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DIALOGUE AND DEBATE: SYMPOSIUM ON NEW INTERDISCIPLINARY PERSPECTIVES IN EU LAW

Introduction: Making the invisible visible in European Union law

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Abstract
Interdisciplinary analysis of law is a powerful tool for analyzing a variety of legal problems. The strength of interdisciplinarity is its ability to unveil significant factors that remain hidden when seen solely within disciplinary boundaries. This symposium aims to focus on the analytic abilities of interdisciplinarity when exploring European law. To provide the proper background, the introduction reviews the use of interdisciplinarity for the study of European Union law in the literature. The contributions to the symposium have used a variety of interdisciplinary tools to reflect on questions relating to European law. These contributions are briefly reviewed in this introduction.

Keywords: European Union; interdisciplinary; methodology

I. Introduction

Interdisciplinarity is ubiquitous. From editorial boards in academic journals, policymakers to opinion leaders, everybody seems to agree that the study of knowledge cannot be addressed or solved within firm disciplinary boundaries but only through the quest for an all-inclusive synthesis transgressing the said boundaries. Yet often it seems that it is not the quest for wide-ranging and total knowledge, but rather the funding and prestige that interdisciplinary research brings with it that primarily motivates the attempt to draw from the theoretical and methodological insight of other disciplines. Although the buzzword of interdisciplinarity is on everyone's lips nowadays, hardly ever do we interrogate and debate in detail what it means exactly. This is unfortunate because it prevents us from embracing a conscious critical attitude as to how we organise knowledge and from investigating how to best foster any form of real dialogue between two or more disciplines.

The conference 'New Interdisciplinary Perspectives in European Union Law' held at the Copenhagen Faculty of Law in January of 2023 was designed to allow its participants to re-focus their attention to the benefits of interdisciplinary research. More precisely, it endeavoured to understand the existence and resilience of the discipline of EU law as a mode of thought and institutional practice and on this basis foster and encourage a discussion on how the theory and methodology of other disciplines can (and should) be related with the EU legal sciences to improve our understanding of EU law and the polity and people that it presents.

The main outcomes of this conference are presented in this symposium. Authors have written contributions using cutting-edge theories from law, political science, sociology, political philosophy, and linguistic and literary theory for the study of a variety of questions related to EU law. Some articles

have employed advanced methodologies in quantitative and qualitative empirical research. Moreover, the authors were instructed to reflect on the unique advantage of their chosen interdisciplinary perspective to unlock the often invisible and overlooked essentials of the European Union.

Before briefly describing the contributions to this symposium, this introduction will reflect on the power of interdisciplinary studies in general. It will then move on to analyze specifically the use of interdisciplinarity in EU studies within the last decades, both synthesising the results of the symposium with this insight and engaging with other literature in the field.

II. The transformative potential of interdisciplinarity

A. Disciplinarity

Before understanding the benefits of interdisciplinarity, it is essential to understand the rationales upon which knowledge is traditionally organised into disciplines. This first step is crucial because in order to be able to transgress disciplinary boundaries, we first need to fully understand the reasons and rationales behind the erection of dominant modes of categorising knowledge into distinct academic disciplines.[1]

Although the practice of organising knowledge into disciplines can be traced as far back as ancient Greek philosophers, the development of the disciplines as we find them today in the modern era is essentially a social construction resulting from the convergences of historical incidents, economic demands, and institutional constraints. Especially after the mid-19th century, the advancement of disciplinary boundaries can be attributed to two major developments: (1) the rise of progressively complex and technologically refined societies led to an increasing demand for more enhanced levels of expertise; (2) enormous advances in the natural sciences invoked a strikingly narrow perspective on research objects and thereby contributed to the compartmentalisation of knowledge.[2]

With regard to the former, it was the increasing complexities of European societies and the division of labour that came with them that was a powerful factor in the development of the disciplines. The reason for this was not only that the disciplines were able to prepare people for professions that required particular kinds of expertise; political and economic elites also increasingly recognised certain forms of disciplinary knowledge as entry requirements for certain professional careers as they gave the new professions legitimacy and standing by linking them to academic qualifications.[3] With regard to the second reason, during the Enlightenment period, vast progress was made in the natural sciences establishing a new view of nature as a type of well-functioning machine that can be reduced to universal rules and principles through new empirical methods. This kind of research necessarily came with a very narrow focus on the objects and reality that could be investigated. And the enormous progress that the sciences achieved as a result of limiting their perspective in this way constituted a powerful argument in favor of the continual development of scientific boundaries – both of the 'natural sciences' and of the 'human sciences'.[4]

These developments have not gone unchallenged. The stringent configuration of knowledge and the tendencies of over-specialisation that it produces have raised challenging counterarguments related to the self-perpetuating power structures that the disciplines uphold.[5] For instance, every discipline is characterised by certain discursive practices through which distinct ways of

[1]J Moran, *Interdisciplinarity* (2nd edition, Routledge 2010) 2; for in-depth discussions on interdisciplinarity, see JT Klein, *Interdisciplinarity* (Wayne State University Press 1990); P Weingart and N Stehr, *Practising Interdisciplinarity* (Toronto University Press 2000).

[2]D W Vick, 'Interdisciplinarity and the Discipline of Law' 31 (2004) Journal of Law and Society 163–93, 167.

[3]Moran (n 1) 12–13.

[4]Ibid., 5–6.

