Max Planck Lecture Series on Sovereign Debt

Luxembourg

5 October to 14 December 2016

All lectures will take place between 16:00 and 18:00
Max Planck Lecture Series on Sovereign Debt

The Lecture Series will run from 5 October to 14 December 2016.

Background

The year 2016 marks the fifteenth anniversary of the IMF Proposal for a Sovereign Debt Restructuring Mechanism (SDRM). The SDRM was to be a global regime for sovereign debt restructuring, but it was put aside due to strong opposition from the United States and some developing countries. In the absence of a formal legal framework, the process of sovereign debt restructuring remains fragmented and uncertain. This was evidenced in the recent protracted sovereign debt restructuring negotiations, which led Argentina to fall back into default, and pushed Greece to the brink of default. The recent Eurozone debt crisis and the challenges faced by these two countries in restructuring their debts have generated renewed interest in the mechanisms for sovereign debt restructuring. The Max Planck Lecture Series on Sovereign Debt provides an opportunity to reflect on the key legal and procedural issues surrounding sovereign debt and restructuring.

The Lecture Series is organized by the Max Planck Institute Luxembourg for Procedural Law with the financial support of the Fonds National de la Recherche. The Lecture Series is comprised of six lectures delivered by highly renowned experts in the field. The six lectures are logically sequenced to ensure continuity and progression. The opening two lectures will explore the legal and economic foundations of sovereign debt and default. This will be followed by two lectures focusing on the practical challenges posed by sovereign debt crises and the limitations of the existing legal framework for sovereign debt restructuring. The final two lectures will reflect on the proposed solutions to the sovereign debt restructuring problem, and will discuss the range of proposals for reform of sovereign debt restructuring falling under the contractual and statutory approaches.
Upcoming Lectures

The Lecture Series seeks to stimulate discussion and debate on the multifaceted legal and procedural issues about sovereign debt restructuring. It will consist of six public lectures tied to a trilogy of themes: the sovereign debt problem, recent sovereign debt litigation, and reform proposals.

Wednesday, 5 October 2016, 16:00
Lecturer: Prof. Ugo Panizza (Graduate Institute Geneva)
Discussant: Prof. Pierre-Henri Conac (University of Luxembourg)
“The Law and Economics of Sovereign Debt and Default”

Wednesday, 26 October 2016, 16:00
Lecturer: Prof. Robert Howse (New York University)
Discussant: Dr. Matthias Goldmann (Goethe University Frankfurt and Max Planck Institute for Comparative Public Law and International Law)
“Sovereign Debt Restructuring and International Law”

Thursday, 3 November 2016, 16:00
Lecturer: Prof. Mathias Audit (University Paris 1 Panthéon-Sorbonne)
Discussant: Prof. Régis Bismuth (Sciences Po Paris)
“Implications of Recent Sovereign Debt Litigation: Lessons from Argentina and Greece”

Wednesday, 9 November 2016, 16:00
Lecturer: Dr. Michael Waibel (University of Cambridge)
Discussant: Prof. Rodrigo Olivares-Caminal (Queen Mary University of London)
“Investment Arbitration as a Means of Resolving Sovereign Debt Dispute”

Wednesday, 30 November 2016, 16:00
Lecturer: Mr. Philip R. Wood CBE (Allen & Overy)
Discussant: Prof. Christoph G. Paulus (Humboldt University of Berlin)
“Proposals for Reform of Sovereign Debt Restructuring: The Contractual Approach”

Wednesday, 14 December 2016, 16:00
Lecturer: Mr. Lee C. Buchheit (Cleary Gottlieb)
Discussant: Prof. Luis M. Hinojosa Martínez (University of Granada)
“Proposals for Reform of Sovereign Debt Restructuring: The Statutory Approach”
This first lecture will discuss the legal and economic foundations of sovereign debt. The logical starting point for any discussion on sovereign debt is to ask the following set of fundamental questions: What makes sovereign debt different from other debts? Why do sovereigns repay their debt? Why do lenders lend to sovereigns to start with? Why do sovereign debt crises occur? What are the legal and economic consequences of default? The lecture will respond to these questions both from legal and economic perspectives.

