

EDITORIAL

Max Münchmeyer* 

This summer issue marks the end of a particularly busy academic year for the European Journal of Legal Studies (EJLS, the Journal). In addition to our two regular issues, we also published a Special Issue, entitled *Adjudicating Migrants' Rights: What Are European Courts Saying?*¹ The contributions to the special issue analyse how courts in four EU Member States, as well as the Court of Justice of the European Union (CJEU, the Court), have approached migrants' rights, painting a picture of methodologically diverse, if not fragmented, judicial practices between, and indeed sometimes within, the jurisdictions examined.² While more varied thematically, the articles in the present issue of the EJLS can all be said to continue the thrust of inquiring into whether and how systems comprising many diverse actors can provide coordinated and efficient answers to intricate law and governance challenges.

The first article in the New Voices section of this issue has a particularly strong connection to the theme of our special issue. **Chiara Scissa** examines how the European Union (EU, the Union) has engaged with migration caused by climate change. Based on recent legislative innovations and judicial practice in Italy, Scissa suggests three ways in which existing legal instruments could be leveraged to develop a more contemporary approach to migration that takes into account the complex but increasingly undeniable links between migration and the climate crisis. This innovative

* PhD Researcher, European University Institute; Editor-in-Chief, European Journal of Legal Studies.

¹ [2022] (special issue) European Journal of Legal Studies.

² Veronica Federico, Madalina Moraru and Paola Pannia, 'The Growing but Uneven Role of European Courts in (Im)migration Governance: A Comparative Perspective' [2022] (special issue) European Journal of Legal Studies 1.

contribution won the Journal's 2021/22 *New Voices Prize*, an award that recognises the best short-form article by an emerging scholar published in the EJLS.

The next New Voices article in this issue, meanwhile, reflects on how the COVID-19 crisis has impacted the complex international institutional architecture surrounding sovereign debt governance. **Livia Hinz** explores possible solutions to debt sustainability issues, which have been exacerbated by the global health emergency, particularly in low-income countries. She argues that the so-called 'comparability of treatment' principle can be an effective means to achieve more equitable burden sharing between the public and private sector, but identifies several obstacles to its effective operation that will need to be overcome.

In the third and final New Voices contribution to this issue, **Selen Kazan** argues for the establishment of a Truth and Reconciliation Commission (TRC) in the United States as one meaningful step that can be taken towards addressing past human rights violations that still affect the structure of economy and society. Kazan draws on conflict resolution literature, as well as examples of previous TRCs, to arrive at a set of pragmatic lessons and recommendations for the design of such a body in the United States.

In the first General Article in this issue, **Tleuzhan Zhunussova** focuses on 'good membership' obligations, which abound in the foundational treaties of international organisations. Zhunussova counters criticisms that see these clauses as mere formalities and argues, through the use of case studies, that membership duties' clear connection to the principle of good faith endows them with the potential to act as much more muscular instruments of coordination in the context of international organisations.

Zhunussova's conclusions complement the insights offered in the second General Article in this issue. **Lukáš Boháček** examines the principle of mutual trust in EU law, which he argues is based on the shared values of the Union enshrined in Article 2 of the Treaty on European Union. Boháček

concludes that these fundamental values, which imbue the mutual trust principle with meaning in the first place, should, in turn, not be endangered through the application of that very principle by the CJEU. In the next contribution to this issue, **Jan Blockx** also examines the CJEU's jurisprudence, enlisting logical principles to conduct an empirical analysis of the modes of reasoning employed by the Court in its *effet utile* jurisprudence. This exercise leads the author to insightful, and perhaps counterintuitive, conclusions regarding the frequent criticism of the CJEU as a body engaged in 'judicial activism'.³

The final two General Articles take a pragmatic approach to evaluating recent efforts by the EU to establish governance frameworks in complicated and evolving fields. **Federico Ferretti** engages in a thorough stock-taking and analysis of the tools available to the EU to counter market imbalances in the realm of data, where access is often constrained by the actions of so-called "Big-Tech" companies. Ferretti puts forward the case that the EU may already possess the governance instruments needed to achieve this aim in its Revised Payment Services Directive. **Marloes van Rijsbergen** and **Ebbe Rogge** identify the benefits of the recent reform of the European Supervisory Authorities, while also pointing to several 'legitimacy puzzles' that still remain to be solved in this context.

This issue closes with three book reviews of recently published titles. First, **Maria Kotsoni** reviews *European Welfare State Constitutions after the Financial Crisis* (Oxford University Press 2020), edited by Ulrich Becker and Anastasia Poulou. She finds that the book successfully zooms in on the

³ Complementary to the analysis and findings in this article are a number of contributions to recent issues of the EJLS that focus on the interpretative methodology of the CJEU. Readers may thus be interested in consulting: Orlando Scarcello, 'Proportionality in the *PSPP* and *Weiss* Judgments: Comparing Two Conceptions of the Unity of Public Law' 13(1) *European Journal of Legal Studies* 45; Sorina Doroga and Alexandra Mercescu, 'A Call to Impossibility: The Methodology of Interpretation at the European Court of Justice and the *PSPP* Ruling' 13(2) *European Journal of Legal Studies* 87.

impact that the financial crisis has had on social rights in the constitutional orders of the countries examined. Next, **Jaka Kukavica** reviews *The Impact of European Institutions on the Rule of Law and Democracy: Slovenia and Beyond* (Hart 2020), written by Matej Avbelj and Jernej Letner Černič, with a chapter by Gorazd Justinek. Kukavica offers some methodological and definitional critique while lauding the book's important and original mission of shining a light on rule-of-law issues in Slovenia. Finally, **Sophia Ayada** engages with *Anti-Discrimination in Civil Law Jurisdictions* (Oxford University Press 2019), edited by Barbara Havelková and Mathias Möschel, concluding that it is a valuable contribution to the existing literature and a potential catalyst for future (comparative) research in this area.

It is incumbent on me to thank all authors, as well as the members of the Journal's Editorial Board, who have facilitated the publication of this issue, the last in my term as Editor-in-Chief, by generously volunteering their time to the EJLS. In October 2021, the Journal recruited thirteen new editors, a heartening sign that the support for our researcher-run organisation is enduring. I am greatly indebted to the enthusiastic support of a committed executive team, without which this year's ambitious publication schedule would have been impossible to realise. In 2022, the Journal's executive welcomed two new members: Sophie Berner-Eyde as Executive Editor, and Alexander Lazović as Head of Section for Legal Theory. Many EUI alumni who have now continued their academic journeys have been exceptionally generous and encouraging in their capacity as senior external editors. All this support gives me the privilege of leaving my position with great optimism for the Journal's future. For now, however, I hope that the excellent contributions to this issue will prove enjoyable and thought-provoking to all readers.