[5]For a description of the academic disciplines as tribes upholding languages and cultures, see T Becher and M Keynes, *Academic Tribes and Territories: Intellectual Enquiry and the Cultures of the Disciplines* (The Society for Research into Higher Education and Open University Press 1989).

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thinking and making sense of the world are upheld and which are primarily characterised by the use of a very particular type of vocabulary. It is not unusual to observe that scholars can often only communicate with peers from their own discipline.[6] The term 'theory', for instance, means something entirely different to social scientists than to legal scholars. This is equally so with regard to the term 'realism' which has an entirely different connotation for a legal philosopher than for a scholar of international relations, to name just a few examples. These linguistic barriers dividing the disciplines constitute more than simply divergences in vocabulary, however. The discursive practice of a discipline and the terms used therein also reflect idiosyncratic thought patterns through which the members of a discipline construct and maintain a concrete understanding of the world and themselves as human beings. They are characteristic of very distinct ways of thinking, solving problems, and recognising proposed solutions.[7] Such discourse dynamics and what they present no doubt allow members of a discipline to communicate effectively with one another and also contribute to a common collective identity that binds its members together.[8] But they also reinforce self-perpetuating power structures and a sense of exclusivity, which makes it difficult for scholars of other disciplines to penetrate the modes of thinking and communicating of a specific school of thought.

Yet this character of the disciplines, which is sometimes referred to as 'tribal', does not only have exclusionary but also disciplining effects.[9] The individual member of a discipline usually cannot escape the penalties and rewards of academic life through which the conformity with established ways of thinking and life are ensured.[10] Just think of job classifications at universities, peer reviews of submitted academic papers and research grant applications, or simply the natural desires of members of the discipline to be acknowledged by their elders – all these social forces make sure that "the academic's head gets constructed" in certain ways.[11] While these internal disciplining mechanisms often sit uncomfortably with the self-perception of many academics as independent and autonomous figures searching for total knowledge and truth rather than dependent conformists who work according to the modes of knowledge and thinking of an established social group, some authors have defended the discipline's power structures. They have pointed out that the connections between knowledge and power in the disciplines are an indispensable basis for making new forms of knowledge possible.[12] This might be true. But it also cannot be overlooked that if the relationship between knowledge and power becomes too rigid, it runs the danger of inhibiting the discovery of novel ways of looking at the world and its people. Currently, vociferous advocates encouraging scholars of their discipline to look beyond the border of their scholarly modes of thought usually have the upper hand.

B. Interdisciplinarity

Yet what is it then exactly that the call for more interdisciplinarity entails? In a more general sense, interdisciplinarity can be understood as part of a traditional quest for a wide-ranging, complete, and comprehensive form of knowledge about the world and the human condition that the fragmentation of the disciplines is unable to engage in.

More than one writer across the decades has attributed this understanding of interdisciplinarity to the study of philosophy. Aristotle, although he himself defined various areas of academic inquiry, insisted that philosophy is a universal field of inquiry that brings together all the different

[6]On how academic vocabulary is often not as universal in its meaning as often presumed, see K Hyland and P Tse, 'Is There an "Academic Vocabulary"?' 41 (2007) TESOL Quarterly 235–53.

[7]JM Balkin, 'Interdisciplinarity as Colonization' 53 (1996) Washington & Lee Law Review 949–70, 956.

[8]Vick (n 2) 168.

[9]Becher and Keynes (n 5).

[10]Balkin (n 7) 954.

[11]Ibid.

[12]Ibid.

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branches of learning ranging from the sciences and mathematics to psychology and sociology. Kant similarly classified every discipline 'as a system in its own right' that has to be treated as 'as a self-subsisting whole', while regarding philosophy as unconstrained by disciplinary boundaries.[13] In this view, the binding together of all forms of knowledge by an overarching synthesis defines the unique essence of philosophy.[14]

Yet it is possible to tease out more fine-grained understandings of the term 'interdisciplinarity' that define it to mean any mode of interaction between two or more disciplines, which can reveal and transgress the constraints of academic specialisation.[15] In this view, if the old disciplines lose their inspiration and transformative potential and become unoriginal and humdrum, interdisciplinarity can be the cure. The dialogue and interconnection between two or more disciplines and the synthesis and interconnectedness that is thereby created can illuminate and renovate our understanding of the world and ourselves. This might involve either the interconnection of traditional methods of research in the respective disciplines with the methods of another discipline or the linking of the theoretical insight gained in other disciplines with that of the discipline the respective scholar has been trained in.[16] Whatever approach one chooses, they are all motivated by a skepticism about too rigid forms of tribalism in the academic disciplines; by a critical attitude towards too stringent forms of academic conformity with the objective to uncover "greater truth that transcends scholastic categories".[17]

This symposium is about how we organise knowledge in the specific discipline of the EU legal sciences and what it would mean to reorganise that knowledge into new alliances and configurations. To put it a bit differently, the symposium is about discovering forms of interdisciplinarity that would allow us to complement the knowledge of the EU legal discipline in areas where its thinking has become too rigid and inflexible with respect to existing and future challenges of EU legal developments.

III. The 'methodological turn' in EU law

What is the traditional identity of the discipline of law? Clearly, the identity of the discipline of law has never been clearly discerned as has always remained contested. Nevertheless, it is possible to attempt to approach an understanding of its core identity that has characterised the legal sciences as a discipline for at least a century and which, as we will later see, is also characteristic of the how legal disciplinarity has been traditionally understood and lived in EU legal scholarship.

