The Influence of International Organizations on the European Union: The EU as an Autonomous Legal Order?

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An autonomous legal order in relation to domestic legal orders

• [...] that the Community constitutes a new legal order of international law [...] (Van Gend en Loos)
• [...] the EEC Treaty has created its own legal system [...] (Costa-ENEL)

• More general trend: the autonomy of international organizations -> accountability

(R. Collins and N.D. White (Eds.), International Organizations and the Idea of Autonomy, 2010)
EU autonomy in the international legal order

• The preservation of the autonomy of the Community legal order requires [...] (Opinion 1/100; also in Opinions 1/76 and 1/91)

• [...] an international agreement cannot affect [...] the autonomy of the Community legal system [...] (Case C-459/03, MOX plant)

– In particular to safeguard its own judicial system
The *Kadi* dynamics

- the institutions [...] had no *autonomous* discretion [in relation to UNSC resolutions] (Case T-315/01, *Kadi*)
- the validity of any Community measure [...] must be considered to be the expression [...] of a constitutional guarantee stemming from the EC Treaty as an *autonomous* legal system (Case C-402/05P, *Kadi*)
Kadi, 30 Sept. 2010

• General Court: ‘the Court of Justice thus seems to have regarded the constitutional framework created by the EC Treaty as a wholly autonomous legal order, not subject to the higher rules of international law [...]’

• But, the ‘criticisms are not entirely without foundation’ (Case T-85/09, Kadi)
Autonomy

• From αὐτόνομος autonomos from αὐτο- auto- ‘self’ + νόμος nomos, ‘law’

  – Exclusive competence to create and further develop your own legal order

  • Self-government

  • The capacity to make an informed, uncoerced decision
Multilevel regulation

• Legal relationships between different international organizations and an influence of norms enacted by other international organizations on the EU legal order (trade, environment, health, finances, etc.)

• *Autonomous* law-making by the EU?
Question addressed by this conference

- The strong and explicit link between the EU and a large number of other international organizations raises questions concerning the impact of decisions taken by other international organizations and of international agreements concluded with those organizations (either by the EU itself or by its Member States) on the autonomy of the EU and its Member States.
Programme

• Panel 1: *Academic*: Normative Impact of Decisions of International Organizations and Agreements Concluded between the EU and international Organizations

• Panel 2: *Views from the Outside*: How International Organizations see the EU

• Panel 3: *Views from the Inside*: How the EU perceives the Influence of (other) International Organizations
But first…

• **Keynote Address:** How Norms Enacted by an International Organization may Play a Role in the EU Legal Order

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