

Conventions and law from a historical perspective

Introducing the panel “Conventions and law from a historical perspective”

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Introducing economics of convention

The French approach of economics of conventions (in French *économie des conventions*, in short: EC) started as a scientific movement round about three decades ago in the Paris region (Batifoulier 2001; Boltanski/Thévenot 2006; Diaz-Bone/Thévenot 2010; Eymard-Duvernay 2006a, 2006b; Favereau/Lazega 2002; Orléan 2004; Salais/Chatel/Rivaud-Danset 1998; Salais/Thévenot 1986; Storper/Salais 1997). Today, it is one of the most innovative and influential socio-political movements in France. Since the beginning of the 21st century international reception of economics of convention has increased. Nowadays, EC is evaluated in the international reception as the main representative of new French economic sociology and EC is conceived worldwide as a new pragmatist foundation to political economy. EC avoided the disastrous “division of labor” between different scientific fields and was successful in integrating the analysis of labor markets, the analysis of statistics and classifications, the study of markets and organizations and the analysis of law. This approach has its own methodological position (Diaz-Bone 2011) and today one can speak of a generation of founders – naming François Eymard-Duvernay, Olivier Favereau, André Orléan, Robert Salais, Laurent Thévenot – and one or maybe two following generations. For some years in the Germany, Austria and Switzerland some groups at different universities have emerged applying this approach into their research. Furthermore, one has to add: some more are still emerging and also outside the German speaking countries. But still the leading institutions are located in the Paris region, namely the laboratory “Institutions et dynamiques historiques de l’économie” (IDHE) at ENS de Cachan² and the “Séminaire conventions” at Nanterre University (University Paris X).³

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² See <http://www.idhe.ens-cachan.fr/>

³ See <http://economix.fr/fr/activites/sem-conventions/>

EC and law

From its beginning EC studied the coevolution of categories, organizations, culture and law (Salais/Baverez/Reynaud 1999). EC refused to think of law as a simple instrument for governance or as a simple tool for the design of efficient economic institutions as the “economic and law”-paradigm does (Diaz-Bone/Salais 2012). Also law was early regarded as an institution which was incomplete and not just predetermining action or coordination. For EC actors have to apply conventions in the production and application of law (Salais/Baverez/Reynaud 1998; Didry 2002; Diaz-Bone 2012b). Law was early conceived as a sphere of practices underlying the criteria of “justice” and “justesse” (Thévenot 1992). Jurisprudence and juridical decisions are an interesting starting point for analysis and EC tries to work out how law, its invention and its application can be understood as a dispositive for the resolution of coordination problems and the dissolution of conflicts. EC analyzes law as institution not from a pure externalist perspective (as the law-and-economics-approach does) neither from a pure internalist perspective (as law positivism does). Instead, EC focuses historical situations in which law is produced and applied as Christian Bessy (1993, 2007)⁴ did in his study of contractualization of labor and dismissals or Claude Didry (2002) did in his study of the emergence of collective conventions. All in all, EC represents a contemporary approach in the field of political economy how to include the analysis of law in a non-reductive way. More than ten years ago the famous economic sociologist Richard Swedberg (2002, 2003) claimed for an economic sociology of law which still does not exist in many other countries such as social sciences in the US, Germany, Austria, Switzerland. EC has developed it and has presented many studies seeing law in the broader frame of a pragmatist institutionalism.

Introducing “Conventions and law from a historical perspective”

The panel will present ongoing research in the field of conventions theory applied to law. The following contributions will be part of a forthcoming special issue of the international journal HISTORICAL SOCIAL RESEARCH presenting some more contributions.⁵ The new special issue is continuing the international and therefore English published reception of EC.

A first special issue, titled “Conventions and institutions from a historical perspective” (HSR 36/4), was published in 2011 and presented ten contributions from this approach (see Diaz-Bone/Salais 2011). In 2012, another issue was published (HSR 37/4) advancing the presentation of EC-based research and discussing the articles of the first special issue (see Diaz-Bone/Salais 2012).

⁴ See also the contributions in Bessy, Delpuech and Pélisse (2011).

⁵ There will be contributions from (in alphabetical order): Michela Barbot, Christian Bessy, Simon Deakin, Rainer Diaz-Bone, Claude Didry, Lisa Knoll, Edward Lorenz, Frédéric Marty, Robert Salais and Noel Whiteside.

In 2012, also a special issue of the electronic journal ECONOMIC SOCIOLOGY – European electronic newsletter was released. It was titled “Conventions, law and economy”. It presented four articles to this topic already (see Diaz-Bone 2012).

It may be useful to announce that all these special issues of HISTORICAL SOCIAL RESEARCH are open access with a delay of three years; the special issue of ECONOMIC SOCIOLOGY is open access immediately.

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