



Seminar

## EKATERINA MOULIAROVA

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### *Comparing Legal Cultures: Global Constitutional Values as a Point of Reference in National Legal Systems*

Tuesday, 4 June, 2019, 2:15 p.m.

In the Thunberg Lecture Hall  
SCAS, Linneanum, Thunbergsvägen 2, Uppsala  
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#### ABOUT EKATERINA MOULIAROVA

Ekaterina Mouliarova is Head of the Legal Center at the Heritage Institute Moscow. Currently, she is also affiliated with the Law Faculty of the Moscow State University, where she is registered for her habilitation and teaches on specific issues of European and comparative law and jurisprudence. She graduated from the Lomonosov Moscow State University summa cum laude and holds the degree of Doctor of Jurisprudence from Universität Regensburg.

Her research focuses on European law, comparative law, and public international law. She is interested in normative transition and means of judicial enforcement of global normative standards. Mouliarova has a keen interest in topical normative issues that reveal the social essence of law. She is involved in several research projects on law and culture. Among her publications is a monograph in German on sovereignty and concepts of integration in the Russian doctrine in the context of the European Union (2006). She has published on the European Neighborhood Policy and EU Enlargement (*The Role of Constitutional Justice in Russia in the Process of Interpretation of European Values and the Promotion of European Constitutionalism*, European University Institute, 2010), several actual issues of comparative law, such as energy relations ('EU-Russian Energy Relations' [in Russian], *The Russian Journal of Business Law* [in Russian], 2011), surrogacy and new reproduction technologies and landscape policies ('Cultural Landscape as a Legal Notion' [in Russian], *The Heritage Institute Journal*, 2016). Mouliarova's recent publications include "Europeanization by Chance or Internationalization by Choice?" and "Public Interest in Comparative Constitutional Law" (forthcoming).

During her residence at SCAS, she will work on a project comparing legal cultures and global normative values as a point of reference in national legal systems.

#### ABSTRACT

The issue of legal transplantation is of continued importance for comparing legal cultures and understanding the place of law in the process of normative integration. Global constitutional ideas migrate and the European continent, in particular, has become a space of constitutional interdependence. The opening of national constitutions towards international and supranational normative principles and the integration of national constitutions into the system of "multilevel constitutionalism" create new challenges. Should we imagine constitutionalism beyond the state? How the state sovereignty as autonomy and self-determination of nations correspond to opening of constitutional order to supranational and international norms and to modern relevance of territorial borders?

International traffic of legal ideas reflects the belief that with the introduction of the formal elements of democracy and of legal pillars of market economies a "happy end" to the transition would have followed. However, the success and forces involved in reformation processes differs from country to country. Inter alia, so called "transplant effects" occur and influence practical implementation of global transplants. New norms are implemented and enforced through existing power channels and structures, which have longer term and more continuity than the globally created norms, so finally a "mismatch" between culturally triggered power institutions and globally accepted constitutional norms occurs. Legal innovation must be introduced and accepted by domestic legal culture. Global values being fixed as constitutional principles still need to be interpreted by judges, applied in political process, perceived and reflected in the attitudes of the population. Values underlying legal order determine social choices, and can therefore provide for insight into the difficulties, and constrains linked to the transformation process: in other words, they help to understand how a particular society is responding in a normative and non-normative way towards globalization and transformation process.