A. The Identity of law as a discipline

Most generally put, traditional doctrinal research treats the law and legal systems as distinct and closed social institutions. It aims to understand the law through the examination of a fixed cosmos of authoritative texts consisting of primary sources, statutes, and cases, the relative prominence of

[13]See Moran quoting I Kant, Moran (n 1) 3–9.

[14]We can certainly question whether this identification of philosophy as undisciplined knowledge transcending more specialised forms of knowledge is still valid. According to Tomlins the belief that there are commonalities that transcend all disciplines was dominant until the middle of the 19th century, see C Tomlins, 'Framing the Field of Law's Disciplinary Encounters: A Historical Narrative' 34 (2000) Law & Society Review 911–72, 913–15. Yet is worth pointing out that this original rationale of philosophy as a form of undisciplined knowledge producing some kinds of metacommentaries on a diverse range of subject matters is still retained in the name of the higher degree of Doctor of Philosophy (the Ph.D.) that is gained through the completion of a research project in any type of discipline, Moran (n 1) 8.

[15]For a definition along these lines, see M Nissani, 'Fruits, Salads, and Smoothies: A Working Definition of Interdisciplinarity' 29 (2) (1995) The Journal of Educational Thought 121–8, 125; GD Brewer, 'The Challenges of Interdisciplinarity' 32 (1999) Policy Sciences 327–37, 328; Moran (n 1) 16.

[16]For an explanation of how interdisciplinary research can be placed on a continuum ranging from lesser to greater degrees of synthesis amongst the disciplines, see Nissani (n 15).

[17]Balkin (n 7) 957.

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which depends on the legal tradition and culture within which the legal analyst operates. By involving the use of unique concepts, interpretative tools, and critical techniques as the basis of analysis of these authoritative texts, the rules and principles of the law are being systematised against the internal logic of the coherent and consistent system of law. Rules and principles are either evaluated against normative conceptions of justice that are drawn from the philosophy expressed in the authoritative texts and cases or taken from moral philosophy directly.[18]But traditional doctrinal research is not only concerned with the systematisation and evaluation of the said rules and principles through refined concepts and techniques.[19] It is also inherently prescriptive in that legal scholars usually endeavor to influence the development of the law;[20] they aim to participate in the legal practice through making recommendations of how the law should develop and be transformed.[21]

This traditional understanding of the discipline of law results in large part from the legal profession; it is founded upon and draws its peculiar character and identity from the rationale by which legal practitioners work and reason.[22] One reason for this is that the development of law as a discipline in most Western universities was originally a result of the perceived need amongst political and economic elites to acknowledge those engaged in the profession of the law with academic credentials.[23] The legal profession has, therefore, strongly influenced the content and structure of legal education both through involving legal practitioners in teaching law as well as through accreditation processes by bar and law societies that determine university curricula.[24]

B. Understanding the conventional logic of the European legal discipline

The traditional disciplinary core of EU legal studies also involves the use of concepts, interpretative tools, and critical techniques in order to systematise and assess EU legal rules and principles against the coherent and consistent system of EU law and to generate recommendations and reform proposals about what EU law should consist of. Yet this traditional way of approaching EU law, which up until today constitutes an integral part of the EU legal sciences, can only be understood against the broader project of European integration.

European law has been regarded as an emancipatory process away from national orders and the limited political and legal thinking characterising them. It has been seen as a process that stands apart from and above the ethically and politically chaotic tribulations that national orders are regularly confronted with, as a newly established supranational system that disciplines the behavior of domestic polities and endeavors to bind them together in a new autonomous

[18]Whether such notions of justice are ultimately drawn from a consistent legal philosophy said to be expressed in the comprehensive body of authoritative texts or within cases directly depends on whether the scholar is working in the civil law or common law tradition.

[19]Some authors have noted that this traditional way of reasoning about the law shares many similarities with the discipline of theology as in both field of study "the exegesis of texts through a complex of self-consciously refined interpretative techniques was coterminous with the ascertainment of "truth"", see WT Murphy and S Roberts, 'Introduction' 50 (1987) Modern Law Review 677–87; 678–9.

[20]See EL Rubin, 'Law and the Methodology of the Law' (1997) Wisconsin Law Review 521–64, 525–6.

[21]For a critique of this prescriptive character of the law with regard to the EU, US, and international legal scholarship, see J Komárek, 'Freedom and Power of European Constitutional Scholarship' 17 (3) (2021) European Constitutional Law Review 422–41; P Kahn, *The Cultural Study of Law. Reconstructing Legal Scholarship* (The University of Chicago Press 1999) 7; E Cusato et al, 'In Praise of Multiplicity: Suspending the Desire to Change the World' 37 (1) (2023) Leiden Journal of International Law 1–5.

[22]WT Murphy and S Roberts, 'Introduction' 50 (1987) Modern Law Review, 677–87.

[23]G Wilson, 'English Legal Scholarship' 50 (1987) Modern Law Review 818–54, 818.

[24]Ibid., 820–21. For an example with respect to European schools, see N Reich, 'Recent Trends in European Legal Education: The Place of the European Law Faculties Association' 21 (5) (2002) Penn State International Law Review 21–38. For a similar example in the US legal system, see Tomlins (n 14) 924; W P LaPiana, *Logic and Experience. The Origin of Modern American Legal Education* (Oxford University Press 1994).

