

PRIVATE AND PUBLIC-PRIVATE GLOBAL REGULATION: GLOBAL ADMINISTRATIVE LAW DIMENSIONS

1. Overview

In recent decades, the development of the market economy, the general retrenchment of public funds and resources, and growing doubts about the ability of public administrations to respond to complex and multilayered public needs have contributed to two trends. First, State and local governments have sought alternative ways to provide services by contracting out to private actors, triggering the development of hybrid public-private forms of organizing and carrying out public functions. Second, the State has increasingly opened up rule-making functions to private and public-private entities, both to gain access to expertise not present within traditional public bodies, and in recognition of the significant involvement of private actors in particular sectors.

The traditional dichotomy of public and private bodies is breaking down at the global level as well. In many regimes, the organizational framework for addressing global issues has been enriched by public-private partnerships and mechanisms. There are also cases in which fully private entities play a dominant role in regulating global issues (such as credit-rating agencies in standard-setting).

The greater flexibility of rule-making by private or hybrid entities, and the associated ability to deploy highly specialized expertise, and enable direct participation of affected parties, have contributed to a perception that production of rules and regulations by these entities is more efficient and effective than rule-making by public bodies. However, the direct or indirect delegation of administrative rule-making to private or hybrid entities may be open to criticism on both procedural and substantive grounds. How are these entities legitimate? To whom and in which ways are they accountable for their exercise of power? Are their rule-making procedures sufficient to safeguard participatory rights, and guarantee proper representation of the interests at stake? Might 'privatization' of the rule-making function erode fundamental public law values, human rights norms, social values or democratic requirements? Do the final regulatory products correspond to the needs for which they were conceived? If the involvement of hybrid entities blurs the lines between public and private authority, rather than producing a clear bifurcation of responsibilities, how is the exercise of power by different actors regulated? To what extent does competition between different bodies in standard setting and other functions provide alternative incentives and mechanisms for accountability?

The complexity of public-private dynamics is increased by the interplay between various levels of governance. Private bodies can be global and yet produce rules applicable to the national sphere, but can also be national bodies, and produce regulations of global relevance and application. How are issues related to the interaction between public and private complicated by this interplay between national and supranational realms?

From the Global Administrative Law perspective, different questions might be raised: What are the legal framework regulating these private and hybrid entities and mechanisms? How does public and private regulation affect transparency and accountability? What kinds of oversight mechanisms are provided? Which operational issues create most difficulties in the relationships between public and private actors?

The 7th Viterbo GAL Seminar will provide an opportunity to present advanced research projects on private and hybrid regulation through a global administrative law perspective. In

particular, applicants are encouraged to submit research projects concerning institutional or procedural aspects of the involvement of private or hybrid bodies in regulatory matters. The institutional dimensions of this phenomenon are particularly prominent in sectors such as the environment, cultural heritage, finance, public health, the Internet, or sports. Other examples include specific global institutions created to assist developing countries, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Global Environment Facility, or the International Fund for Agricultural Development. Procedural dimensions may arise in these sectors but also in other fields in which private actors play a significant role in rule-making (for example through participation, consultation or, as in the case of nuclear energy, specific agreements), or in instances where private actors (such as the International Organization for Standardization) adopt standards of global relevance. Applicants may take a case study approach or present a more comprehensive or cross-cutting analysis. An interdisciplinary exchange is welcomed, and papers may also draw on historical, economic and/or international relations scholarship to complement the global administrative law perspective.

2. Provisional program and next seminar

The seminar will be held in Viterbo (Italy), at the Tuscia University, on **June 10-11, 2011**. The Seminar Steering Committee includes Giulio Vesperini, Stefano Battini, Edoardo Chiti, Mario Savino, and Lorenzo Casini. The Seminar Organizing Team is made of Giulia Bertezolo, Eleonora Cavalieri, and Elisabetta Morlino.

The selected papers will constitute the basis for a thorough and wide-ranging discussion on the legal questions raised. As has been the case since the first GAL seminar in 2005, the best papers presented will be published in leading legal reviews and journals.

The overall aim of the Seminars 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 technologies of global governance. To this end, legal counsel and leading practitioners will also participate in the seminar and act as discussants or commentators, together with leading academics in the field.

In accordance with this aim of examining – and improving the effectiveness of – instruments of global governance, the theme of the **8th GAL Seminar** (June 2012) will be **“Indicators as a Technology of Global Governance”**. The call for papers will be published at the beginning of 2011. In the meantime, information about this highly significant and emerging issue is available at www.iilj.org/research/IndicatorsProject.asp.

3. Call for papers

Submissions from both junior and senior scholars are invited on the themes outlined above. An abstract of 150-500 words should be sent (in .pdf or .doc format) to ViterboGalSeminar@gmail.com by **January 5, 2011**. 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.

A selection panel will consider all abstracts received by the submission deadline, and notify applicants of paper acceptance by **January 31, 2011**. The submission date for full papers accepted for presentation is **May 10, 2011**. The final version of the paper must be no longer than 8,000 words (footnotes included) and must be sent (in .pdf or .doc format) to ViterboGalSeminar@gmail.com.

For any further information please contact: ViterboGalSeminar@gmail.com.

Rome, October 25, 2010