



CONFERENCE

## SETTING AN AGENDA FOR HISTORICAL RESEARCH IN EUROPEAN LAW

### Actors, Institutions, Policies and Member States

9 December 2015

The Historical Archives of the European Union  
Villa Salviati  
Via Bolognese 156 - 50139 Firenze

10 – 11 December 2015

Villa Schifanoia, Sala Europa  
Via Boccaccio 121,  
50133 Firenze

## ■ DESCRIPTION

Organisers: European University Institute (Academy of European Law, Alcide De Gasperi Research Centre, Department of History and Civilization, Department of Law, Historical Archives of the European Union), and the research project *Towards a New History of European Public Law*, hosted by the SAXO Institute, University of Copenhagen, and funded by the Danish Agency for Science and Technology and Innovation.

In the last decade, historians have finally begun to explore the history of European Union law based on the documents of recently opened private, state and European archives. The emerging historical scholarship contributes with a new understanding of the development of European law and it opens a debate over how to interpret the role and nature of European law in the broader contexts of European integration and international law. This conference offers a thematic selection of historical analyses but crucially brings in a number of leading historical, legal and political science scholars in order to discuss and re-interpret the history of European law. The aim is to develop a new broader and more reflective agenda for future historical research in EU law and hopefully also contribute to the broader field of interdisciplinary research in European law.

The conference will explore four themes: Firstly, what role did the European institutions play? Historical research tends to emphasise the agency of the European institutions in creating a constitutional practise in European law, a practise that was underpinned by the development of the academic discipline of European law. But how should we understand the nexus between the development of European law and the consolidation and development of the European institutions? Secondly, the role and influence of individual actors will be analysed. What are the strengths and limitations of biographical studies? And are there a number of personalities in the history of European law that warrants particular attention? Thirdly, the role of law in the policy making of the European Community is explored. This includes both examples of what could be called judicial policy, i.e. politicised developments of European law, but also the role of law in the development of European public policies. Finally, the conference addresses the complex interplay between the development of European law and the reception and various types of feedback of key member states. Historical

research strengthens an existing trend in scholarship by emphasising just how much the member states legal traditions and the contestation created by the constitutional practise of European law feed back into the development of European law. But how do we best conceptualise and understand the diverse examples of these processes?

Apart from reflecting on the history of European law, the conference will also be marked on its first day by the opening of the historical archives of the European Court of Justice to the research community. Based on an agreement signed in July 2014, the Court of Justice deposited its historical archives in Florence and is currently establishing procedures on opening the archives to research, which will be marked on 9 December with the presence of the President and the Registrar of the Court. The first day will continue in the afternoon with the presentation of various private, governmental and EU archival resources on the history of European law that have recently been collected and deposited in Florence and a new web page on the history of European law hosted by the Historical Archive of the European Union. Finally the session will conclude with a presentation of a new oral history project on the legal service of the Commission. Both the webpage and the oral history are the result of cooperation between the Historical Archives and the research project *Towards a New History of European Public Law*, University of Copenhagen.

In total, the conference will mark a point of reflection of what has been achieved in this new field of legal history and chart directions for future research.

## ■ **DRAFT PROGRAMME**

### **Wednesday 9 December**

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|---------------|---|
| 10.00 – 10.30 | <b>The Opening of the Historical Archives of the European Court of Justice</b><br><br><i>Welcome</i><br>Dieter Schlenker<br><br><i>Opening</i><br>Joseph H. H. Weiler and Pasquale Ferrara<br><br><b>Archives, Memory and History: The European Court of Justice</b><br>Chair: Dieter Schlenker |
| 10.30 – 11.00 | <i>Title TBD</i><br>Koen Lenaerts   |
| 11.00 – 11.20 | <i>Title TBD</i><br>Timothy Millet  |
| 11.20 – 11.35 | Coffee Break  |
| 11.35 – 12.10 | <i>The European Court of Justice and the History of European law</i><br>Frank Schorkopf   |
| 12.10 – 13.00 | <i>Title TBD / Two testimonies:</i><br>Carl Otto Lenz<br>Claus-Dieter Ehlermann   |
| 13.00 – 14.30 | Lunch   |

## **Oral History and Archival Resources on European Law History**

Chair: Federico Romero

- 14.30 – 15.00 *A Detective Story: Archival Research on the History of European law*  
Morten Rasmussen
- 15.00 – 15.30 *Hosted Memory: Resources on the History of European Law at the Historical Archives of the European Union*  
Dieter Schlenker
- 15.30 – 16.00 *Voices on the Past: The Oral History Project of the Legal Service of the European Commission 1958 to 1986*  
Sigfrido Ramirez Pèrez
- 16.00 – 16.30 Discussion
- 16.30 – 17.00 Visit to the Historical Archives of the European Union

### **Thursday 10 December**

- 9.00 – 9.30 *Introduction and welcome*  
Federico Romero, Marise Cremona, and Morten Rasmussen
- 9.30 - 12.00 **The Making of European Constitutionalism – A Supranational Strategy?**  
Chair: Marise Cremona  
Discussants: Mark Pollack and Stefan Vogenauer
- The Constitutional Dream – The History of the European Court of Justice*  
Vera Fritz
- Establishing a Constitutional Practice – The Role of the Legal Service of the Commission*  
Sigfrido Ramirez Pèrez
- The History of European Law Academia – Between Facts and Norms*  
Rebekka Byberg
- Discussion
- 12.00 – 13.30 Lunch (invited speakers and discussants only)
- 13.30 – 16.00 **The Role of the Individual – Strengths and Limitations of Biographical Methods**  
Chair: Piers Ludlow  
Discussants: Alexandra Kemmerer and Federico Romero
- Influence from the Sideline: Michel Gaudet and the Early Development of European Law*  
Anne Boerger
- Pierre Pescatore: An Activist of European Integration through Law*  
Vera Fritz