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organisation.[25] Yet this understanding of the EU legal system as effectively transforming domestic systems was clearly beset with contradictions because as much as it aimed to emancipate itself from preexisting domestic orders, it was strongly linked and dependent on the latter.[26] To overcome such tension, a twofold approach was developed. First, the traditional doctrinal approach to the study of EU law, which is most clearly offered in Pierre Pescatore's work, emphasised the comprehensive and autonomous nature of the EU legal order. In this view, the system of EU law was a self-sufficient coherent whole that functioned on the basis of newly established concepts, principles, and techniques that were different from those found in domestic orders and which EU lawyers continuously perfected with the purpose of overcoming the chaotic and power-driving dynamics of domestic orders.[27] Just think of concepts like the autonomy or effectiveness of the European legal order, the principles of institutional balance, judicial review, loyal cooperation, and proportionality, or techniques like the teleological interpretation of EU law which the Court of Justice is so famous for. Every EU lawyer can easily identify them as part of the internal logic of the structured network of EU law that practicing lawyers as much as academics rely on when examining and interpreting the law.

The second strategy for mitigating the tension between the newly established supranational terrain and traditional domestic orders consisted in forcefully promoting the goals of the law of integration amongst practitioners. Through revolving doors between the EU institutions, legal practice and academia, a group of jurists advertised the view of the European legal system as constituting an autonomous and comprehensive whole. They persuaded key EU agents of the benefits of a legal and political culture of European supranationalism in an effort to make sure that European integration would live up to their desired telos of replenishing and overcoming the disparaging forces of domestic orders.[28]

The 'Integration Through Law' project initiated by Mauro Cappelletti, Monica Seccombe and Joseph H.H. Weiler can be seen as a critical engagement with Pescatore's law of integration approach.[29] More precisely, what it aimed for was to distill an idea of European integration that is free from any ideological groundings such as the supranational model of integration, which Pescatore's project was grounded upon.[30] For this purpose, the initiators of the project drew from two methodological approaches; one grounded in a comparative analysis of federal regimes with the purpose of comparing and contrasting similarities and differences between the federal

[25]This idea of European integration not as a solid form or constitution but as an open process aiming to bring together the diverse national orders of the European Union is best captured by the term 'law of integration' as coined by P Pescatore, *Le Droit de l'intégration: Émergence d'un Phénomène Nouveau Dans Les Relations Internationales Selon l'expérience Des Communautés Européennes* (Brylant 2005); for an in-depth discussion of the 'law of integration' as coined by P Pescatore, see J Baquero Cruz, *What's Left of the Law of Integration? Decay and Resistance in European Union Law* (Oxford University Press 2018).

[26]L Azoulai, '"Integration through Law" and Us' 14 (2016) International Journal of Constitutional Law 449–63, 452.

[27]Ibid.

[28]Ibid., 453. For a recent study on how lawyers – other than judges – contributed to the judicial construction of Europe through encouraging deliberate law-breaking and mobilising national courts against their own governments, see T Pavone, *The Ghostwriters. Lawyers and the Politics behind the Judicial Construction of Europe* (Cambridge University Press 2022). There have also been studies examining the revolving doors between EU legal practice and academia arguing that 'EU legal studies should maintain a critical distance from the institutions that it studies and re-define its self-identity as a reflective and critical rather than legitimating force', see P Leino-Sandberg, 'Enchantment and Critical Distance in EU Legal Scholarship: What Role for Institutional Lawyers?' 1 (2022) European Law Open 231–56.

[29]M Cappelletti, M Seccombe and JHH Weiler (eds), *Integration Through Law* (3 volumes, De Gruyter 1986).

[30]See M Cappelletti, M Seccombe and JHH Weiler, 'Integration Through Law: Europe and the American Federal Experience', in *Integration Through Law* (vol 1, De Gruyter 1986) 12–13. The project leaders found that while political factors rather than law were essential for the success of the enterprise of EU integration, law nevertheless is an important integrative element through disciplining political action and translating it into the routine provisions of political life, see Ibid., 4.

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elements of the European Communities and other federal-type system such as the United States;[31] another grounded in a governance lens in an effort to not only examine the content of the law but also the inclusiveness and plurality in processes of law making and the impact that law has on the ground.[32] Although the project was immensely successful in introducing new methods into the study of EU law, the project initiators' goal to erect a neutral framework allowing for a non-ideological analysis of EU law has not proven entirely successful. The reason for this was the project's grounding in a normative precept as to the desirability of federal forms of integration.[33] Although the initiators repeatedly clarified that their underlying vision of federalism did in no way involve the construction of a homogenous federal European state, there was a strong 'idée de base' underlying the project assuming that it was a good thing to construct a European constitutional order based on the value of the individual in a way that respects and involves all Europeans citizens at all levels of government.[34] In fact, one of the contributors of the project later admitted that the 'Achilles' heel of the Project was its normativity'[35] as more integration was essentially regarded as desirable and less integration was regarded as unwanted.[36]

In sum, we can conclude that although the early approaches to the study of EU law underlay slightly different rationales, they were based in a strong vision of what European integration should look like;[37] they had in common a sturdy directional pull towards an ever-closer European political community.[38] Clearly, this does not mean that the EU legal sciences have not also borrowed from the insight and language of other disciplines, such as philosophy, political theory and theories of justice more broadly. We find a broad range of approaches specifying the philosophical foundations of EU law,[39] justifying judicial law-making by reference to positivist and interpretive accounts of legal philosophy,[40] criticising the predominant judge-centered approach of EU legal studies on the basis of republican principles of philosophy,[41] demanding the

[31]Joseph Weiler later on especially lamented how this choice of comparative method provoked a surge of mediocre comparative analysis between the EU and US legal system, see JHH Weiler, 'Epilogue' in D Augenstein (ed), *'Integration Through Law' Revisited: The Making of the European Polity* (Routledge 2011) 175–80, 177.

