

EUROPEAN PAPERS

A JOURNAL ON LAW AND INTEGRATION

VOL. 3, 2018, No 3



www.europeanpapers.eu



EDITORS

Ségolène Barbou des Places (University Paris 1 Panthéon-Sorbonne); Enzo Cannizzaro (University of Rome "La Sapienza"); Gareth Davies (VU University Amsterdam); Christophe Hillion (Universities of Leiden, Gothenburg and Oslo); Adam Lazowski (University of Westminster, London); Valérie Michel (University Paul Cézanne Aix-Marseille III); Juan Santos Vara (University of Salamanca); Ramses A. Wessel (University of Twente).

ASSOCIATE EDITOR

Nicola Napolitano (University of Rome "Unitelma Sapienza").

EUROPEAN FORUM EDITORS

Charlotte Beaucillon (University of Lille); Stephen Coutts (University College Cork); Daniele Gallo (Luiss "Guido Carli" University, Rome); Paula García Andrade (Comillas Pontifical University, Madrid); Theodore Konstantinides (University of Essex); Stefano Montaldo (University of Turin); Benedikt Pirker (University of Fribourg); Oana Stefan (King's College London); Charikleia Vlachou (University of Orléans); Pieter Van Cleynenbreugel (University of Liège).

SCIENTIFIC BOARD

M. Eugenia Bartoloni (University of Campania "Luigi Vanvitelli"); Uladzislau Belavusau (University of Amsterdam); Marco Benvenuti (University of Rome "La Sapienza"); Francesco Bestagno (Catholic University of the Sacred Heart, Milan); Giacomo Biagioni (University of Cagliari); Marco Borraccetti (University of Bologna); Susanna Maria Cafaro (University of Salento); Roberta Calvano (University of Rome "Unitelma Sapienza"); Federico Casolari (University of Bologna); Emanuele Cimiotta (University of Rome "La Sapienza"); Roberto Cisotta (LUMSA University, Rome); Angela Cossiri (University of Macerata); Francesco Costamagna (University of Turin); Gráinne de Búrca (New York University School of Law); Chiara Favilli (University of Florence); Ester Herlin-Karnell (VU University of Amsterdam); Costanza Honorati (University of Milano-Bicocca); Sara Iglesias Sanchez (Court of Justice of the European Union); Francesca Ippolito (University of Cagliari); Clemens Kaupa (VU University Amsterdam); Jeffrey Kenner (University of Nottingham); Jan Klabbers (University of Helsinki); Dmitry Kochenov (University of Groningen); Vincent Kronenberger (Court of Justice of the European Union); Mitchel Lasser (Cornell Law School, Ithaca – New York); Philippe Maddalon (University Paris 1 Panthéon-Sorbonne); Stefano Manacorda (Second University of Naples); Maura Marchegiani (University for "Foreigners" of Perugia); Mel Marquis (European University Institute, Florence); Fabrizio Marrella (University of Venice "Ca' Foscari"); Francesco Martucci (University Paris 2 Panthéon-Assas); Rostane Mehdi (University Paul Cézanne - Aix-Marseille III); François-Xavier Millet (Court of Justice of the European Union); Vincenzo Mongillo (University of Rome "Unitelma Sapienza"); Elise Muir (Maastricht University); Fernanda Nicola (Washington College of Law, American University); Raffaella Nigro (University of Perugia); Massimo Francesco Orzan (Court of Justice of the European Union); Tom Ottvanger (University of Leiden); Lorenzo Federico Pace (University of Molise); Etienne Pataut (University Paris 1 Panthéon-Sorbonne); Fabrice Picod (University Paris 2 Panthéon-Assas); Emanuela Pistoia (University of Teramo); Sara Poli (University of Pisa); Jorrit Rijpma (University of Leiden); Sophie Robin-Olivier (University Paris 1 Panthéon-Sorbonne); Andrea Saccucci (Second University of Naples); Lorenzo Schiano di Pepe (University of Genua); Heike Schweitzer (Free University of Berlin); Silvana Sciarra (Italian Constitutional Court); Francesco Seatzu (University of Cagliari); Erika Szyszczak (University of Sussex); Chiara Enrica Tuo (University of Genua); Benedetta Ubertazzi (University of Milano Bicocca); Simone Vezzani (University of Perugia); Annamaria Viterbo (University of Turin); Jan Wouters (University of Leuven).

EDITORIAL COMMITTEE

MANAGING EDITORS: Giulia D'Agnone (Magna Graecia University of Catanzaro); Alberto Miglio (University of Milan "Bicocca"); Aurora Rasi (University of Rome "La Sapienza"); Andrea Spagnolo (University of Turin).

European Papers is a double-blind peer-reviewed journal. This Issue of the *e-Journal* (final on 31 January 2018) may be cited as indicated on the *European Papers* web site at *Official Citation*: *European Papers*, 2018, Vol. 3, No 3, www.europeanpapers.eu.

ISSN 2499-8249 – *European Papers* (Online Journal)

Registration: Tribunal of Rome (Italy), No 76 of 5 April 2016.



This work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.

