

# Dissenting Voices

European thought between tradition and rupture



**A series of webinars**

**#7: July 9th, 2021, 11:00 am (Cardiff), 12:00 am (Rome)**

# Dissenting Voices

## European thought between tradition and rupture

Webinar#7: Back to the Weimarian future  
July 9th, 2021, 11:00 Cardiff, 12:00 Rome

### Full Programme

⊕ 12-00-12:05 *Opening by Christian Joerges and Agustín Menéndez*

⊕ 12:05-12:35

● Guillaume Gregoire (Liège), *The Economic Constitution under Weimar. Doctrinal controversies and ideological struggles*

⊕ 12:35-13:05 Discussion led by Christian Joerges

The notion of “economic constitution”, which is today primarily linked to European integration, stems nevertheless from the turbulent interwar period of the Weimar Republic (1919-1933). With a specific section dedicated to the “order of economic life”, the Weimar Constitution represents a quite unique constitutional configuration that blends liberal economic principles with social objectives and with a significant number of potentially collectivist provisions. This unstable balance gave rise to an intense doctrinal debate around the concept of *Wirtschaftsverfassung*. The social-democratic scholars, led by Hugo Sinzheimer, advocated a politicization and a democratization of the economy. In an a priori paradoxical move, Schmitt and the conservative legal doctrine radicalized the socialist definition of “economic constitution”... but to better reject it for the Weimar Republic. Instead of this extension of state interventions in the economy (leading to an “economic state”), they called for an authoritarian but self-limiting state that would subordinate the economy to its authority (through cartelization) while preserving a sphere of private economic freedom. Against both these positions, the liberal Franz Böhm carried out a real theoretical coup de force: he endorsed the conservative critique of the “economic state”, but subverted Schmitt’s analysis to propose a truly liberal meaning of the concept of *Wirtschaftsverfassung*, where the “strong state” has to serve the market order and to apply the principles of the rule of law in the economy.

This (neo)liberal meaning of the concept of “economic constitution” has prevailed since the end of the World War II, notably with the European legal and economic integration. But the European economic constitution, built around a market order, seem to have entered a phase of growing opposition. In this respect, the Weimar debates might shed light on our current issues and, who knows, enable dissenting voices to reopen the path to economic democracy.

⊕ 13:05-13:35

● Fernando Losada (Helsinki), *Manuel García-Pelayo: a dissenting voice unifying Spanish speaking socio-legal scholars*

⊕ 13:35-14:05 Discussion led by Agustín Menéndez

Manuel García-Pelayo (1909-1991) was a prominent Spanish political scientist and jurist whose career was divided between Spain and Latin America. His intellectual influence is widely acknowledged among Spanish-speaking social scientists at both sides of the Atlantic Ocean, and relies on the study of the historicity of political ideas in relation to their context, thus applying an evolutionary and dynamic perspective to them. This contextual perspective to political and legal phenomena is based on his conviction that the interdisciplinary approach is the sole way to properly understand society. Importantly, according to his view economic relations are just one among the many reasons for social change in history. This wide perspective, when combined with the solid foundations resulting from the historical elaboration of political ideas and legal concepts, ultimately favoured the development of a systematic approach to society by García-Pelayo. When seen in perspective, his oeuvre elaborates a social theory of power.

From a legal point of view, the relevance of García-Pelayo's work consists in identifying the role that law plays in society. By describing the evolution of concepts, his emphasis is more on a descriptive and explanatory factual analysis rather than in the elaboration of normative categories and functions for law. The social and democratic *Rechtsstaat* (the legal dimension of the welfare state or, in García-Pelayo's terms, the "social state") is thus analysed in historical perspective, as the latest stage in a long evolution. It therefore constitutes the yardstick against which to explore and discuss the new technological, sociological and economic challenges provoking transformations in the current form of the state.

Despite its solid foundations, García-Pelayo's work cannot be considered revolutionary. As a matter of fact, it is widely used as a robust starting point for any exploration of the state and its transformations under the current circumstances – at least among Spanish-speaking scholars. This presentation will explain why, despite the general acceptance of his work, García-Pelayo should be considered a dissenting voice. Biographical and intellectual arguments will be put forward to support this claim.

⊕ 14:05-14:15 Short Break

⊕ 14:15-14:45

● Thorsten Keiser (Giessen), *Economic democracy, property and work in the Weimar constitutional experience*

⊕ 14:45-15:15 Discussion led by Ruth Dukes (Glasgow)

The Weimar Constitution was viewed critically for a long time. Its so-called design flaws were blamed for the Republic's slide into dictatorship. For some time now, the positive features of the Weimar Constitution have often been emphasised. In particular, the Weimar economic constitution contains principles that decisively shaped Germany's later "social market economy" (Soziale Marktwirtschaft). Even though the Basic Law no longer pursued the approach of an economic constitution, certain principles from Weimar continued to be important, such as the participation of workers in economic decision-making processes, described as "co-determination". In the Weimar Republic, this aspiration was partly

characterised by the term economic democracy, which had been adopted from the English, where “industrial democracy” was a concept for industrial relations. This paper aims to analytically capture the models of participation opportunities for working people in the first German democracy by looking at the norms of the Weimar economic constitution and their interpretations. This approach could also be relevant for the discussions on the EU, because some authors seem to claim that the democratisation of the economy offers forms of integration that can be discussed as alternatives or complements to the classical parliamentary patterns of representation of the nation state. In this respect, the history of the Weimar economic constitution could be considered as experience for future forms of shaping the economy.



Universidad Complutense de Madrid  
Facultad de Filosofía  
Departamento de Filosofía y Sociedad



UiO : Universitetet i Oslo

*The series of webinars “Dissenting voices” is organised jointly by Christian Joerges, Michelle Everson, John Erik Fossum, Jiří Přibáň and Agustín José Menéndez .*