[32]See Cappelletti et al (n 30) 61–2; Weiler (n 31) 177.

[33]The project's initiators repeatedly clarified that their underlying vision of federalism did in no way involve the construction of a homogenous federal European state, see Azoulai (n 26) 454; this has also been repeatedly made clear by Joseph Weiler in his later writings, see for instance, JHH Weiler, 'Europe in Crisis-On "Political Messianism", "Legitimacy" and the "Rule of Law"' (2012) Singapore Journal of Legal Studies 248–68.

[34]Azoulai (n 26) 454.

[35]Weiler (n 31) 178.

[36]Despite of the normativity pervading the project (and EU law until today for that matter) the federal constitutional understanding of the European Union driving the project inspired many studies (on the primacy of the EU legal system, the constitutionalisation of Europe, or the erection of a system of European supranational governance) that were essential for our understanding of EU law today. See, for instance, KJ Alter, *Establishing the Supremacy of European Law the Making of an International Rule of Law in Europe* (Oxford University Press 2001); JHH Weiler, 'The Transformation of Europe' 100 (8) (1991) The Yale Law Journal 2403–83, and A Stone Sweet, *The Judicial Construction of Europe* (Oxford University Press 2004).

[37]For a similar critique along these lines, see also M Rask Madsen, FG Nicola and A Vauchez, 'From Methodological Shifts to EU Law's Embeddedness' in M Rask Madsen, FG Nicola and A Vauchez (eds), *Researching the European Court of Justice. Methodological Shifts and Law's Embeddedness* (Cambridge University Press 2022) 1–10.

[38]While the Pescatorian school of thought regarded the disciplining of national orders into a newly created autonomous organisation through the internal logic of the consistent a coherent system of EU law as desirable, the latter aimed for the erection of a European constitutional order through relying on governing techniques that would allow for more pluralism and participation on all level of European integration to elevate the value of personhood onto the apex of said constitutional order.

[39]See, for instance, J Dickson and P Eleftheriadis (eds), *Philosophical Foundations of European Union Law* (Oxford University Press 2012).

[40]See, for instance, J Bengoetxea, N MacCormick and L Moral Soriano, 'Integration and Integrity in the Legal Reasoning of the European Court of Justice' in G De Burca and JHH Weiler (eds), *The European Court of Justice* (Oxford University Press 2001) 43–85.

[41]See, for instance, R Bellamy and J Lacey, 'Balancing the Rights and Duties of European and National Citizens: A Demoicratic Approach' *25* (10) Journal of European Public Policy 1403–21; R Bellamy, *A Republican Europe of States. Cosmopolitanism, Intergovernmentalism and Demoicracy in the EU* (Cambridge University Press 2019).

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articulation and institutionalisation of different conceptions of transnational solidarity as a way to mitigating conflicts of justice in the EU,[42] or describing the European legal order as allowing for a plurality of authorities.[43] Yet what these scholarly accounts rarely offer is an attempt to transgress the endeavor to reform the EU legal order towards a more functional and perfect union. Rather, through reliance on the said philosophical language and ideas, they aim to minimalise the many challenges and contradictions that the EU legal system and polity comprises through making suggestions about how the European legal and socio-political order could be better integrated and perfected on the basis of an ideal understanding of what a just European polity should look like.

This sturdy pursuance in the legal sciences for the creation of a more perfect European polity has come at a cost. For EU law to be able to allow national orders to further open up and integrate into the desired supranational order, it had to disguise the chaotic power structures and challenges of everyday life in the European community; only if its concepts, principles, and techniques are applied and expressed in an abstract manner allowing for its normativity to be immanent as opposed to factual could the authority of EU law be upheld and the goal of an ever closer union of people achieved. In the early years of EU integration there have been good reasons for the formulation of EU law in this way; yet nowadays one might wonder if it is not true, as one scholar has put it quite felicitously, that 'the language and mentality of the founding years has left an inheritance that gets in the way of Europe's understanding of itself today.'[44]

C. Making visible what has been invisible in EU law

Within the last three decades, a new body of scholarly approaches has appeared with the aim of uncovering what is hidden behind the allegedly neutral and apolitical nature of EU law. Through explicitly borrowing from the theoretical and methodological insights of other disciplines such as sociology, history, political science, linguistics and network analysis, these approaches aim to understand 'what is really going on' behind the high-minded and abstract way of rationalising EU law; to better grasp the institutional struggles, power relations, social and political battles that EU law is grounded upon and to uncover EU law's hidden biases and injustices. Some have referred to these developments as the 'methodological turn',[45] other as the 'critical turn'[46], in EU legal studies.

