

**6TH CEENELS CONFERENCE
CALL FOR PAPERS**

13-14 OCTOBER 2022, TIMIȘOARA, ROMANIA

**Emerging Concepts in Legal Studies
and the Blurring of the Public-Private Distinction**

No discipline can resist without innovation, be it conceptual or epistemic. While law remains in many academic corners an epistemically closed field (indeed, one researches law in one particular manner only, that is doctrinal), it nonetheless constantly renews itself conceptually either by putting forth new concepts that specifically belong to law or by borrowing concepts from other disciplines. Many of these conceptual innovations account for the existence of new realities such as artificial intelligence, the rise of non-state actors in regulating behaviour, pandemics or the rise of populism. Others attest to a process of rethinking in relation to old legal institutions / phenomena (see the ideas associated with the new constitutionalism). Some of these are fashioned in response to local problems and remain within their initial national boundaries while others spring in one jurisdiction (or in the work of one scholar) but travel long distances claiming some sort of universal relevance.

In some cases, new vocabularies evolve to such an extent that they will eventually form a whole new specialization such as animal studies or law and regulation.

The conference invites participants, in the first place, to explore the significance of one such emerging concept (from whatever branch of law). Specifically, the authors' contribution will explain why that concept is new, how it has changed the field (or a sub-field) of law, what are its practical or theoretical consequences, whether it is deemed to be useful or potentially dangerous or how else it is likely to impact our thinking about law. Participants are encouraged to explicitly state in the title of their presentation what specific concept they will analyse.

The emergence of new concepts often means the blurring of long-established distinctions (fact vs. law, public vs. private, objective vs. subjective, etc.). Thus, the conference seeks, in the second place, to discuss those instances where such a calling into question took place. In particular, we are interested in (re)discussing the public-private law distinction.

The public-private distinction has been a structuring element of our debates about social life for over a century. It essentially relies on a conception of the public sphere as the realm of politics, authority and debate about societal values, in opposition to the private sphere – the realm of individual freedoms, privacy and non-interference of the state. While this categorisation is manifested in a number of disciplines under various forms (from sociology and economy to history and information sciences), it has also structured legal analysis in both civil law and common law systems.

Under the conventional characterization, public law regulates the interactions between the state and its citizens (through constitutional, administrative, tax and criminal law), while private law rules govern the relations between non-state actors – natural persons, corporations or other entities – and are organised in subcategories such as the law of obligations, persons and property.

With the increasing diversification of the modes and environments of social interaction, the traditional public-private divide still holds a lot of appeal in guiding law-making processes at national level. At the same time, challenges such as globalisation, the permeation of information technology in almost all aspects of societal life, the potentially systemic-altering consequences of certain economic interactions between private corporations (as well as between corporations and consumers) – all raise questions as to the important aspects of reality that the public-private law distinction might ignore or obscure. As a result, hybrid fields of law and new concepts emerge in order to structure legal knowledge in these boundary areas of “publicization” of non-state activity or privatisation of governance.

Against this backdrop, some scholars argue in favour of abandoning the distinction as artificial, maintaining it no longer serves to represent – and regulate – reality when state and non-state actors are faced with similar risks or asked to perform similar tasks. Duncan Kennedy was reflecting, as early as the 1980s, upon the decline of the public-private divide, identifying six stages of this process (with the development of intermediate terms as the second phase). A different strain of scholarship argues in favour of reviving the distinction and claiming, for instance, that its explicit adoption in certain areas of European law might lead to better law-making by supranational institutions and increase the rules’ ability to achieve policy goals.

The 2022 CEENELS conference invites participants to revisit this traditional distinction and explore the emerging legal concepts resulting from the tensions brought about by changes in society and in the interactions between state and non-state actors, at both domestic and international levels.

Contributions could address the following issues, as well as other adjacent topics:

- How has the public-private distinction evolved and how is it reflected in law?
- Does the evolution of this distinction mirror the changes in social interactions or is it no longer a useful instrument to structure legal knowledge?
- What are the criteria informing the public-private law distinction? Have they changed over time or are they perpetual?
- What are the fields straddling the public-private law divide and how can they best be characterised? Are they mixed, “intermediate” fields or should they be regarded as autonomous, external to these categories?
- What are the new or emerging legal concepts designed to operate in such boundary fields? What are some of their defining features?
- To what extent are new legal concepts inspired/borrowed from other disciplines?
- What are the consequences of the constitutionalization of private law?

Please submit your abstracts of up to 500 words by email to the following address: ceenels2022@e-uvt.ro.

Deadline for submissions: **18 September 2022**

Notification of acceptance: **23 September 2022**

Conference fee

The conference fee of **EUR 50** covers conference materials, coffee breaks and lunches on both days of the Conference and the official conference dinner. The conference fee should be paid no later than 30 September 2022 by bank transfer. Detailed instructions for payment will be provided to the selected participants with the notification of acceptance. The informal pre-conference drinks are at the participants' own expense. Please note that the organizers are unable to offer any scholarships to cover the costs of travel tickets and accommodation.

Organising team

Lucian Bojin, Sorina Doroga, Alexandra Mercescu - West University of Timisoara

About CEENELS

The Central and European Network of Legal Scholars (CEENELS) conferences are annual meetings of legal academics from Central and Eastern Europe. The CEENELS conferences were inaugurated by Prof Martin Skop at the University of Brno in 2015. CEENELS conferences are informal meetings, hosted each time by a university in Central and Eastern Europe. CEENELS does not have any bodies, boards or formalised membership. Any scholar from the region is invited to join the annual conference. If you would like to organise the next one, please come forward with your proposal during the organisational session at the end of the annual conference.

About the host of the 6th CEENELS conference

The West University of Timișoara is one of the largest public institutions of higher education in Romania and it regularly hosts national and international conferences. In particular, the Faculty of Law – which celebrates this year its 30th anniversary – has an already established tradition in proposing high standard academic events. In contrast to other law faculties in Romania, the Faculty of Law in Timișoara tries to offer, besides the classical professional training, a critically minded approach to law supposed to equip its graduates with the appropriate skills for future civic engagement and democratic reflection, as it is proved by the series of workshops promoting interdisciplinary thinking and socio-legal methods that the faculty has carried out over the years. The hosting of the CEENELS in Timișoara would thus come to enhance the Faculty's endeavours and, moreover, it would significantly contribute to the strengthening of the academic networks in the CEE region.