

AALS EUROPEAN LAW SECTION

Forging Transatlantic Relations December 2023, Issue 11



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Summary

In 2023, the community of Europeanists in U.S. legal academia continued to grapple with the social, economic, and political transformations in the legal and political structures of the European Union. Russia's invasion of Ukraine continued to demand reconsideration of the European security architecture, the role of the EU in cooperation with NATO, new ambitions and commitments for European enlargement, international legal instruments to sanction Russia and enforce accountability, and sustained material support for Ukraine. Internally, debate continued on the equity of Europe's migration control policies and its reception of refugees and on the continuing consequence of the rule of law crisis for effective European policy-making in times of international emergency. These recent crises have triggered a serious debate about providing a greater fiscal capacity at the Union level. The EU has dedicated €800 billion to support economic recovery and build a greener future in the initiative known as NextGenerationEU.

Accordingly, thanks to the leadership of Prof. Tracy Kaye, the AALS Section on European Law will co-sponsor, together with the Sections on Comparative Law and Taxation, a panel discussion moderated by Prof. Linden-Retek entitled, *EU Fiscal Federalism and the U.S. Perspective*. Bringing together a distinguished group of international scholars, the panel will explore the power to tax within the EU, principles governing an EU tax, harmonization of indirect taxes, and leveraging fiscal federalism for the purposes of defending democracy. Our discussants, Profs. Kim, Kaye, and Lindseth, will provide the U.S. perspective, as well as reflect on the revenue, borrowing, and spending components of the NextGenerationEU initiative from the perspective of constitutional theory. The panel will also include a brief presentation by Prof. Scheppele on freezing EU funds to leverage compliance with the rule of law with fuller discussion to follow in the Works-in-Progress Panel. The 'Fiscal Federalism' panel will convene on Wed., January 3, 1-2:40pm.

Immediately following, on Wednesday, January 3, 3pm-4:40pm, we are hosting a Works-in-Progress Panel, which as always allows emerging European law scholars to raise a variety of timely and crucial questions through their work. We look forward to the research streams and publications resulting from our January 2024 Programs.

The AALS 2024 Annual Meeting, Defending Democracy, will be held in Washington, DC, on January 3–6, 2024.

AALS CO-SPONSORED PANEL:
EU FISCAL FEDERALISM AND THE U.S. PERSPECTIVE

The AALS Section on European Law will co-sponsor, together with the Sections on Comparative Law and Taxation, the panel, *EU Fiscal Federalism and the U.S. Perspective*, scheduled to take place on January 3, 2024, at 1–2:40pm (ET).

Panel Description

Recent crises have triggered a serious debate about providing greater fiscal capacity at the EU level. Is it the right time for a Hamiltonian moment for the EU? Bringing together a distinguished group of international scholars, this panel will explore issues of EU fiscal federalism. Topics include the power to tax within the EU, principles governing an EU tax, harmonization of indirect taxes, and leveraging fiscal federalism for the purposes of defending democracy. Discussants will provide the U.S. perspective as well as reflect on the revenue, borrowing, and spending components of the NextGenerationEU initiative from the perspective of constitutional theory.

Panelists

Gianluigi Bizioli, University of Bergamo
Werner Haslehner, University of Luxembourg
Edoardo Traversa, UC Louvain

Discussants

Tracy Kaye, Seton Hall University, School of Law
Young Ran (Christine) Kim, Yeshiva University, Cardozo Law
Peter Lindseth, University of Connecticut, School of Law

Moderator

Paul Linden-Retek, University at Buffalo School of Law

AALS SECTION ON EUROPEAN LAW:
WORKS-IN-PROGRESS (WIP) PANEL

The panel, moderated by Prof. Kaye, is scheduled to take place on January 3, 2024, 3:00pm-4:40pm and gives selected scholars the opportunity to present and receive feedback on their work-in-progress papers pertaining to European law.