Lecturer: Prof. Ugo Panizza  
(Graduate Institute Geneva)

Ugo Panizza is Professor of Economics and Pictet Chair at the Graduate Institute, Geneva. He is also the Head of the Department of International Economics, the Deputy-Director of the Institute’s Centre on Finance and Development, and a CEPR Research Fellow. Prior to joining the Institute, Prof. Panizza was the Chief of the Debt and Finance Analysis Unit at the United Nations Conference on Trade and Development (UNCTAD). He also worked at the Inter-American Development Bank and the World Bank and was an Assistant Professor of Economics at the American University of Beirut and the University of Turin. His research interests include international finance, sovereign debt, banking, and political economy. He is a former member of the Executive Committee of the Latin American and Caribbean Economic Association (LACEA) and an editor of the Association’s journal Economia.
He is also a member of the editorial board of *The World Bank Economic Review*, the *Review of Development Finance*, the *Journal of Economic Systems*, and the *Review of Economics and Institutions*. He holds a PhD in Economics from the Johns Hopkins University and a *Laurea* from the University of Turin.

**Discussant: Prof. Pierre-Henri Conac**  
*University of Luxembourg*

Pierre-Henri Conac is Professor of Commercial and Company Law at the University of Luxembourg. He has written numerous articles on corporate, securities and comparative law, both in French and in English and participates regularly at conferences in Europe and internationally.

Prof. Conac is managing editor of the *Revue des Sociétés* (Dalloz), France's oldest corporate law review, and is one of the editors of the *European Company and Financial Law Review* (ECFR).
Sovereign debt is governed by both domestic and international law. Although international law remains underdeveloped (in comparison to domestic law) in this area, its general rules and principles are relevant to sovereign debt issues. The purpose of this lecture is to address those rules and principles as applicable to sovereign debt.

Lecturer: Prof. Robert Howse  
(New York University)

Robert Howse is the Lloyd C. Nelson Professor of International Law at NYU School of Law. He holds an LL.B. from the University of Toronto and an LL.M. from the Harvard Law School. He has been Visiting Professor at many foreign universities (Harvard, Tel Aviv, Jerusalem, Sorbonne, Tsinghua, and Osgoode) and taught at the Academy of European Law (Florence). Prof. Howse is a frequent consultant or adviser to government agencies and international organisations such as the OECD, the World Bank, the UNCTAD, the Inter-American Development Bank, the Law Commission of Canada and the UN Office of the High Commissioner for Human Rights. His article with Ruti Teitel “Beyond Compliance: Rethinking Why International Law Really Matters” was awarded the Global Policy Best Article Prize 2010 (shared with J. Stiglitz & al.). Prof. Howse is the author, co-author, or co-editor of numerous books, including Leo Strauss Man of Peace; Trade and Transitions; Economic
Union, Social Justice, and Constitutional Reform; The Regulation of International Trade; Yugoslavia the Former and Future; The World Trading System; and The Federal Vision: Legitimacy and Levels of Governance in the EU and the U.S.

Discussant: Dr. Matthias Goldmann
(Goethe University Frankfurt and Max Planck Institute for Comparative Public Law and International Law)

Matthias Goldmann is a Junior Professor at Goethe University Frankfurt. He studied law in Würzburg, Fribourg, and New York and received a doctorate in law from the University of Heidelberg. From 2004 until 2016, he was a Research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, where he remains a Senior Affiliate Researcher. His research focuses on international financial regulation, sovereign debt, and monetary law. In particular, he is interested in the role of law in the strained relationship between capitalism and democracy. From 2013 to 2015, he was a member of the UNCTAD Working Group on a Sovereign Debt Workout Mechanism.
Thursday, 3 November 2016, 16:00

“Implications of Recent Sovereign Debt Litigation: Lessons from Argentina and Greece”

The sovereign debt experiences of Argentina and Greece show the intricacies of the restructuring process. Although both countries had to face similar problems (restructuring of an unpayable debt and improving competitiveness to enable growth and job creation), each one had to face peculiar legal issues (for example *pari passu* clauses and remedies) that show the limitations of the existing restructuring processes. This lecture aims at drawing lessons from the recent sovereign debt litigation involving Argentina and Greece.