The first pioneering moves came from political science aiming to better understand how political and legal agents and their motivations shaped the institutional dynamics and power within the EU legal system,[47] as well as sociological scholars focusing on the professional legal context of European law by drawing, amongst others, from Pierre Bourdieu's theory of the state and society and bringing empirical studies into the study of European law.[48] Amongst others,

[42]See, for instance, F de Witte, 'Transnational Solidarity and the Mediation of Conflicts of Justice in Europe' 18 (2012) European Law Journal 694–710.

[43]See, for instance, J Baquero Cruz, 'The Legacy of the Maastricht-Urteil and the Pluralist Movement' 14 (2008) European Law Journal 389–422; M Poiares Maduro, 'Contrapunctual Law: Europe's Constitutional Pluralism in Action' in N Walker (ed), *Sovereignity in Transition* (Hart 2002) 521; N Walker, 'The Idea of Constitutional Pluralism' 65 (2002) Modern Law Review 31759.

[44]L van Middelaar, *Alarums and Excursions. Improvising Politics on the European Stage* (Agenda Publishing 2019) 157.

[45]Madsen et al (n 37) 6.

[46]See Editorial Comments, 'The Critical Turn in EU Legal Studies' 52 (2015) Common Market Law Review 881–8.

[47]See JHH Weiler, 'A Quiet Revolution: The European Court of Justice and Its Interlocutors' 26 (4) (1994) Comparative Political Studies 510–34; K Alter, *The New Terrain of International Law* (Princeton University Press 2014); A-M Burley and W Mattli, 'Europe Before the Court: A Political Theory of Legal Integration' 47 (1) (1993) International Organization 41–76; G Garrett, R D Kelemen and H Schulz, 'The European Court of Justice, National Governments, and Legal Integration in the European Union' 52 (1) (1998) International Organization 149–76. For a recent and critical review of political science contributions see S Cheruvu and T Pavone, The End of History in EU Law and Politics? Challenging Founding Narratives with a New Research Agenda. APSA Preprints. doi: 10.33774/apsa-2023-8rw4n.

[48]See M Rask Madsen and A Vauchez, 'European Constitutionalism at the Cradle: Law and Lawyers in the Construction of European Political Orders' in A Jettinghoff and H Schepel (eds), *In Lawyers' Circles: Lawyers and European Legal Integration: Special Issue of Recht der Werkelijkheid* (Elsevier Reed 2005) 15–36. For approaches drawing from the socio-legal traditions

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sociologists revealed how the work of Euro lawyers has been a powerful initiator for the integration and liberalisation of the single market and disentangled the institutional struggles underlying the prominent and allegedly neutral concepts of EU law.[49] From early times onwards also legal historians joined the effort of sociologists to break open the black box of doctrinal legal research through drawing from empirical methods and sources.[50] They have, for instance, endeavoured to bring to the surface the many legal and political opposition movements that the constitutionalisation of EU law and the idealised narration of the EU as an ever closer supranational community have provoked.[51] They have, furthermore, disentangled the manifold contextual histories and narratives related to leading and minor personalities involved behind the scenes of the activities of the Court of Justice, thereby allowing for new understandings of the Court's case-law.[52] In sum, we can say that these works have not only provided a range of new methodological innovations (especially quantitative empirical methods) and have drawn from novel type of data (such as archivable resources, translational document, or biographies), but have also contributed to a critical engagement with the traditional narrative of EU integration.[53]

Another form of criticism of EU law that is increasingly gaining importance focuses on the many social and economic injustices that underlie and provoke dominant concepts, principles and techniques of EU law. Drawing from critical theory and the insights stemming from political economy, representatives of this mode of thinking share the assumption that the law, in its pure and allegedly neutral form, is often incapable of critically dealing with the biases that structural shifts under economic liberalisation bring with it. Against this presumption, they do not only illuminate the forms of inequality and precariousness that are inherent to EU legal concepts and techniques;[54] but also endeavour to disentangle the neoliberal biases of economic, environmental, and social sustainability that EU law provokes.[55]

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and bringing in empirical studies into EU law to better understand how activist the ECJ really is, see for instance, I Solanke, '"Stop the ECJ"?: An Empirical Analysis of Activism at the Court' 17 (2011) European Law Journal 764–84.

[49]See, for instance, A Vauchez, *Brokering Europe. Euro-Lawyers and the Making of a Transnational Polity* (Cambridge University Press 2015); A Vauchez, 'The Genie of Independence and the European Bottle: Courts, Central Banks, Regulators and the Transnational Contest over Independent Policy-Making' 20 (2022) International Journal of Constitutional Law 2032.

[50]In his early works, Hjalte Rasmussen drew from statistical methods to analyze the caseload of the Court of Justice, ultimately criticising that the Court of Justice was deeply involved in policy choices through drawing from the political guidelines contained in the preamble of the treaties, thereby transgressing the acceptable limits of the role of the judiciary. While this insight seems commonplace from today's point of view, it was quite exceptional back then as it questioned the inner logic and rationale of teleological reasoning which most practitioners and scholars drew from in the interpretation of EU law. H Rasmussen, *On Law and Policy in the European Court of Justice: A Comparative Study in Judicial Policymaking* (Martinus Nijhoff Publishers 1986) 508. For the harsh criticism that Rasmussen had to endure due to his argument, see H Schepel, 'Review: Reconstructing Constitutionalization: Law and Politics in the European Court of Justice. Reviewed Works: The European Court of Justice: The Politics of Judicial Integration by R. Dehousse, The European Court of Justice by H. Rasmussen' 20 (2000) Oxford Journal of Legal Studies 457–68.

