

Stability through Deliberation: Finance and Public Law

Initiative: Freigeist-Fellowships

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The project investigates the relation between finance as an economic discipline and public law. Financial regulation casts economic knowledge into legal rules. However, economic knowledge is subject to permanent contestation and evolution. Legal rules are vague and might change their meaning over time. This can lead to interaction conflicts between economic knowledge and legal rules, as the recent financial crisis amply illustrates. Legal rules might lack the certainty which economic theories expect from them, while economic knowledge might not provide the guidance which the law ascribes to it. In the end, financial stability suffers. The project develops a theoretical approach to law and the place of economic knowledge in law that avoids this pitfall. It is based on a deliberative understanding of the law which sees a key function of law in the framing of decision-making processes. Economic knowledge provides deliberative input into these processes. The project applies this approach to eight case studies of interaction conflicts between finance and public law. They include comparative, European and international perspectives. Issue areas comprise debt and fiscal policy; monetary policy; financial market regulation; and taxation. For each case study, the project shows how a deliberative understanding of law might avoid or attenuate interaction conflicts. It develops legal principles which put the deliberative approach into practice in the respective areas, thus contributing to financial stability.

Projektbeteiligte

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