

Presenter: Dr. Antonios E. Platsas

Affiliation: Lecturer in Comparative Law, University of Derby

Group: Speakers and Chairs

The Idea of Legal Convergence and Electronic Law

Abstract: The paper commences by expounding the leading thesis in the discipline of law: the law convergence thesis. Thereafter, against this background, the paper examines the diversification of electronic laws in the area of private law from a number of jurisdictions and regions by taking a macro-comparative approach. It seeks to question such diversification in the face of globalisation and in the face of a world that operates in a number of different legal regimes when it comes to electronic law matters. In particular, in the sphere of eCommerce, one notes the absence of unified instruments that touch upon the majority of legal systems around the world. The paper will then examine national/regional regimes such as Australian Electronic Communications Act 1999, the US Uniform Electronic Transactions Act 1999 and the Electronic Commerce (EC Directive) Regulations 2002. At the international level, the paper will question in effect the UNCITRAL Model Laws on Electronic Commerce and Electronic Signatures 1996 and 2001 respectively as well as the UN Convention on the Use of Electronic Communication in International Contracts 2005 the application of which is currently very limited. The paradox of the international nature of the internet and the fact that legal systems or regions choose their own regimes for matters of international nature such as e-commerce will be highlighted. The paper concludes with juxtaposing Von Savigny's old reminder that contract law (and by extension commercial law) is universal (or so it should be) and the fact that convergence of laws in the sphere of electronic law (as in eCommerce) has not been achieved in the majority of systems around the world.