*Gaullism and European Law: The Battles of Michel Debré*  
Alexandre Bernier

Discussion

16.00 – 16.30

Coffee break

16.30 – 18.00

**Keynote**

*Placing the History of European law in a Broader Perspective of History, Law and Political Science*

Joseph H. H. Weiler

Chair: Dieter Schlenker

20.00

Dinner (invited speakers and discussants only)

**Friday 11 December**

9.15 - 11.45

**Judicial Policy and the Role of Law in Policy-making in the Emerging European Polity**

Chair: Stefan Vogenauer

Discussants: Wolfram Kaiser and Michelle Egan

*The History of the Cassis de Dijon Judgment*

Brigitte Leucht

*Effect*

*The Battle of European Law Enforcement – A New History of Direct*

Morten Rasmussen

*Law*

*Bottom Up or Top Down - The History of Human Rights in European*

Bill Davies

Discussion

11.45 – 13.00

Lunch (invited speakers and discussants only)

13.00 - 15.30

**The Role of the Member States – Exploring the Symbiotic Relation between Reception and Feedback**

Chair: Mark Pollack

Discussants: Karen Alter and Marise Cremona

*Blazing a Trail. The Netherlands and European Law*

Karin van Leeuwen

*The Sleeping Behemoth? The German Shape of European Law*

Bill Davies

*The Souverainistes, the Supranationalists and European Law as Hidden Stumbling-block: France and European Law*

Alexandre Bernier

Discussion

15.30 – 16.00

Coffee Break

16.00 - 17.30

**The Role of the Member States – Exploring the Symbiotic Relation between Reception and Feedback**

Chair: Morten Rasmussen

Discussants: Piers Ludlow and Fernanda Nicola

*Between Rejection and Acceptance: Italy and European Law (Title TBC)*  
Giuseppe Martinico

*Law*

*How to Limit the Influence of European Law? Denmark and European*

Jonas Petersen

Discussion

17.30 – 19.00

**Panel Discussion: Towards a New History of European Law – History, Law and Methodology**

Marise Cremona, Stefan Vogenauer, Piers Ludlow, Stefano Bartolini and Morten Rasmussen

Moderator: Federico Romero

20.00

Dinner (invited speakers and discussants only)

## ■ PARTICIPANTS

### Paper givers

|                        |  |
|------------------------|--|
| Alexandre Bernier      | Ph.D. Fellow, Saxo Institute, History Section, University of Copenhagen                        |
| Anne Boerger           | Assistant Professor, Campus Saint-Jean, University of Alberta, Canada                          |
| Rebekka Byberg         | Doctoral Student, Saxo Institute, History Section, University of Copenhagen                    |
| Bill Davies            | Associate Professor, Department of Justice, Law and Society, American University               |
| Claus-Dieter Ehlermann | Former Director of the Legal Service of the European Commission                                |
| Vera Fritz             | Postdoc Researcher, TELEMME, Université d'Aix-Marseille  |
| Karen Gram-Skjoldager  | Associate Professor, Department of Culture and Society – History Department, Aarhus University |
| Koen Lenaerts          | President of the European Court of Justice   |
| Brigitte Leucht        | Associate Professor, Saxo Institute, History Section, University of Copenhagen                 |
| Carl Otto Lenz         | Former Advocate General, European Court of Justice   |
| Giuseppe Martinico     | Institute of Law, Politics and Development, Scuola Superiore Sant'Anna                         |
| Timothy Millet         | Deputy Registrar of the European Court of Justice  |
| Jonas Pedersen         | Doctoral Student, Department of Culture and Society – History Department, Aarhus University    |
| Sigfrido Ramirez Pèrez | Postdoc Researcher, Saxo Institute, History Section, University of Copenhagen                  |
| Morten Rasmussen       | Associate Professor, Saxo Institute, History Section, University of Copenhagen                 |
| Dieter Schlenker       | Director of the Historical Archive of the European Union                                       |
| Frank Schorkopf        | Professor, Institut für Völkerrecht und Europarecht, Georg-August-Universität Göttingen        |
| Karin van Leeuwen      | Assistant Professor, European Studies, University of Amsterdam                                 |

### Discussants

|                     |  |
|---------------------|--|
| Karen Alter         | Professor, Department of Political Science, Northwestern University  |
| Stefano Bartolini   | Peter Mair Chair in Comparative Politics, Department of Political and Social Science, EUI                          |
| Marise Cremona      | Professor of European Law, Department of Law, EUI  |
| Michelle Egan       | Professor, School of International Service, American University  |
| Wolfram Kaiser      | Professor of European Studies, Centre for European and International Studies, University of Portsmouth             |
| Alexandra Kemmerer  | Senior Research Scholar, Max Planck Institute for Comparative Public Law and International Law                     |
| N. Piers Ludlow     | Associate Professor, Department of International History, London School of Economics and Political Science         |
| Fernanda Nicola     | Professor of Law, Washington College of Law, American University   |
| Mark Pollack        | Professor of Political Science and Law, Department of Political Science, Temple University                         |
| Federico Romero     | Professor of History of Post-War European Cooperation and Integration, Department of History and Civilization, EUI |
| Stefan Vogenauer    | Director, Max Planck Institute for European Legal History  |
| Joseph H. H. Weiler | President of the EUI   |