatory frameworks in favour of specific companies.

The roundtable discussion will be organized along six sets of issues.

The first three have a positive dimension:

1. What are the *institutional pre-conditions* to trigger an effective regulatory competition in Europe? What is missing in the European regulatory landscape and what is already there?

2. Once regulatory competition is set in motion, can we expect it to result in *convergence or divergence* of the legal systems? If European legal systems converge, can we expect a 'race to the bottom' or 'race to the top'?

3. What are the mechanisms to maintain diversity of legal systems in Europe? What are the grounds for justification that MSs can invoke in order to limit the mobility of companies?

The next three are normative questions:

1. What are the *implications* of regulatory competition, both from the *efficiency and distributive* standpoint? Which should be the normative standard to evaluate these developments?

2. Is convergence the optimal outcome? How to solve the puzzle related to the local (i.e. Member States' public interest) vis-à-vis global (i.e. market integration) efficiency trade-off?

3. What are the potential mechanisms for effective coordination of regulatory competition? Is the preliminary rulings procedure one of them? Should there be a *de minimis* rule under Article 43 and if yes, what should be the normative content thereof? Should different rules apply to SMEs and large companies? In general, is the judiciary-led market integration strategy an appropriate approach to address *regulatory diversity* among European company and labour laws?

This event is intended to open a larger project focusing on a structured analysis of the impact of the ECJ case-law on national legal systems.

The roundtable discussion is addressed to researchers and Professors, both from the EUI and outside of the Institute.

We are looking forward to your participation and possible contribution to the discussion!

Venue: European University Institute, Villa Schifanoia, Sala Triaria

Please register with Anna.Coda@eui.eu

Program

15.30 Welcome and introductory remarks: Lukasz Gorywoda, Nikolett Hös and Agnieszka Janczuk (PhD Candidates, EUI)

SESSION 1 General framework

15:50 Regulatory competition and the European Commission's impact assessment on seat transfer, Barbara Gabor (European Commission and PhD Candidate, EUI)

16.10 Cartesio: one step forward - two steps back, or: one step back - two steps forward?
Prof. Norbert Reich (University Of Bremen and EUI Fernand Braudel Fellow)

16.30 Reactions

16.45 COFFEE BREAK

SESSION 2 Sectoral analysis: Potential implications of the judgment for company and labour laws

17.00 Company law implications of the judgment
Dr. Arkadiusz Radwan (Centrum C-Law.org and Kubas, Kos, Gaertner - Adwokaci)

17.20 Cartesio and the possible implications on national co-determination regimes
Bruno Mestre (PhD Candidate, EUI)

SESSION 3

17:40 Regulatory competition: comparing US and EU approaches
Prof. Simon Deakin (Cambridge University)

18:10 Discussion chaired by Prof. Miguel Poiares Maduro (EUI and AG at the European Court of Justice)

19.00 Concluding remarks

The European University Institute **Working Groups on Labour Law and on Law and Economics** are student-run initiatives bringing together PhD students working in these fields of research. The Working Groups enjoy the support of Professor Marie-Ange Moreau and Professor Fabrizio Cafaggi. For further information on our activities please consult:

<http://www.eui.eu/LAW/WorkingGroupOnLabourLaw.shtml>

<http://www.eui.eu/LAW/WorkingGroupOnLawAndEconomics.shtml>

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