



**ACADEMIC
WORKSHOP**

26–27 June 2023

**DEMOCRACY
AND
COUNTER-
EXTREMISM**

Democracy and Counter-Extremism

This two-day course examines issues of counter-extremism and democratic rule. Each presentation explores the means by which counter-extremism measures reveal that conventional democratic models tend to undertheorise and/or overlook important values and justifications.

The course begins with an introduction to theoretical foundations. Besides reviewing conventional democratic models and rationales, important distinctions are drawn between positive, negative, and republican freedoms and their significance for democratic theorising. As will be reinforced throughout the course, evaluating counter-extremism measures requires the precise use of core concepts, e.g. incendiary speech and its effect on collective self-realisation.

These concerns are given a practical footing by scrutinising Germany's counter-extremism practices. By virtue of the 'principle of militant democracy', the German state can invoke in its defence an expanding range of restrictive instruments, including banning political associations and extremist parties. Questions naturally arise as to whether democracy should be militant at all and how far such defensive measures should go.

This applied approach is reinforced by three post-9/11 developments in international governance. First, the so-called 'smart' sanctions, originally used by the UN against states and state representatives, aim to immediately freeze an individual's (legal) assets and financial means. These measures arguably violate democratic due process and the procedural justice guarantees widely protected in domestic and international human rights instruments. Second, employing a preventive, risk-based approach to identifying terrorists and individuals involved in serious crime, the EU's Passenger Name Record Directive arguably departs from conceptions that humans direct their behaviour in accordance with intelligible, reliable, and predictable norms, and conflicts with the principle of autonomy central to our understanding of democracy. Third, 'citizenship-security' measures – state counter-terrorism laws curtailing movement and reducing rights access through passport withdrawals and citizenship cancellation – present exceptional challenges to our democracies, affecting individual rights, accountability dynamics, and state legitimacy.

Lastly, the course highlights two overlooked but increasingly important, democratic rationales. The first involves the role of trust in assessing the impact of counter-extremism measures available in EU law for ensuring effective and continuous cooperation on interstate and inter-organisational levels. The second is democratic accountability, which, by mapping and evaluating state accountability dynamics, enhances our understanding of differing political and constitutional structures when assessing counter-extremism measures and holding power to account.

Taken together, this course aims to help us better assess modern counter-extremism measures by tabling a comprehensive and more nuanced understanding of democratic interests, rights, and values.

Program

Monday, 26 June, 2023

09:15–09:45 Welcome/Registration

09:45–10:30 Introduction

Professor Dr. Ralf Poscher
(Director, Department of Public Law –
MPI-CSL Freiburg)

10:30–11:30 Presentation

Thinking about Conceptions of Freedom and Democracy in a Counter-Extremism Context

Dr. James Angove

11:30–12:00 Coffee break

12:00–13:00 Presentation

Reasserting Democratic Accountability: Implications for Public Security Regulation

Dr. Randall Stephenson

13:00–14:00 Lunch (onsite)

14:00–15:00 Presentation

EU Intelligence Sharing, Oversight Regulation, and Counter-Terrorism: Insights from Trust Theory

Dr. Sofiya Kartalova

15:00–16:00 Presentation

The European Arrest Warrant as the EU's Weapon against Terrorism and the Meaning of Mutual Trust

Thomas Wahl

18:00–20:00 Dinner (offsite)

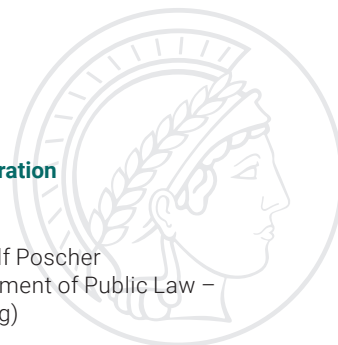
Tuesday, 27 June, 2023

09:30–10:00 Welcome/Registration

10:00–11:00 Presentation

Germany's Militant Democracy: A Danger to Democracy Itself?

Dr. Jakob Hohnerlein



PROGRAM

- 11:00–12:00** **Presentation**
**Citizenship in the Counter-Terrorist State:
Learning from Security Practices in France and
the UK**
Dr. Rachel Pougnet
- 12:00–13:00** **Lunch (onsite)**
- 13:00–14:00** **Presentation**
**Behavioural Profiling for Counter-Terrorism
Purposes: A Discussion of the EU's Passenger
Name Record Directive and its Implications for
Individuals' Autonomy**
PD Dr. Elisa Orrù
- 14:00–15:00** **Presentation**
**The Emergence of the So-Called 'Smart Sanc-
tions' – Transformation of a Symbolic Political
Instrument into a Hybrid Personalized Measure
against Suspicious Individuals**
Dr. Dr. h.c. Michael Kilchling
- 15:00–16:00** **Keynote Address**
(to be delivered in hybrid format)
**Constructing the 'Dangerous Citizen':
Challenges for Democracy and the Rule of Law**
Professor Dr. Valsamis Mitsilegas
(Professor of European and Global Law and Dean
of the School of Law and Social Justice at the
University of Liverpool)

Organisation

Event: "Democracy and Counter-Extremism"
A Max Planck Law Curriculum Event (in person)

Time: 26 and 27 June 2023

Event convenors: Professor Dr. Ralf Poscher, Dr. Sofiya Kartalova,
Dr. Randall Stephenson

Location: Max Planck Institute for the
Study of Crime, Security and Law
Fürstenbergstr. 19
79102 Freiburg
Germany
Seminar room
(ground floor, room 113)

