EDITORIAL

// NOTA EDITORIAL

DIREITO.UnB, in its second number, follows the line given by the first edition: a space of study, discussion and thought in which juridical issues, viewed from the most diverse disciplines and perspectives, are discussed.

Three authors were invited. With the opening article, Jürgen Habermas puts in display the acute "Im sog der Technokratie: ein Pläydoer für europäische Solidarität", a chapter of his book "Im sog der Technokratie", published in 2013 by Suhrkamp and made available for the first time in a language other than German. The author presents a very detailed historic and cultural analysis of European crisis. His starting point is the identification of a paradox in European Union legitimacy, which is based on results instead of an affirming common political will. This paradox, sustained by EU's legal structure, decants itself on a decoupling of national politics and a possible European politics.

Under those conditions, Habermas argues that institutions that so far have had on their hands the weight of actions - and solutions - to the difficult time Europe is going through lack motivation and power to conduct Capital's imperatives, trying to overcome the abyss created between what is economically needed and what is politically possible through a technocratic way, which does not suffice to salvage the social and economic differences aggravated by the crisis. However, he proposes an alternative way: to follow a direction of European solidarity, rebuilt historically and conceptually as a common interest in integrity as a shared way of life. Enabling an Euro Zone growth as a whole, Federal Republic of Germany - being one of the main nations that had benefits from the crisis - would have to accept, on the short term, distributives effects that would have negative outcomes to its self interest, precisely due to that solidarity.

Marcílio Tosca Franca Filho and Maria Francisca Carneiro offer us the innovative "What Law Tastes Like", inventively, based on American author Susan Sontag's provocative essay called "Against Interpretation". Both authors develop the existing relation between culture and gastronomy, and then approach them to Law. The reader is stimulated to think about the modern panorama of juridical epistemology through analysis that includes comparisons such as wine production with its different steps and the development of thesis, essays and articles so that, as it is done with wine, involves not only collection of necessary elements to the creation of juridical knowledge but also depuration of those.

Were approved, by *blind peer review*, four articles of a total of 30 submitted.

Ramón Negocio presents his work "Lex Sportiva: the analysis of juridical efficacy to transconsitutional problems". The article goes on over a structural analysis of *lex sportiva* from transconstitutionalist perspective, pointing out the existence of a double movement on the phenomenon of integration of juridical system in face of juridical problems without territoriality. Thus, on the same time that through a conceptualization of law equality and a new meaning of international law principles related to human rights, *lex sportiva* has affirmed itself as autonomous in face of the complex network that composes present day sporting structure, which (due to many different interest within competitions)

distinguishes for exercising a strong control over its actors. The author displays how supranational order imposes it a constitutional learning. However, sportive order does not lose recognition of the validity of its decisions, such as when the European Court limits itself before matters considered exclusively of sports. The same thing happens when orders mutually mention each other. To the discretion of the author, that double movement shows a tangling which constitutes possibilities of recognition of those orders otherness.

Maria Cândida Carvalho Monteiro de Almeida contributes with "Export Processing Zones and the Law of the World Trade Organization", thinking about compatibility among export processing zones (EPZs) and World Trade Organization (WTO). The author states that one of the aspects common to roughly all ZPEs is the insertion of tax that effects importing of goods, which is a forbidden subsidy to export under SMC's Agreement article 3.1(a). Furthermore, concerning this prohibition, which has obvious incoherence, no litigation has happened on the WTO yet, because it is not on most countries interests to start controversy every time this prohibition is not enforced, given that insertion is part of a drawback scheme adopted on a national politics context that has a general character.

On her "Dispute Settlement Body of the WTO: access to developing countries?" article, Inez Lopes analyses quantitatively and qualitatively access to the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) jurisdiction by member-States. With that horizon, the author displays inequality among benefits received by developed countries and high-income developing countries in contrast to countries that have not developed its use of the DSB. Although DSB is important in maintaining multilateral trade system on a global level, and less developed countries access' is an advance in that sense, it also consists on a negative to complete efficacy of the system.

Political Scientist Fernando Fontainha proposes, critically, a comparative essay on the process of lawyer's production in France and in Brazil. Through consideration of different social realities, he exposes contrasts among both countries, bringing into the light differences such and non-differentiation of roles in Brazilian legal formation, and enlightens how the most important backstage institution on the development of Brazilian lawyers - the Law Schools - are not capable of fulfilling expectations of forming *ultraprofessionals* capable of exercising every possible legal profession, since they lack the needed tool for this task.

On the session of comments and case of law analyzes, we have invited two featured researchers to discuss Supreme Federal Court's decision on the Lawsuit of Noncompliance to Fundamental Precept (ADPF) n. 54/2004 on pregnancy interruption whenever fetal anencephaly is verified. Débora Diniz, on her analysis named "The Architecture of a Constitutional Case in Three Acts – Anencephaly at the Brazilian Supreme Court"; portraits with detail the debate that led to the ADPF's decision. Rebuilding, spotlessly, the political and argumentative course of the mentioned ADPF - in a similar way to Greek theater - the author names

the three historical acts that allowed a positive decision to the interruption of pregnancy due to fetal anencephaly: whispering, announcement and spectacle. She brings to sight - almost archeologically - the decision of Judge Jurandir Rodrigues Brito, given on Ariquemes County, State of Rondônio, in 1989. With the purpose of showing how in this decision's history (and in all of them) exists a sequence of ruptures and continuities that mark the lawsuit's course, but can be shown on the concrete case as a result of academic, juridical and political dynamics that, although different, unfold coordinately. Ingo Sarlet, on his turn, puts Supreme Court decision on the right to life's context and its relation to other rights and fundamental principles, focusing his analysis on the development of the before mentioned right and the juridical-constitutional issues of its protection. Thus, he criticizes - through his point of view - a lack of compliance between elements whose origins are on different areas of Law, although presented on the votes, and along with word games developed by the Justices when qualifying that anencephaly cases would not be actually about abortion, but childbirth therapeutic anticipation. The author brings to the reader's attention that what should be examined and the existence of a constitutionally solid justification so as to, exceptionally, admit pregnancy interruption.

At last, on the review's section, two books are analyzed, one of a Brazilian author: José Rodrigo Rodriguez, *Como decidem as cortes?* By Matheus Barra; and one of two Chilean authors: Renato Cristi and Pablo Ruiz-Tagle, *El Constitucionalismo del miedo: propiedad, bien común y poder constituyente* by Nathaly Mancilla Órdenes.

On this second number, which ends the Journal's first volume, we are certain that the proposal of constructing a Law Journal to turn Brazilian juridical culture international, allowing a permanent academic and interdisciplinary debate with regard to a legal "what to do", and that lives up to complexity and synchrony of modern society, is becoming reality.

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