**Lecturer: Prof. Mathias Audit**

*(University Paris 1 Panthéon-Sorbonne)*

Mathias Audit is a Law Professor at the Sorbonne School of Law (University Paris 1 Panthéon-Sorbonne). He specializes in International Commercial Law, Private International Law, International Arbitration and Investment Law. He is the author of numerous books and publications in International Law matters, e.g. *Transnationalization of Public Contracts* (edited with S.W. Schill, Larcier, 2016), *Droit du commerce international et des investissements étrangers* (with S. Bollée & P. Callé, LGDJ-Lextenso, 2014) and *Insolvabilité des États et dettes souveraines* (LGDJ, collection “Droit des affaires”, 2011). Regarding sovereign debts and state insolvency, he launched in 2013 a research project aiming at conceiving the legal engineering necessary for State insolvency proceedings.
Régis Bismuth is Professor of Public Law at Sciences Po Law School. His main research and teaching interests lie within international economic law, financial regulation and international litigation. He is the author of several books and/or articles on financial regulation, sovereign wealth funds, sovereign debt, WTO law, international investment law, international standards and economic sanctions.
Wednesday, 9 November 2016, 16:00

“Investment Arbitration as a Means of Resolving Sovereign Debt Dispute”

In the absence of a formal mechanism for sovereign debt restructuring, sovereign creditors are increasingly turning to investment arbitration to resolve sovereign debt disputes. The issue is whether investment arbitration is the appropriate forum to resolve sovereign debt disputes will, inter alia, be addressed. The lecture will also explore the overall role of investment arbitration in sovereign debt crises.

**Lecturer: Dr. Michael Waibel**
*University of Cambridge*

Michael Waibel is University Senior Lecturer and Deputy Director of the Lauterpacht Centre for International Law and Fellow of Jesus College, Cambridge. His main research interests are public international law and international economic law with a particular focus on finance and the settlement of international disputes. He teaches international and EU law. In 2008, the American Society for International Law awarded him the Deak prize for his AJIL article ‘Opening Pandora’s Box: Sovereign Bonds in International Arbitration’. The European Society of International Law awarded him its 2012 book prize for his book *Sovereign Defaults before International Courts*
and Tribunals (Cambridge University Press, 2011). In 2014, he obtained a Leverhulme Prize which recognises “the achievement of early career researchers whose work has already attracted international recognition and whose future career is exceptionally promising.”

**Discussant: Prof. Rodrigo Olivares-Caminal** *(Queen Mary University of London)*

Rodrigo Olivares-Caminal is a Professor in Banking and Finance Law at the Centre for Commercial Law Studies (CCLS) at Queen Mary University of London. Prior to joining CCLS he was a Senior Lecturer in Financial Law and the Academic Director at the Centre for Financial and Management Studies (SOAS), University of London, and the School of Law, University of Warwick. He taught in undergraduate and postgraduate courses in various Schools of Law and Business Schools in the United Kingdom, Spain, Greece, France and Argentina as well as in professional training courses in Africa, Asia and Europe. Prof. Olivares-Caminal has also acted as a Sovereign Debt Expert for the UNCTAD, Senior Insolvency Expert for the World Bank / IFC and as a consultant to several multilateral institutions in Washington DC and Europe, Central Banks and Sovereign States as well as in several international transactions with law firms. He specialises in international finance and insolvency law.
Various proposals have been put forward to reform the current sovereign debt restructuring process. While incomplete sovereign debt contracts makes the restructuring process costly and unpredictable, Collective Action Clauses (CACs) are presented as a tool to bind creditors to a well-defined restructuring process and prevent collective action litigation. This market-oriented approach rests upon the idea that improving sovereign debt contracts is the best way to allow a more timely and orderly process without interfering with creditors’ rights. This lecture will critically assess the recent propositions to reform the restructuring process through a contractual approach.

