

EUROPEAN PAPERS

A JOURNAL ON LAW AND INTEGRATION

VOL. 6, 2021, No 2



www.europeanpapers.eu



EDITORS

Sérolène Barbou des Places (University Paris 1 Panthéon-Sorbonne); Enzo Cannizzaro (University of Rome "La Sapienza"); Gareth Davies (VU University Amsterdam); Adam Lazowski (University of Westminster, London); Juan Santos Vara (University of Salamanca); Daniel Thym (University of Konstanz); Ramses A. Wessel (University of Groningen).

ASSOCIATE EDITOR

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

EUROPEAN FORUM EDITORS

Charlotte Beaucillon (University of Lille); Stephen Coutts (University College Cork); Stefano Montaldo (University of Turin); Benedikt Pirker (University of Fribourg).

EDITORIAL COMMITTEE

MANAGING EDITORS: Giulia D'Agnone (University of Campania "Luigi Vanvitelli"); Mauro Gatti (University of Bologna); Stefano Montaldo (University of Turin); Ilaria Ottaviano (University of Chieti-Pescara "G. d'Annunzio"); Luca Pantaleo (University of Cagliari); Aurora Rasi (University of Rome "La Sapienza"); Daniela Vitiello (University of Tuscia).

EDITORIAL STAFF: Micol Barnabò (University of Rome "La Sapienza"); Filippo Croci (University of Milan); Sara Fattorini (University of Rome "La Sapienza"); Giulio Fedele (University of Rome "La Sapienza"); Delia Ferri (Maynooth University); Ulyana Kohut (University of Rome "La Sapienza"); Sarah Lattanzi (University of Rome Tor Vergata); Rossella Pulverenti (University of Nottingham); Cristina Renghini (University of Macerata); Alessandro Rosanò (University of Turin); Stefano Saluzzo (University of Piemonte Orientale); Francesca Varvello (University of Turin); Susanna Villani (University of Bologna).



EUROPEAN PAPERS - JEAN MONNET NETWORK
SALAMANCA - SAPIENZA - GRONINGEN - KONSTANZ
SORBONNE - UNITELMASAPIENZA - AMSTERDAM
610707-EPP-1-2019-1-ES-EPPJMO-NETWORK

With the support of the
Erasmus+ Programme
of the European Union



European Papers is a double-blind peer-reviewed journal. This Issue of the *e-journal* (final on 13 November 2021) may be cited as indicated on the *European Papers* web site at **Official Citation:** *European Papers*, 2021, Vol. 6, No 2, www.europeanpapers.eu.

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

doi: 10.15166/2499-8249/0

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*, 2016-2021.

EUROPEAN PAPERS

A JOURNAL ON LAW AND INTEGRATION

VOL. 6, 2021, NO 2*

EDITORIAL

Sovereign Within the Union? The Polish Constitutional Tribunal and the Struggle for European Values p. 1117

ARTICLES

Davor Petrić, *Reasoning, Interpretation, Authority, Pluralism, and the Weiss/PSPP Saga* 1123

Lennart Laude, *Creating European Public Spheres: Legitimising EU Law Through a Reconfiguration of European Political Parties* 1151

Diego Ginés Martín, *In Limbo: Divergent Conceptualisations of Ill-treatment by European Courts and the Creation of Non-removable Migrants* 1173

Luca Calzolari, *The Misleading Consequences of Comparing Algorithmic and Tacit Collusion: Tackling Algorithmic Concerted Practices Under Art. 101 TFEU* 1193

USING THE HISTORICAL ARCHIVES OF THE EU TO STUDY CASES OF CJEU – SECOND PART

edited by Marise Cremona, Claire Kilpatrick and Joanne Scott

Jaka Kukavica, *The Garden Grows Lusher: Completing the Narratives on Opinion 1/75* 869

Sarah Tas, *Defrenne v SABENA: A Landmark Case with Untapped Potential* 881

* The page numbering follows the chronological order of publication on the *European Paper* web site.

Aruna Michiels, <i>Commission v Belgium and Its Dossier de Procédure: A New Resource for Socio-legal Research</i>	p. 891
Diego Ginés Martín, <i>The Court of Justice, Genuine Disputes and Jurisdictional Control: Making Sense of Foglia II in Light of Its Dossier</i>	903
Lola Avril and Constantin Brissaud, A “Europe of Lawyers”? The Making of a Database on Cases and Lawyers of the CJEU	913
Morten Rasmussen, <i>Towards a Legal History of European Law</i>	923
Niamh Nic Shuibhne, <i>The Benefits of Time Travel: Harnessing the Potential of the Historical Archives of the Court of Justice for Legal Research</i>	933
 SHAPING THE FUTURE OF EUROPE – SECOND PART	
<i>edited by Sandra Hummelbrunner, Lando Kirchmair, Benedikt Pirker, Anne-Carlijn Prickartz and Isabel Staudinger</i>	
Viviana Sachetti, <i>The EU Response to Terrorist Content Online: Too Little, (Maybe not) Too Late?</i>	967
Corinna Potocnik-Manzouri, <i>The ECN+ Directive: An Example of Decentralised Co-operation to Enforce Competition Law</i>	987
Christian Gelleri, <i>Reshaping the Future of Europe with Complementary Currencies</i>	1015
Janine Prantl, <i>Shaping the Future Towards a Solidary Refugee Resettlement in the European Union</i>	1027
Josef Weinzierl, <i>An Army of Peoples? A Democratic Perspective on a Future European Army</i>	1049
Luigi Lonardo, <i>EU Law Against Hybrid Threats: A First Assessment</i>	1075

EUROPEAN FORUM

<i>Insights and Highlights</i>	IX
--------------------------------	----



EUROPEAN FORUM

The following *Insights*, included in this issue*, are available online [here](#).

INSIGHTS

- Guido Bellenghi, *The General Court in Amazon and Engie: A New Effect-based Approach Aimed at the Endorsement of the “Vestager Doctrine”?* p. 1097
- Francesco Liguori, *Sulla riformulazione dei criteri CILFIT: le Conclusioni dell’A.G. Bobek nel caso Consorzio Italian Management e Catania Multiservizi* 955
- Christina Neier, *New Clarifications on Ending the Union Citizen’s Right of Residence: The Grand Chamber Decisions of the European Court of Justice of 22 June 2021 in C-718/19 and C-719/19* 941

* The page numbering follows the chronological order of publication on the *European Paper* web site.



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 manuscript 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: *European Papers* – 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

Sovereign Within the Union? The Polish Constitutional Tribunal and the Struggle for European Values

ARTICLES

Davor Petrić, *Reasoning, Interpretation, Authority, Pluralism, and the Weiss/PSPP Saga*

Lennart Laude, *Creating European Public Spheres: Legitimising EU Law Through a Reconfiguration of European Political Parties*

Diego Ginés Martín, *In Limbo: Divergent Conceptualisations of Ill-treatment by European Courts and the Creation of Non-removable Migrants*

Luca Calzolari, *The Misleading Consequences of Comparing Algorithmic and Tacit Collusion: Tackling Algorithmic Concerted Practices Under Art. 101 TFEU*

USING THE HISTORICAL ARCHIVES OF THE EU TO STUDY CASES OF CJEU – SECOND PART

edited by Marise Cremona, Claire Kilpatrick *and* Joanne Scott

SHAPING THE FUTURE OF EUROPE – SECOND PART

edited by Sandra Hummelbrunner, Lando Kirchmair, Benedikt Pirker, Anne-Carlijn Prickartz *and* Isabel Staudinger

EUROPEAN FORUM

Insights and Highlights