[51]See, for instance, B Davies, *Resisting the European Court of Justice: West Germany's Confrontation with European Law, 1949–1979* (Cambridge University Press 2012); F Bignami, 'Rethinking the Legal Foundations of the European Constitutional Order: The Lessons of the New Historical Research' 28 (2013) American University International Law Review 1311; A Boerger and M Rasmussen, 'Transforming European Law: The Establishment of the Constitutional Discourse from 1950 to 1993' 10 (2014) European Constitutional Law Review 199–225.

[52]See, for instance, F Nicola and B Davies (eds), *EU Law Stories. Contextual and Critical Histories of European Jurisprudence* (Cambridge University Press 2017).

[53]Madsen, Nicola and Vauchez (n 37) 6.

[54]Alexander Somek has, for instance, shown how EU discrimination law succumbs individuals to economic performance criteria and hence to ends of the market economy, see A Somek, Europe: From Emancipation to Empowerment, LEQS Paper 60/2013; A Somek, *Engineering Equality: An Essay on European Anti-Discrimination Law* (Oxford University Press 2011).

[55]Discussing to what extent the EU Commission's 'Proposal for a Directive on Sustainable Dure Diligence' represents a first step away from a neoliberal conception of the corporation towards a more socially responsible collectivist understanding of such, see M Bartl, 'Towards the Imaginary of Collective Prosperity in the European Union (EU): Reorienting the Corporation' 1 (2022) European Law Open 957–86.

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The value of the two strands of research presented above cannot be emphasised enough. They have illuminated the motivations, strategies, and power struggles that political and legal agents of EU law and institutions are engaged in, disentangled the broader narrative structures that EU underlies, and have dissected the inherent biases prioritising certain social groups over others underlying EU law. By shifting the perspective from the analysis of the law as a coherent and cohesive system of rules to the actors, institutions, and biases underlying such rules, they have hence made visible what has remained invisible in EU law for many decades. Yet this way of analyzing EU law nevertheless misses an important dimension: because even if EU law is driven by competitive practices of dominant EU agents and institutions and contains severe overlooked biases, it unavoidably also always reflects and constitutes humanistic ideas about the community and the human condition that is distinct to the European polity. In order to complement the above insight with this humanistic dimension of it, a group of scholars has drawn from a variety of different interpretative methods taken from linguistics, theology, philosophy, and cultural and literary studies in order to be able to further improve our understanding of EU law, and, specifically, give expression to the European cultural and humanistic 'capital' that it represents and forms. They have investigated what EU law means and what forms of life it incites with respect to questions of personhood and citizenship,[56] distributive forms of justice,[57] forms of European society,[58] and religious tolerance,[59] to name just a few examples.

In sum, what we can observe in the European legal scholarship is a shift from legal concerns about the autonomous nature and integrative potential of EU law to socio-political forces, unjust biases, as well as humanistic ideals that EU law creates and informs. The new generations of European legal scholars share the endeavour and curiosity to ask novel research questions and to borrow from the methodological and theoretical insight of other disciplines in order to renew their understanding of EU law and the polity that it presents; thereby they aim to make visible what has for a long time been disguised by the dominant interpretation of EU law as an autonomous and consistent system with a distinctly enshrined telos.

This symposium does not attempt to reinvent the wheel, to introduce an entirely novel methodological approach or shift for EU law. The contributions submitted for this issue relate to some greater or lesser extent to the different schools of thought that have developed within the last two decades in the European legal sciences. Yet they aim to further deepen and expand the interdisciplinary toolboxes of the respective interdisciplinary approaches: not only through consciously reflecting on the unique benefits of their chosen interdisciplinary perspective, but also through displaying the advantages of their approach through showcasing and applying them to concrete legal questions and cases as opposed to only discussing them in an entirely abstract and theoretical manner.

IV. Contribution of the Symposium to the discussion on interdisciplinarity in EU law

The first article of our symposium by Sabine Mair takes a deeply humanistic perspective on EU law by critically evaluating its language. Mair argues that although EU law touches on profound

[56]U Haltern, 'The Dawn of the Political: Rethinking the Meaning of Law in European Integration' 14 (2004) Swiss Review of International and European Law 585–614; U Haltern, 'Pathos and Patina: The Failure and Promise of Constitutionalism in the European Imagination' 9 (2003) European Law Journal 14–44; L Azoulai, S Barbou Places and E Pataut, *Constructing the Person in EU Law* (Hart Publishing 2016); L Azoulai, The (Mis)Construction of the European Individual Two Essays on Union Citizenship Law, Working Paper, EUI LAW, 2014/14.

[57]See, for instance, Editorial Comments, 'A Jurisprudence of Distribution for the EU' 59 (2022) Common Market Law Review 957–68.

[58]See, for instance, L Azoulai, 'The Law of the European Society' 59 (2022) Common Market Law Review 203–14, A von Bogdandy, *Strukturwandel Des Öffentlichen Rechts: Entstehung Und Demokratisierung Der Europäischen Gesellschaft* (Surkamp Verlag 2022);

[59]See, for instance, JHH Weiler, 'Je Suis Achbita!' 28(4) (2017) European Journal of International Law 989–1008.

