

Special Workshop: Legal Fictions Revisited

Covenors: Kristin Y. Albrecht (University of Salzburg)
and Karen Petroski (Saint Louis University)

Call for Papers

Fictions of various kinds remain powerful devices of legal argumentation and justification. Following the route opened by the special workshop on legal fictions at the IVR Congress 2011, as well as the resulting book and recent publications by such scholars as Simon Stern, we invite proposals for papers investigating some less-explored aspects of the subject, in particular the philosophical foundations, comparative examination, and historical aspects of legal fictions.

Is law a fiction or fictional system? If so, what is specific about legal fictions—or do they involve the same kind of fictionality as law itself? Is fictionality a phenomenon of language, ontology, and/or epistemology? Does fictionality presuppose an authorial intention? What does it presuppose about legal audiences? What can we learn from the history of asking questions like these about law and fiction? How much should lawyers, judges, and legislators know about these matters?

Possible topics include:

I. Philosophy

- Fiction, deeming, and presumption in comparative perspective
- Fiction and definition
- Fiction and hypothesis, thought experiment, and planning
- Fiction and metaphor
- Fiction and truth
- Legal and aesthetic fictions

II. Comparative Law/Legal Theory

- Fictions in common law systems
- Fictions in civil law systems
- The role of legal fictions in the development of law

III. History of Legal Philosophy

- Jhering and Maine
- Kant and Vaihinger
- Kelsen and Vaihinger
- René Dekkers
- Oskar Buelow

Please send abstracts of no more than 500 words to Kristin Albrecht (kristin.albrecht@sbg.ac.at) and Karen Petroski (karen.petroski@slu.edu) by February 28, 2018. We will notify the authors of accepted proposals by March 15. We may schedule more than one meeting of this special workshop if the number and quality of proposed papers justify it.