

AALS EUROPEAN LAW SECTION

Forging Transatlantic Relations December 2022, Issue 10



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Summary

In 2022, the community of Europeanists in U.S. legal academia continued to grapple with the Covid-19 crisis and the social, economic, and political transformations it has prompted in the legal and political structures of the European Union. In February, Russia's invasion of Ukraine prompted urgent reconsideration of the European security architecture, the role of the EU in cooperation with NATO, new ambitions for European enlargement, international legal instruments to sanction Russia and enforce accountability, and sustained material support for Ukraine. Internally, the invasion cast new light on the equity of Europe's reception of refugees and on the consequence of its rule of law crisis for effective European policy-making in times of international emergency.

Accordingly, thanks to the leadership of Vlad Perju, the AALS Section on European Law will co-sponsor, together with the Sections on International Law, Comparative Law, International Human Rights, and Global Engagement, a panel discussion entitled, *Conflict in Ukraine: Can Prosecuting Atrocity Crimes Make a Difference?* The panel, chaired by Prof. Leila Sadat, will focus on the atrocities committed during the conflict in Ukraine, from 2013 to the present, and on state responses to those actions, specifically including a discussion of the European Union's support for a war crimes/aggression special tribunal for Ukraine. The panel will convene on Friday, January 6, 10:00-11:40am.

In addition, on Wednesday, January 4, 3:00pm-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 2023 Programs.

The AALS 2023 Annual Meeting, *How Law Schools Can Make a Difference*, will be held in San Diego, California, on January 3–7, 2023.

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

The panel, scheduled to take place on January 4, 2023, 3:00pm-4:40pm (PT), gives a selected group of scholars the opportunity to present and receive feedback on their work-in-progress papers pertaining to European law.

Panelist 1: Nathan de Arriba-Sellier, Yale Center for Environmental Law & Policy

Paper Title: 'Un Carrefour d'Impasses : Judicial Review of EU Agency Soft Law in Composite Procedures'

Discussant: Vlad Perju, Boston College Law School

Panelist 2: Bashar Malkawi, The University of Arizona James E. Rogers College of Law

Paper Title: 'The Economic Restructuring of the European Union in the Aftermath of the Great Recession'

Discussant: Tracy A. Kaye, Seton Hall University School of Law

Panelist 3: Vlad Perju, Boston College Law School

Paper Title: 'The Duty to Disapply – An(other) Infant Disease of EU law?'

At the end of this meeting, the European Law Section will welcome Tracy Kaye as incoming Chair, Paul Linden-Retek as incoming Chair-Elect, and hold its annual administrative meeting to elect any remaining Section Officers. We still seek nominations for the position of Secretary; please consider nominating yourself or others by email to Vlad Perju (perju@bc.edu).

AALS CO-SPONSORED PANEL:
CONFLICT IN UKRAINE: CAN PROSECUTING ATROCITY CRIMES MAKE A DIFFERENCE?

The AALS Section on European Law will co-sponsor, together with the Sections on International Law, Comparative Law, International Human Rights, and Global Engagement, the panel, *Conflict in Ukraine: Can Prosecuting Atrocity Crimes Make a Difference?*, scheduled to take place on January 6, 2023, at 10am–11:40am (PT).

Panel Description

This program will focus on the atrocities committed during the conflict in Ukraine, from 2013 to the present time, as well as state responses to those actions. We will explore the actions of the International Criminal Court (ICC) and other justice mechanisms, including national systems, and the steps needed to investigate and prosecute atrocity crimes, as well as the political and diplomatic challenges to those prosecutions. We will also explore the reluctance of the United States to embrace the ICC as a global institution and the implications of that hesitancy for the legal academy and the Court. Finally, the panel will ask whether and how prosecuting atrocity crimes can make a difference either in Ukraine or elsewhere.