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ethical and socio-political aspects of European life that determine the shape and character of the European polity and its citizens, these multiple meanings are not reflected in how EU law is written and spoken about. This contribution clarifies that while the abstract and disengaged formulation of EU law might have been useful in the EU's founding years when its existence was dependent upon its ability to distance itself from the chaotic conditions of domestic orders, it nowadays provokes a sense of aloofness that stands in the way of profoundly connecting EU law to the practices and beliefs characterising every life in the EU polity.

Mair's article draws from the theoretical and methodological insights of both linguistic and literary studies to get hold of the multiple and complex ontologies of ways of living and being in the European polity that EU law touches upon. These insights, so Mair claims, require us to approach the law in a spirit of epistemological multiplicity by reading the text of EU law not from one philosophical principle regarded as the most true and coherent basis of the canon of EU law, but from a variety of different philosophical principles understood as public philosophies by which diverse forms of living and being in the EU polity can be illustrated. The *Sayn-Wittgenstein* decision[60] serves as point of reference in order to illustrate the added value of this new theoretical and methodological insight to understanding EU law.

Martijn van den Brink's article argues that disputes about the proper allocation of authority between different institutions in the European Union can only be dealt with through a political analysis. His research claims that a doctrinal analysis cannot resolve such disputes because it cannot expose the relative advantages and disadvantages of different institutions. Through this argument, the author supports the larger goal of this symposium – showing why and when legal analysis must be complemented by other disciplines.

In line with this reasoning, van den Brink calls for a scholarship that combines doctrinal analysis with normative political theory. His article also makes a normative point, encouraging judges and other lawyers engaging in deciding on the allocation of authority in the European Union to make policy decisions based on political theory. In this respect, the article calls for making normative decisions based on a transparent political analysis, instead of based on the ideology of lawyers that is not empirically grounded – a common critique against EU studies, as noted above.

Nicholas Haagensen's contribution to this special issue uses sociological approaches to examine how legal actors in the European Union understood the Eurozone crisis and offered solutions to it. The solutions examined are the granting of financial assistance and so-called policy conditionality – the rules that need to be complied with as a condition for getting support from the European Union. The article also reviews several court cases addressing these policy solutions. It uses the interaction between lawyers and judges in these cases to examine the unique motivations of legal actors.

The strength of Haagensen's interdisciplinary methodology is its ability to elucidate how social actors give meaning to their actions. The analysis exposes the motivations behind the behavior of these actors and helps to understand how the interactions between these actors shape their interpretation of the social context in which they are immersed. A rich description of the interactions between lawyers and judges shows the way these actors perceive European economic governance.

Shai Dothan's article applies Social Network Analysis to the study of the European Court of Human Rights (ECHR). Social Network Analysis is a sociological methodology that examines the actions of people or organisations conditioned on their place in the social network. The ties that these actors have with others cast a significant impact on their motivations and their behaviour.

Dothan's article argues that the ECHR's ability to get compliance with its judgements depends on the social network around it. The reason is that the decision of states to comply depends on how strong are the reputational sanctions they expect in case of noncompliance. A network

[60]Case C-208/09, *Ilonka Sayn-Wittgenstein v. Landeshauptmann von We*in, ECLI:EU:C:2010:806.

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structure that delivers information quickly and accurately means that signals about the behavior of states are likely to generate stronger reputational sanctions, which, in turn, improve the chances of compliance.

The contribution briefly presents some findings from past empirical research that Dothan conducted. These findings demonstrate that the network of Non-Governmental Organisations (NGOs) around the ECHR is successful at delivering information quickly and accurately and provides a theory for why this is the case. Finally, Dothan argues that the ECHR and other similarly positioned courts who wish to increase their compliance rates need to invest resources and behave strategically to build their surrounding social networks in light of the theoretical insights of Social Network Analysis.

Urska Sadl, Lucía López Zurita, and Sebastiano Piccolo use a different method for analyzing networks of a different kind. They apply a technique called 'community detection' that uses algorithms to explore sub-groups in various networks. The article is looking for sub-groups in a vast network of judgements of the European Court of Justice (ECJ).

The exploration of the citations between judgements are used to divide judgements into groups. Different sets of algorithms analyze citations in different ways and the results of these analyses can be further triangulated using legal analysis of the text of the case itself. By comparing the insights learned from analysing the network and the insights learned from reading cases, the authors examine the validity of dividing the universe of cases into groups of judgements. Groups engaged with citing one another exhibit certain similarities, more so than the degree of similarity to judgements in other groups.

In the tradition of EU studies of law and society, the last three articles bring a variety of very different methodologies for empirical observation, both quantitative and qualitative, to the study of salient problems at the European Union. These methodological innovations help to push the envelope of what scholarship can do to expose the otherwise invisible forces that shape the EU.

V. Interdisciplinarity as complementing as opposed to substituting traditional ways of analyzing EU law

The increasing calls and demands for interdisciplinarity in the EU legal sciences has not only provoked curiosity and contentment, but also resistance originating from the feeling that EU law's core identity is under threat from ideas imported from outside. We do not think that such fears are warranted. The reasons for this are that EU law's traditional disciplinarily identity is certainly more resilient than many might imagine. This is not only due to links of the legal sciences with the legal profession the latter of which is primarily based in the tools and techniques that the legal sciences traditionally stand for. In addition to this, it is also worth emphasising that interdisciplinarity is only possible if a discipline's core is guarded and retained: if EU law's distinctive disciplinary basis would vanish there would simply be no benchmark against which interdisciplinary approaches to EU law could define themselves.

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