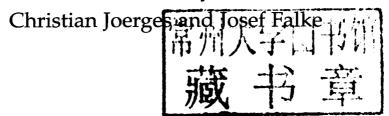
Globalisation and the Potential of Law in Transnational Markets

Edited by Christian Joerges and Josef Falke

Karl Polanyi, Globalisation and the Potential of Law in Transnational Markets

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Preface and Acknowledgements

This book is a common product of a long-term co-operation between two research projects. One, Trade Liberalisation and Social Regulation in Transnational Constellations is directed by Josef Falke and Christian Joerges in the context of the Collaborative Research Centre 597 'Transformations of the State', financed by the German Science Foundation.1 The second, Transnational Governance, Deliberative Supranationalism and Constitutionalism is directed by Christian Joerges in the context of the Integrated Project Re-constituting Democracy in Europe (RECON), supported by the European Commission's Sixth Framework Programme and co-ordinated by ARENA—Centre of European Studies at the University of Oslo.² Drafts of most of the contributions were presented at a conference in Bremen in February 2009. This conference was just one of various endeavours. Its agenda emerged from a seminar on Markets as Social Institutions, organised by the editors and their colleague Gralf-Peter Calliess in the summer term of 2008, and the core issues of the conference were taken up in a series of further seminars during the summer term of 2009. But not only does the book mirror, reflect and summarise these activities, it is also the third in a row of related efforts. The first was Transnational Governance and Constitutionalism, published just like the present volume in the 'International Studies in the Theory of Private Law'. The preparation of the second4 started with a seminar on Constitutionalising Economic Market Integration and Multilevel Governance in Europe and Worldwide organised jointly by Christian Joerges and Ernst-Ulrich Petersmann in 2003/2004 at the European University Institute in Florence, Italy, and followed by a conference on Legal Patterns of Transnational Social Regulation and International Trade in the autumn of 2004, to which a great number of researchers from the Bremen Collaborative Research Centre and the RECON Project contributed.

There is much continuity in the research agenda which these books document. And yet, the present volume opens both a new stage and new perspectives. Karl Polanyi, Globalisation and the Potential of Law in

² Details at http://www.reconproject.eu/.

¹ Details at http://www.sfb597.uni-bremen.de/?SPRACHE=en.

³ Christian Joerges, Inger-Johanne Sand and Gunther Teubner, *Transnational Governance and Constitutionalism*, (Oxford-Portland OR: Hart Publishing, 2004).

⁴ Christian Joerges and Ernst-Ulrich Petersmann, Constitutionalism, Multilevel Trade Governance and Social Regulation (Oxford-Portland OR: Hart Publishing, 2006; 2nd edn 2011).

viii Preface and Acknowledgements

Transnational Markets continues to discuss the constitutionalisation of the law of post-national constellations, but it also seeks to link these debates with the present state of economic sociology. The key figure of that renaissance is clearly Karl Polanyi, an emigrant from Austria, whose unforgettable work *The Great Transformation* was published at the end of the Second World War.⁵ The present interest in his work has certainly been intensified by the world financial crisis which erupted right after our seminar in 2008. However, our discovery of his work is older than this crisis,⁶ and our agenda will, so we confidently assume, survive this crisis. We need not believe that 'we are all Polanyians now',⁷ but we will have to live with the further migration of political contests into a globalising economy and the challenges that these processes entail for the prospects of legitimate law-mediated governance.

We wish to express our gratitude for the financial support that we have received from both of our funding institutions. We owe special thanks to Olga Batura, who shouldered the bulk of the organisational work which conferences inevitably produce.

As so often on previous occasions, Chris Engert has invested a huge amount of time, energy and diligence in the editing of all the contributions and in the preparation of their publication.

Bremen, February 2010 Christian Joerges and Josef Falke

⁵ K Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*, (Boston MA: Beacon Press, [1944] 2001).

⁶ And older than the Bremen seminar; see the references to Polanyi in G Teubner, 'Societal Constitutionalism: Alternatives to State-Centred Constitutional Theory?', in *Transnational Governance and Constitutionalism*, above note 3, 3–28, at 12, and in R Wai, 'Conflicts and Comity in Transnational Governance: Private International Law as Mechanism and Metaphor for Transnational Social Regulation through Plural Legal Regimes', in Joerges and Petersmann (eds), note 4 above, 229–62, fn 82.

⁷ J Beckert, 'The Great Transformation of Embeddedness: Karl Polanyi and the New Economic Sociology', (2007) MPIfG Discussion Paper 07/1.

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List of Abbreviations

ABS Asset-Backed Security

ACC Administrative Committee on Coordination of the

United Nations

AENOR Asociación Española de Normalización y Certificación/

Spanish Association for Standardisation and

Certification

AFNOR Association française de normalisation/French

Standardisation Organisation

BCBS The Basel Committee on Banking Supervision
BCCI Bank of Credit and Commerce International
BEREC Body of European Regulators for Electronic

Communications

BHRCC Business and Human Rights Resource Centre
BIAC Business and Industry Advisory Committee
BIS Bank for International Settlements

BISTRO Broad Index Secured Trust Offering
BIT Bilateral Investment Treaty
BSI British Standards Institution

BSI British Standards Institution
CAPM Capital Asset Pricing Model
CCNR Commission Centrale pour la Navigation du Rhin

CDO Collateralised Debt Obligation

CDS Credit Default Swap

CEB United Nations System Chief Executive Board

CEN Comité européen de normalisation

CENELEC Comité européen de normalisation électrotechnique CESR Committee of European Securities Regulators CFMA Construction Financial Management Association CFTC Commodity Futures Trading Commission

