

CALL FOR PAPERS: CONFERENCE ON THE 'BINDINGNESS' OF EU SOFT LAW



23 NOVEMBER 2020,
BUDAPEST, HUNGARY

With the proliferation of European Union soft law instruments since the nineties, the legal bindingness of soft norms has been the subject of some scholarly exploration. It is clear that there is a group of norms that stands in stark contrast with binding measures of EU law, with the aim of affecting change through persuasion, cooperation or good practices.

While the difference between these two classes of norms clearly exists, the exact markers of the soft/hard law divide are difficult to determine. Terpan stresses that “the difficulty with soft law is the very fluidity of the notion. Paradoxically, soft law is an oft-used concept, which is still given very different meanings as no consensus has emerged in scholarship.”

Indeed, various approaches (rationalist, constructivist, hybridity) have been deployed to define and delimit soft law from hard law, even arriving at a sophisticated taxonomy of soft and hard measures. These inquiries are of fundamental importance to formulate an ontology of European soft law. Yet the concept of soft law remains hard to pin down, for EU soft law may be ‘harder’ than expected, imposing certain obligations on the issuing EU institution or on national legislators, courts or authorities, or even affecting the rights of individuals, raising issues of legitimate expectations. Indeed, as Peters observes “soft law can have a variety of legal impacts and effects, direct and indirect ones, stronger and weaker ones.”

Several important questions arise: what makes a soft norm? Can the absence of normative or actual bindingness be a useful approach to conceptualize soft law? If so, how do we define bindingness of a norm in general, and in respect of EU law in particular? The conference aims to address these fundamental questions, inviting papers centering on normative, case-law based and comparative research. We welcome papers written from a broad range of disciplines, including works endorsing doctrinal, socio-legal and empirical approaches.



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