Lecturer - Mr. Philip R. Wood CBE
(Allen & Overy)

Philip R Wood CBE, QC (Hon), BA (Cape Town), MA (Oxon), LLD (Lund, Hon)

• Head of Allen & Overy Global Law Intelligence Unit
• Special Global Counsel at Allen & Overy
• Visiting Professor in International Financial Law, University of Oxford
• Yorke Distinguished Visiting Fellow, University of Cambridge
• Visiting Professor, Queen Mary College, University of London
Philip Wood is one of the world’s leading experts in Comparative and Cross-Border Financial Law and an experienced practitioner. He works full-time for Allen & Overy in the firm’s London office. He has written around nineteen books, including nine volumes in the series “Law and Practice of International Finance” published in 2007/8. The latest book is for the general reader called *The fall of the priests and the rise of the lawyers*. He pioneered a method of measuring financial law according to key indicators and is particularly well-known for his colour-coded global law maps. He has developed a methodology for legal risk ratings of the jurisdictions of the world with regard to both their written law and the application of the law. Philip Wood was awarded a CBE in the Queen’s New Year honours list in 2015 for services to English and Financial Law.

**Discussant: Prof. Christoph G. Paulus**  
*Humboldt University of Berlin*

Christoph G. Paulus has been Professor for Civil Law, Procedural Law, Insolvency Law and Ancient Legal History at Humboldt University of Berlin since 1994. He completed his studies and his legal clerkship in Munich where he also obtained his PhD (1981) and qualified as Professor (1991). He has taught as a Guest Professor at numerous universities including University of Bocconi (Milan, Italy); University of Sydney (Australia); Lomonosov University (Moscow, Russia) and University Paris 2 Panthéon-Assas (France). Furthermore, he has been a consultant to the IMF, the World Bank and UNCITRAL.
“Proposals for Reform of Sovereign Debt Restructuring: The Statutory Approach”

Fifteen years after the IMF’s famous attempt to implement a multilateral legal framework for sovereign debt restructuring (SDRM), there is a renewed interest in such mechanisms at the international level (see UN General Assembly Resolution 68/304). The proposed legal frameworks are based on the presumption that the decentralized, market-based approach is deficient, hence the need for a more comprehensive reform. This lecture will focus on the soundness and the practicability of statutory approaches to sovereign debt restructuring.

Lecturer: Mr. Lee C. Buchheit
(Cleary Gottlieb Steen & Hamilton LLP)

Lee C. Buchheit is a Senior Partner in the Sovereign Practice Group at Cleary Gottlieb Steen & Hamilton LLP, based in New York. He has previously served in the Washington, D.C., London and Hong Kong offices of the firm. Mr. Buchheit regularly advises sovereign borrowers on their debt management activities. Over the last thirty years, Mr. Buchheit has worked on the debt restructurings of more than twenty countries including Mexico, the Philippines, Russia, Iraq and Greece.
Luis M. Hinojosa Martínez is Director of the Department of Public International Law and International Relations of Granada University and Vice-President of the ESIL. After working as an attorney in Brussels (Van Bael and Bellis law firm), he joined Granada University teaching staff. Prof. Hinojosa has delivered speeches in universities and institutions worldwide. His main areas of teaching and research include international economic law, European Union law, and international terrorism. He has published extensively on the regulation of the European Single Market, above all on the free movement of capital and the integration of European financial markets. He has dealt with the application of European law by national judges, European and international tax law, EU competencies and external economic relations. He has also analysed the legal instruments to fight terrorism, and their implications for human rights, as well as published on the concepts of sovereignty and globalization, transparency of international financial institutions, the economic analysis of law and various issues of international economic law. He has written/edited books on the European banking union (2015), international economic law (2010), international legal instruments against the financing of terrorism (2008), the competencies of the European Union (2006), fair trade and social rights (2002) and the international and European regulation of capital movements (1997). Prof. Hinojosa has been Visiting Scholar at the Stetson School of Law and in Berkeley University.
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