CHESSS CEN Horizontal European Service Standardization

Strategy

CISG UN Convention for Contracts on the International

Sale of Goods

COPANT Pan American Standards Commission

COPOLCO Committee on Consumer Policy of the International

Organisation for Standardisation (ISO)

CRA Credit Rating Agency

CSI Customer Satisfaction Index
CSO Civil Society Organisation
CSR Corporate Social Responsibility

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CSR EMS European Multi-Stakeholder Forum on Corporate

Forum Social Responsibility DG Directorate General

DIN Deutsches Institut für Normung/German

Standardisation Organisation

DIS Draft International Standard
DS Danish Standards Foundation

DVD Digital Versatile Disc/Digital Video Disc

E&S Economy and Society
EC European Community

ECAI External Credit Assessment Institution
ECGR European Corporate Governance Regulation

ECJ European Court of Justice

ECMR European Capital Market Regulation

ECOSOC United Nations Economic and Social Council EC Treaty Treaty establishing the European Community

ECtHR European Court of Human Rights
EDF Environmental Defense Fund (USA)
EMSF European Multi-Stakeholder Forum

ERG European Regulators Group ESC European Securities Committee

ETSI European Telecommunications Standards Institute

EU European Union

EVS Estonian Centre for Standardisation
FASP Financial Services Action Plan
FDI Foreign direct investment
FSA Financial Services Authority
FSF Financial Stability Forum
GAL Global Administrative Law

GATS General Agreement on Trade in Services
GATT General Agreement on Tariffs and Trade

GDP Gross Domestic Product

GMO Genetically Modified Organism

GPA Agreement on Government Procurement
HLCP High Level Committee on Programmes
IADI International Association of Deposit Insurers
IAIS International Association of Insurance Supervisors
ICANN Internet Corporation for Assigned Names and

Numbers

ICC International Chamber of Commerce

ICFTU International Confederation of Free Trade Unions ICID International Centre for the Settlement of Investment

Disputes

ICSID International Convention on the Settlement of

Convention Investment Disputes between States and Nationals of

Other States

ITUC International Trade Union Confederation **IEC** International Electrotechnical Commission International governmental organisation IGO

IILI Institute for International Law and Justice, New York

University School of Law

HSD International Institute for Sustainable Development

ILO International Labour Organization **IMF** International Monetary Fund

IOE International Organisation of Employers

IOSCO International Organization of Securities Commissions **ISDA** International Swaps and Derivatives Association ISO International Organization for Standardization

IT Information Technology

ITO **International Trade Organization** International Telecommunication Union ITU

L&E Law and Economy L&S Law and Society LLR Lender of Last Resort

LTCM Long Term Credit Management MAI Multilateral Agreement on Investment

MBS Mortgage Backed Security MLG Multi-level Governance

MNE Multi-National Enterprise NAF National Arbitration Forum

NASD National Association of Security Dealers **NATO** North Atlantic Treaty Organisation

National Coordinator of the Test Guidelines Programme NC **NEN** Nederlands Normalisatie-instituut/Dutch Standards

Organisation

NGO Non-Governmental Organisation **NHS** National Health Service (UK) **NICs** Newly Industrialised Countries NRA National Regulatory Authority

Organisation for Economic Co-operation and OECD

Development

Offshore Financial Centres OFC

OGBS Offshore Group of Banking Supervisors

Office of the High Commissioner for Human Rights OHCHR

OMC Open Method of Co-ordination **ONP** Open Network Provision

OTC Over-the-Counter

PASC Pacific Area Standards Congress

PISA Programme for International Student Assessment

PTT Push-to-talk/Press-to-Transmit

REACH EC Regulation on Registration, Evaluation,

Authorisation, and Restriction of Chemicals

xx List of Abbreviations

SDNY Southern District of New York SEC Securities Exchange Commission

SIV Special Investment Vehicle

SMEs Small and medium-sized enterprises SNF Swiss National Science Foundation

SPS Agreement Sanitary and Phytosanitary Measures Agreement

SPV Special Purpose Vehicle

Social Science Research Network SSRN Territory, Authority, and Right TAR TARP Troubled Assets Relief Programme **TBT Agreement** Technical Barriers to Trade Agreement

TFEU Treaty on the Functioning of the European Union

TLTransnational Law

TNC Transnational Corporation **TPRM** Trade Policy Review Mechanism

Trade-Related Aspects of Intellectual Property Rights **TRIPS UDRP** Uniform Domain Name Dispute Resolution Policy

United Kingdom UK UN United Nations

UNCITRAL The UN Commission on International Trade Law UNCTAD The UN Conference on Trade and Development The UN Commission on Transnational Corporations UNCTC

UNDP The UN Development Programme The UN Environment Programme UNEP

The UN Global Compact **UNGC**

The UN High Commissioner for Refugees UNHCR

The UN Human Rights Council **UNHRC**

The UN Industrial Development Organization UNIDO

UNODC The UN Office on Drugs and Crime

UNRISD The UN Research Institute for Social Development **UNSR** The UN Special Representative on Business and

Human Rights

The United Nations Treaty Series **UNTS**

UPU Universal Postal Union US United States of America

USGPO US Government Printing Office

VaR Value at Risk

WCDSG World Commission on the Social Dimension of

Globalization

WFA World Financial Authority **WHO** World Health Organization

WIPO World Intellectual Property Organization **WSIS** World Summit on the Information Society

WTO World Trade Organization **WWF** World Wild Fund for Nature

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