Panelist 1: Kim Lane Scheppele, Princeton University

Paper Title: *Money for Nothing: Can the EU Force Compliance with EU Values by Freezing Funds?* (with John Morijn, University of Groningen and Princeton University)

Discussant: Peter Lindseth, University of Connecticut, School of Law

Panelist 2: William Moon, University at Maryland School of Law

Paper Title: *The European Commission's Corporate Sustainability Reporting Directive and the Brewing Re-Emergence of International Law in American Courts*

Discussant: Ilya Beylin, Seton Hall University School of Law

Discussant: Edoardo Traversa, UC Louvain

The section hopes to hold a virtual business meeting in advance of the Annual Meeting. At the end of this meeting, the European Law Section will welcome Paul Linden-Retek as incoming Chair and Irene Calboli as incoming Chair-Elect. We still seek nominations for the position of Secretary; please consider nominating yourself or others by email to Tracy Kaye (tracy.kaye@shu.edu).

Selected Section Members' Publications

- Anu Bradford, (Columbia Law School), *Europe's Digital Constitution*, 64 Virginia Journal of International Law (2023): <https://www.vjil.org/europes-digital-constitution>
- Anu Bradford (Columbia Law School), *DIGITAL EMPIRES: THE GLOBAL BATTLE TO REGULATE TECHNOLOGY* (Oxford University Press, 2023): <https://global.oup.com/academic/product/digital-empires-9780197649268>
- Irene Calboli (Texas A&M University School of Law), *The Need for Measures to Safeguard Undistorted Competition and Freedom of Expression in Geographical Indications Law—Opinion on the EU Commission's proposal for Broader Protection*, 45 European Intellectual Property Review 307 (2023) (with Annette Kur, Dev Saif Gangjee, Anke Moerland, and Martin Senftleben) (peer-reviewed)
- Irene Calboli (Texas A&M University School of Law), *Exhaustion*, GLOBAL DICTIONARY OF COMPETITION LAW, Concurrences, 2023 (Bill Kovacic, Deborah Healey, Richard Whish & Pablo Trevisan eds.) (available in open access at <https://www.concurrences.com/en/dictionary/Exhaustion>)
- Irene Calboli (Texas A&M University School of Law), *The Overlap Between Trademarks, Collective Marks, and Certifications Marks*, OVERLAPPING INTELLECTUAL PROPERTY RIGHTS (2d ed., Oxford University Press, 2023) 475-504 (Neil Wilkof, Shamnad Basheer and Irene Calboli eds.)
- Irene Calboli (Texas A&M University School of Law), *Non-Traditional Trademarks (NTTMs), Distinctiveness, and the Fashion Industry*, FASHION & INTELLECTUAL PROPERTY (Cambridge University Press, forthcoming 2024) (David Tan and Jeanne Fromer eds.) (with Susanna H.S. Leong)
- Madeline Kass (Seattle University School of Law), *Biodiversity Laws of the US and EU*, in COMPARATIVE ENVIRONMENTAL LAW RESEARCH HANDBOOK (Tseming Yang et al., eds., forthcoming January 2024).
- Madeline Kass (Seattle University School of Law), *Conserving At-risk Species and Birds in the US and the EU: A Comparative Summary*, 28 Env Liability Law, Policy & Practice J. 80 (2023) (with Temple Stoellinger).
- Madeline Kass (Seattle University School of Law), *Right to Repair and the Environment – Fix it or Nix It?*, 38 Nat. Res. & Evt. 54 (Fall 2023).
- Paul Linden-Retek (University at Buffalo School of Law), *POSTNATIONAL CONSTITUTIONALISM: EUROPE AND THE TIME OF LAW* (Oxford University Press, 2023): <https://global.oup.com/academic/product/postnational-constitutionalism-9780192899187>.
- Kim Lane Scheppelle (Princeton University), *Money for Nothing? Freezing EU Funds to Generate Compliance with EU Values*, Journal of European Public Policy (forthcoming 2024) (with John Morijn).