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The Jean Monnet Center for International and Regional Economic Law & Justice
THE NYU INSTITUTES ON THE PARK

Call for Papers

Toward a Multipolar Administrative Law
A Theoretical Perspective

New York, September 9-10, 2012

1. Introduction

On the 9th and 10th of September, 2012, New York University (NYU) School of Law will host a seminar entitled "Toward a Multipolar Administrative Law – A Theoretical Perspective".

This initiative has emerged out of the continued collaboration between the Jean Monnet Center at NYU School of Law (centers.law.nyu.edu/jeanmonnet/index.html) and IRPA (Istituto di ricerche sulla pubblica amministrazione – Institute for research on public administration) (www.irpa.eu). In September 2010 these two institutions jointly organized a two-day seminar on "The New Public Law in a Global (Dis)Order—A Perspective from Italy": amongst the contributions presented at that event, 8 articles were published as part of the Jean Monnet Working Papers series (centers.law.nyu.edu/jeanmonnet/papers/index.html) and 5 of them were collected as a dedicated *Symposium* in **I-Con,** *The International Journal of Constitutional Law* (2011), vol. 9, issue 2, 301-448 (http://icon.oxfordjournals.org).

The purpose of this 2012 Seminar is twofold. On the one hand, it aims to review the major changes that occurred in the last 30 or 40 years in the field of administrative law, and to address the consequent transformations in the methods used to study this branch of law. On the other hand, it purports to favor a collective reflection by administrative law scholars around the world, and to enhance the creation of new conceptual tools as well as the use of new theoretical perspectives: discontinuity in the realm of administrative institutions requires discontinuity in the approaches adopted for studying administrative law.

For a long time, administrative law was conceived as a monolithic body of law, which depended on its master, the modern State. As such, administrative law was intended as the domain of stability and continuity. This conclusion was strengthened by the dogmatic approach adopted by administrative law scholarship in many European countries, where the dogmatic reinterpretation

of Roman law by the German scholar Friedrich von Savigny was taken for granted and imported into the study of administrative law.

Continuity in paradigms for study paralleled the idea of continuity in administrative institutions. However, from the last quarter of the XXth century, both assumptions became obsolete. Administrative institutions have been subjected to significant changes, due to several factors, such as globalization, privatization, citizens' participation, new global fiscal responsibilities.

The very idea that administrative law concepts could remain stable over time, therefore, has been abandoned. This Seminar moves from this claim, and it will address the most relevant issues emerging in this period of discontinuity and change. From this perspective, three main objectives will be targeted.

The first objective is to decouple the study of administrative law from its traditional nationalistic bases. According to this tradition, administrative law is national in character, and the "final frontier" of the lawyer is comparison meant as a pure scholarly exercise. On the contrary, administrative law is now grounded worldwide on some basic and common principles, such as proportionality, the duty to hear and provide reasons, due process, and reasonableness. These principles have different uses in different contexts, but they share common roots.

The second objective is to take into account the bent of each national law toward regional law (such as EU law) and global law. If leading scholars of the past labored (to a very high degree in Germany and Italy, less in France and the UK) to establish the primacy of national constitutional law ("*Verwaltungsrecht als konkretisiertes Verfassungsrecht*"), today the more pressing task is to ensure that the increasingly important role of supra-national legal orders is widely acknowledged. If once administrative law was state-centered, it should now be conceived as a complex network of public bodies (infranational, national, and supranational).

The third objective is to rebuild an integrated view of public law. Within legal scholarship, constitutional law, administrative law, and the other branches of public law have progressively lost their unity: the field of constitutional law, for instance, is increasingly dominated by the institution and practice of judicial review; and most administrative lawyers have been overwhelmed by the fragmentation of legal orders, which has led them to abandon all efforts at a theoretically comprehensive approach. The time has come to seek to reestablish some form of unitary and systematic perspective on public law in general.

To better analyze and understand such a complex framework, this Seminar aims to put together both a limited number of leading and most promising public and administrative law scholars in the world, in order to elaborate and discuss new theories and conceptual tools.

2. Toward a Multipolar Administrative Law

A multipolar administrative law is emerging. This phenomenon displays many facets, which regard several areas of research. Possible topics of study include the following sets of problems and trends:

- *globalization*: the development of some basic principles of administrative law beyond the State;
- *participation*: the experimentation of new ways to give legitimacy to administrative agencies;
- *privatization*: the public – private dividing line has blurred;
- *administrative negotiation*: administrative agencies are not any more conceived of just as executive machines and command and control bodies;
- *separation between society and administration* is less clear: administration and its law cannot be understood if the administrative culture of a country and its civic values are not studied;
- *multilateral administration*: the traditional administrative agencies – citizen is replaced by multilateral relations (a plurality of autonomous public bodies and conflicting private interests);
- *legality in crisis*: there is an increasing tension between the executives and social expectations for right – based institutions;
- *institutional layering*: administrative bodies develop increasingly interstitially and incrementally;
- *administrative emulation*: legal systems become more interdependent, increasing import and export of administrative models;
- *methodological pluralism*: development of economic and political analyses of administrative law.

3. Seminar and Call for Papers

The Seminar "Toward a Multipolar Administrative Law – A Theoretical Perspective" will be held in New York on **September 9-10, 2012**.

In order to launch this initiative, some scholars have already confirmed their participation: they are professor Joseph H.H. Weiler (NYU School of Law) and Sabino Cassese (Judge of the Italian Constitutional Court), Luisa Torchia and Giulio Napolitano (University of "Roma Tre"), and Lorenzo Casini (University of Rome "Sapienza").

Submissions from both junior and senior scholars are invited on the themes outlined above. An abstract of max 800 words should be sent (in .pdf or .doc format) to administrativelaw@irpa.eu by **March 31, 2012**. Abstracts must include a statement of the issue area of the paper, as well as an indication of the major arguments to be made, a proposed title, and postal, email and telephone contacts for the author.

Because the overall aim of the Seminar is not only to assess the consistency of the analytic categories adopted to date, but also to develop more effective and forward-looking tools and theories of administrative law, papers challenging traditional schemes as well as adopting multi-disciplinary approaches are strongly encouraged.

A selection panel will consider all abstracts received by the submission deadline, and notify applicants of paper acceptance by **April 30, 2012**. The submission date for full papers accepted for presentation is **July 31, 2012**. The final version of the paper must be no longer than 15,000 words (footnotes included) and must be sent (in .pdf or .doc format) to administrativelaw@irpa.eu.

Each participant will receive USD 1,000 from the NYU Jean Monnet Center and IRPA, which can be used to finance travel and accommodation expenses, for which they are otherwise responsible.

Papers will be presented at the Seminar and they will be assigned to discussants or commentators invited. Each session of the seminar will be structured as follows: the authors will give a short presentation of the papers (10-15 minutes each); each discussant will comment the papers, addressing the main issues raised and highlighting the relevant cross-cutting questions (15 minutes each discussant); the floor will then be open to general discussion among all seminar participants and the authors, who will be given the opportunity to reply to the comments. Discussants and participants will include leading academics in the field.

Final versions of the paper will be published, after the refereeing process, in the NYU Jean Monnet Working Papers Series. The best contributions may also become part of a *symposium* dedicated to the "New Theories of Administrative Law", to be published in *The International Journal of Constitutional Law* (**I-Con**), in this case too after the refereeing process.

Rome-New York, January 3, 2012

A .pdf version of this document is available
at centers.law.nyu.edu/jeanmonnet/index.html and at www.irpa.eu.
For any further information please contact administrativelaw@irpa.eu.