Panelists

Mary D. M. Fan, University of Washington School of Law

Darin Johnson, Howard University School of Law

Patrick J. Keenan, University of Illinois College of Law

Saira Mohamed, University of California, Berkeley School of Law

Moderator

Leila N. Sadat, Washington University in St. Louis School of Law

News

The conference, *The Rule of Law in the Era of Crises*, will be held on April 17–18 2023, in Stockholm, co-organized by the Swedish Institute for European Policy Studies (SIEPS), the Swedish Network for European Legal Studies (SNEF), the School of Business, Economics, and Law at Gothenburg University, and the Centre for European Research at Gothenburg University (CERGU).

The conference, *Critical Encounters with Habermas' Legal Theory* will be held on May 26-27, 2023, at the Baldy Center for Law & Social Policy, University at Buffalo School of Law. The event is dedicated to re-examining the principal work on legal theory by the eminent German philosopher, Jürgen Habermas. Conference participants will examine Habermas' conceptualization of the relationship between liberal-democratic legal theory and critical social theory to ask whether Habermas had moved so far away, in *Between Facts and Norms*, from the early Frankfurt School and his own early work, that he was no longer able to grasp the contradictory dynamics and forms of domination specific to contemporary capitalist societies. Participants will also seek to historicize *Between Facts and Norms* and ask whether the legal and political solutions Habermas proposed in that work —written in period leading up to the Soviet Union's collapse, German reunification, and the rise of neoliberalism — are adequate to the very different challenges the world faces today.

<https://www.buffalo.edu/baldycenter/events/conferences/habermas.html>

Selected Section Members' Publications

Lloyd Bonfield (New York Law School), *EUROPEAN BUSINESS LAW*, 2 ED. (West Academic 2022).

Laurence Helfer & Clare Ryan (University of Alabama Law School), *LGBT Rights as Mega-Politics: Litigating before the European Court of Human Rights*, 84 *Law & Contemporary Problems* 59 (2022).

Paul Linden-Retek (University at Buffalo School of Law), *Europe and the Federal Conceit*, 13(3) *Jurisprudence* 458 (2022).

Paul Linden-Retek (University at Buffalo School of Law), *Constitutional patriotism as Europe's public philosophy? On solidarity and responsiveness in post-national law*, in *EUROPEAN CONSTITUTIONAL IMAGINARIES: BETWEEN IDEOLOGY AND UTOPIA* (J Komárek ed. Oxford University Press, 2022).

Vlad Perju (Boston College Law School), *The Politics of Form in European Constitutionalism*, 18 *Eur. Const. L. Rev.* 572 (2022).

Vlad Perju (Boston College Law School), *Editorial*, 1(2) *Eur. L. Open* 209 (2022).

Vlad Perju (Boston College Law School), *Nucleu identitar, infraconstituționalism și deriva conceptuală în spațiul juridic românesc și european [Identity Nucleus, Infraconstitutionalism and the Conceptual Drift in the Romanian and European Legal Spaces]*, in *CRR-CJEU: UN DIALOG NECESAR* 333-351 (Valeriu Stoica ed., 2022).

Rosemary Salomone (St. John's University School of Law), *THE RISE OF ENGLISH: GLOBAL POLITICS AND THE POWER OF LANGUAGE* (Oxford University Press, 2021), <https://global.oup.com/academic/product/the-rise-of-english-9780190625610>.

Kim Lane Scheppele (Princeton University), *The Law Requires Translation: The Hungarian Reference Case on Reference Cases, Case C-564/19, I.S., Judgment of the Court of Justice (Grand Chamber), 23 November 2021*, 59 *Common Mkt. L. Rev* 1107 (2022).

Marketa Trimble (William S. Boyd School of Law, UNLV), *TRIPS in the Field of Copyright*, in *THE FIRST 25 YEARS OF THE TRIPS AGREEMENT IN CONTEXT* (C Heath & A Kamperman Sanders eds., Wolters Kluwer, 2022).

Marketa Trimble (William S. Boyd School of Law, UNLV), *Unjustly Vilified TRIPS-Plus?: Intellectual Property Law in Free Trade Agreements*, 71 *Am. U. L. Rev.* 1449 (2022).