Web site Copyright © *European Papers*, 2016

EUROPEAN PAPERS

A JOURNAL ON LAW AND INTEGRATION

VOL. 3, 2018, NO 3

EDITORIAL

Extra Unionem Nulla Salus? *The UK Withdrawal and the European Constitutional Moment* p. 1041

ARTICLES

Fabien Terpan, *EU-US Data Transfer from Safe Harbour to Privacy Shield: Back to Square One?* 1045

SPECIAL SECTION – EU CITIZENSHIP, FEDERALISM AND RIGHTS

edited by Dimitry Kochenov

Dimitry Kochenov, *EU Citizenship: Some Systemic Constitutional Implications* 1061

David A.J.G. de Groot, *Free Movement of Dual EU Citizens* 1075

Araceli Turmo, *The Pernicious Influence of Citizenship Rights on Workers' Rights in the EU: The Case of Student Finance* 1115

Katerina Kalaitzaki, *EU Citizenship as a Means of Empowerment for Fundamental Rights During the Financial Crisis* 1139

Antonio Ianni, *The European Citizens' Initiative in Light of the European Debt Crisis: A Gateway Between International Law and the EU Legal System* 1159

Daniel Carter and Moritz Jesse, *The 'Dano Evolution': Assessing Legal Integration and Access to Social Benefits for EU Citizens* 1179

Hester Kroeze, *Distinguishing Between Use and Abuse of EU Free Movement Law: Evaluating Use of the “Europe-route” for Family Reunification to Overcome Reverse Discrimination* p. 1209

Sébastien Platon, *The Right to Participate in the European Elections and the Vertical Division of Competences in the European Union* 1245

Sofya Kudryashova, *The Sale of Conditional EU Citizenship: The Cyprus Investment Programme Under the Lens of EU Law* 1265

SPECIAL SECTION – EU CITIZENSHIP IN TIMES OF BREXIT

edited by Elise Muir *and* Nathan Cambien

Elise Muir and Nathan Cambien, *Introduction* 1289

Sacha Garben, *European Higher Education in the Context of Brexit* 1293

Anne Pieter van der Mei, *EU Citizenship and Loss of Member State Nationality* 1319

Nathan Cambien, *Residence Rights for EU Citizens and Their Family Members: Navigating the New Normal* 1333

Elise Muir, *EU Citizenship, Access to “Social Benefits” and Third-Country National Family Members: Reflecting on the Relationship Between Primary and Secondary Rights in Times of Brexit* 1353

Natassa Athanasiadou, *The European Citizens’ Initiative in Times of Brexit* 1379

Pie Van Nuffel and Sofia Afanasjeva, *The Posting of Workers Directive Revised: Enhancing the Protection of Workers in the Cross-border Provision of Services* 1401

Christa Tobler, *Free Movement of Persons in the EU v. in the EEA: Of Effect-related Homogeneity and a Reversed Polydor Principle* 1429

EUROPEAN FORUM

Insights and Highlights 1453



European Papers web site: www.europeanpapers.eu. The web site is an integral part of *European Papers* and provides full on-line access to the contributions published in the four-monthly *e-Journal* and on the *European Forum*.

Submission of Manuscripts to European Papers: complete instructions for submitting a manuscripts are available on the *European Papers* web site at **Submitting to the e-Journal**. Before submitting their manuscripts, Authors are strongly recommended to read carefully these instructions and the *Style Guide*. Authors are invited to submit their manuscripts for publication in the *e-Journal* to the following e-mail address: submission@europeanpapers.eu. Manuscripts sent through other channels will not be accepted for evaluation.

Manuscripts Submission and Review Process: complete instructions for submitting a manuscripts are available on the *European Papers* web site.

1. *European Papers* encourages submissions for publication in the *e-Journal* and on the *European Forum*. Submissions must be related to the distinctive field of interest of *European Papers* and comply with the **Submission to the e-Journal** and **Submission to the European Forum** procedures, and with the *Style Guide*.
2. Authors are invited to submit their manuscripts to the following e-mail address: submission@europeanpapers.eu. Authors are also requested to produce a short CV and to fill in, subscribe and submit the *Copyright and Consent to Publish* form. Authors must indicate whether their manuscript has or will be submitted to other journals. Exclusive submissions will receive preferential consideration.
3. *European Papers* is a double-blind peer-reviewed journal.
4. Manuscripts submitted for publication in *European Papers* are subject to a preliminary evaluation of the Editors. Manuscripts are admitted to the review process unless they do not manifestly comply with the requirements mentioned above or unless, by their object, method or contents, do not manifestly fall short of its qualitative standard of excellence.
5. Admitted manuscripts are double-blindly peer-reviewed. Each reviewer addresses his/her recommendation to the reviewing Editor. In case of divergent recommendations, they are reviewed by a third reviewer or are handled by the reviewing Editor. Special care is put in handling with actual or potential conflicts of interests.
6. At the end of the double-blind peer review, Authors receive a reasoned decision of acceptance or rejection. Alternatively, the Authors are requested to revise and resubmit their manuscript.

Books for Review ought to be sent to Prof. Enzo Cannizzaro (*Book Review Editor*), Department of Legal Sciences, University of Rome "La Sapienza", Piazzale Aldo Moro, 5 – I-00185 Rome (Italy); e-books ought to be sent to: submission@europeanpapers.eu. The books will not be returned. Submission does not guarantee that the book will be reviewed.

Administration and contact information: Research Centre for European Law c/o "Unitelma Sapienza" – University of Rome, Viale Regina Elena, 295 – I-00161 Rome (Italy) – info@europeanpapers.eu.

Abstracting and Indexing Services: *European Papers* is applying to join, *inter alia*, the services mentioned on the *European Papers* web site at *International Abstracting and Indexing Services*.

EDITORIAL

Extra Unionem Nulla Salus? *The UK Withdrawal and the European Constitutional Moment*

ARTICLES

Fabien Terpan, *EU-US Data Transfer from Safe Harbour to Privacy Shield: Back to Square One?*

SPECIAL SECTION – EU CITIZENSHIP, FEDERALISM AND RIGHTS

edited by Dimitry Kochenov

SPECIAL SECTION – EU CITIZENSHIP IN TIMES OF BREXIT

edited by Elise Muir *and* Nathan Cambien

EUROPEAN FORUM

Insights and Highlights