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Short presentation

Hamish's PhD thesis is titled "The translation of sectoral regulation for electricity in Danish and English contract law: *An analysis of the capacity of commercial contract law to respond to constraints inherent to the retail electricity supply market*". Supervised by Ole Hansen, the project explores the relationship between contract law and the liberalised electricity supply market in Denmark and England through studying the influence of systemic public interest considerations on private contractual relations.

Due to physical constraints and infrastructure requirements, electricity supply systems are ill-suited to incubate competition. In the policy movement towards liberalisation, inescapable base conditions imply the need for regulatory controls of market behaviour to realise public ends. Additionally, despite efforts to isolate wholesale and retail power markets, there remains a clear connection to the physical market in retail supply relationships. Indeed, supply contracts are expressly relied upon as a governance tool within the market. Accordingly, regardless of the regulatory choices made for designing retail supply arrangements, there is an inescapable connection between the supply contract and regulation within liberalised supply markets. However, despite extensive sectoral regulation, concrete transactions between suppliers and end users remain contractual in essence. Thus, conditions for supply are found within the applicable contractual terms and are controlled by contract law. Nonetheless, the regulatory framework clearly has potential private law implications. These implications cannot be excluded entirely from contract law, due to the use of contract law to perform public functions in a liberalised supply paradigm. In this sense, contract law is exposed to the dual rationalities of the supply market: the regulatory control of behaviour (regulation) and the concurrent need for free competition (facilitation). The project considers the opaque relationship between contracts, contract law, and regulation in this context. A model of translation, as an operative process, is developed to provide a means of systematising the manner through which public norms come to be considered within contract law. Overall, this is to an end of promoting legal certainty and the rule of law, which in turn support efficient markets and thus public policy goals fundamental to the legitimacy of the liberalisation process. Concurrently, the capacity of contract law to foster such a translation within existing doctrinal structures is also considered.

Hamish holds an LLB (First Class Honours) in Scots law from the University of Glasgow. He also holds an LLM from the University of Copenhagen.

Prior to starting his PhD, he worked in CEPRI as a research assistant primarily focusing on energy, with a particular emphasis on electricity market structures, the uptake of developing renewable energy technologies and the private governance of essential services.

Employment

Enrolled PhD student

The Faculty of Law - allocation

København S

31 Jul 2021 → nu

PhD fellow

PhD programme

København S, Denmark

1 Sep 2020 → 31 Jul 2024

PhD fellow

PhD programme

København S, Denmark

31 Aug 2020 → 23 Feb 2023

Research outputs

Unilateral variation clauses in Platform-User agreements

Hansen, Ole & Ritchie, Hamish George, 2022, In: European Review of Private Law. 30, 6, p. 929-950 22 p.

Private Governance of Electricity Supply to End Users: The Range and Limitations of Unilateral Variation Clauses and Contractual Discretion in Commercial Electricity Supply Contracts

Hansen, Ole & Ritchie, Hamish George, 2021, In: European Energy and Environmental Law Review. 30, 6, p. 242-254 13 p.

PhD Research:

The process of liberalising and privatising energy systems has seen electricity supply, formerly a largely nationalised endeavour, delegated to the private sector to promote public welfare through markets. However, the functioning of a competitive market is only one of several potentially competing goals in European energy policy. There remain persistent public interest notions in electricity supply, manifesting in extensive public regulation, that reflect the systemic importance of secure and environmentally friendly energy supply to society. This has created a complex interaction between the public interest and a web of private relationships that now shape the electricity sector, potentially straining traditional normative conceptions of contract law. Particularly in the supply market, contracts between private suppliers and end users can be argued to hold an administrative dimension, blurring the lines between doctrinal understandings of public and private law.

The PhD project will attempt to provide a novel analysis of the legal nature of contractual agreements within the Danish and British supply markets. It is hoped that the thesis will fill existing gaps in literature on the theoretical impact of liberalisation on private contracts for energy supply. Studying the relationship between contract, regulation and the contours of public law provides an avenue to determine the nature and effect of the unusual contractual terms typical within the sector.