Governance and Security Issues of the European Union

Jaap de Zwaan · Martijn Lak Abiola Makinwa · Piet Willems Editors

# Governance and Security Issues of the European Union

Challenges Ahead





*Editors* Jaap de Zwaan Faculty of Governance, Law and Security (BRV) The Hague University of Applied Sciences The Hague The Netherlands

Martijn Lak Faculty of Management & Organisation The Hague University of Applied Sciences The Hague The Netherlands Abiola Makinwa Faculty of Governance, Law and Security (BRV) The Hague University of Applied Sciences The Hague The Netherlands Piet Willems Faculty of Governance, Law and Security (BRV) The Hague University of Applied Sciences

The Hague University of Applied Sciences The Hague

The Netherlands

#### ISBN 978-94-6265-143-2 DOI 10.1007/978-94-6265-144-9

ISBN 978-94-6265-144-9 (eBook)

Library of Congress Control Number: 2016951659

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands www.asserpress.nl Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

#### © T.M.C. ASSER PRESS and the author(s) 2016

No part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, microfilming, recording or otherwise, without written permission from the Publisher, with the exception of any material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work. The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

Printed on acid-free paper

This Springer imprint is published by Springer Nature The registered company is Springer-Verlag GmbH Germany The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

# Contents

1	Introduction Jaap de Zwaan, Martijn Lak, Abiola Makinwa and Piet Willems	1
Par	rt I Values and Principles	
2	The Early Years of European Integration—German and Dutch Reactions to the Schuman Plan Martijn Lak	11
3	Schuman in Times of Upheaval Margriet Krijtenburg	33
4	Better Regulation in the EU—A Process and Debate at the Core of Regional Integration Piet Willems	53
Par	rt II Institutional Aspects	
5	Informal Decision-Making in the EU: Assessing Trialogues in the Light of Deliberative Democracy Santino Lo Bianco	75
6	<b>The Five Principles of European Political Communication</b> Chris Aalberts	93
7	A Law and Economics Approach to the New EU Privacy Regulation: Analysing the European General Data Protection Regulation Elif Erdemoglu	109
Par	rt III Policy Domains	
8	The EU Economic Governance Framework and the Issue of Debt René Repasi	129

Contents
----------

9	Time to Shift Towards Shared-Burden Responsibility:A Review of the Syrian Mass Influx MigrationZahra Mousavi	149
10	Energy Policy in the European Union: Renewable Energy and the Risks of Subversion	167
11	European Framework Agreements at Company Level and the EU 2020 Strategy Stefania Marassi	185
Par	t IV European Criminal Law	
12	A Balanced Package: Fighting Money Laundering with the 4th European Directive Peter Steenwijk	209
13	Harmonising Criminal Laws and EU's Significant Bankers: First Use of Article 83(2) TFEU, Rights of the Accused and Learning Organisations. Ernst E. van Bemmelen van Gent	227
14	<b>Corruption and Security: The Role of Negotiated Settlements</b> Abiola Makinwa	249
Par	t V External Relations	
15	Taking Stock of the "Common" in the European Union'sCommon Foreign and Security Policy.Moritz Pieper	273
16	Will Sleeping Beauty Wake up? Proposals for a New EUGlobal Strategy on CFDP.Geor Hintzen	291
17	Up Towards a Coherent and Inclusive EU Policy on Natural Resources: Treaty Amendment Proposals Chris Koppe	307
Par	t VI The Future of EU Co-operation	
18	<b>Flexibility, Differentiation and Simplification</b> <b>in the European Union: Remedies for the Future?</b> Jaap de Zwaan	331

## **Editors and Contributors**

### **About the Editors**

**Prof. Dr. Jaap de Zwaan** is Lector European Integration at The Hague University of Applied Sciences, and Emeritus Professor of the European Union Law at Erasmus University Rotterdam. He started his career as a member of the Hague bar. Thereafter he served for nearly twenty years as a member of the Diplomatic Service of the Dutch Ministry of Foreign Affairs, where he worked notably in the domain of European integration, in The Hague (Policy Department European Integration and Legal Service) and Brussels (Permanent Representation of The Netherlands to the European Union). He was also the Director of the Netherlands Institute of International Relations, Clingendael, in The Hague for almost six years.

**Martijn Lak, Ph.D.** (1977) is a historian and Lecturer and Researcher at the Department of European Studies of The Hague University of Applied Sciences. He studied Journalism and History at the University of Applied Sciences Utrecht, and obtained his Ph.D. in 2011. He specialises in post-war Dutch-German economic and political relations and contemporary German history. In 2015 he published his book 'Tot elkaar veroordeeld. De Nederlands-Duitse economische en politieke betrekkingen tussen 1945–1957'. He regularly publishes in national and international academic journals and is a member of the editorial board of The Journal of Slavic Military Studies.

**Abiola Makinwa, Ph.D.** is Senior Lecturer at The Hague University of Applied Sciences. Her book, 'Private Remedies for Corruption: Towards an International Framework' (Eleven, 2013) focuses on the role of private actors and the importance of public/private dialogue in the fight against corruption. In 2013, Makinwa was awarded an EU OLAF Hercule II Grant to research European Perspectives on Negotiated Settlements for Corruption Offences. In 2014, she was appointed as the Dutch National Reporter, together with Prof. X. Kramer of Erasmus University, to report on 'Civil Law Consequences of Corruption in International Commercial Contracts' for the 19th Congress of the International Academy of Comparative Law.

**Piet Willems** is Lecturer in International and European Law at The Hague University of Applied Sciences, where he focuses on project-based learning, moot court coaching and competition law. His research activities focus on regulation in the European Union. He is also a member of the Board of Directors of the Ibero-American Institute of The Hague. Previously, Piet Willems was Assistant Professor at the Department of Public International Law at Ghent University and a member of the Board of Directors at the United Nations Association Flanders Belgium (VVN). He obtained both his Master's degree and his LL.M. in European Law from Ghent University.

### Contributors

**Chris Aalberts, Ph.D.** is Lecturer in Political Communication at Erasmus University Rotterdam and Lecturer in Research Methods at The Hague University of Applied Sciences. He is working on a book on European politics and European journalism, which is planned for the end of 2016. He is a regular contributor on the European politics for 'The Post Online', a Dutch news and opinion web site. He wrote books on European Union democracy, social media and politics, spin doctoring and right-wing political parties.

**Elif Erdemoglu, Ph.D.** holds her doctorate degree from the DFG Graduate School in Law and Economics at the University of Hamburg in Germany, where she obtained scholarship from the German Research Association. She holds a triple Master's degree in Economic Analysis of Law from Manchester University, Hamburg University and Bologna University. She completed her Bachelor's degree in Law at Galatasaray University, Turkey. In 2014, she was a John M. Olin Fellow in Law and Economics at Harvard Law School. Dr. Erdemoglu is currently Lecturer at The Hague University of Applied Sciences, Netherlands.

**Geor Hintzen** (1960) (Ph.D.) studied Chinese and Law at Leiden University, the Netherlands and has a Ph.D. in Chinese Politics (Imagining Political Science, 1998). He subsequently worked for 14 years at the Dutch Immigration and Naturalisation Service, where he established a Language Analysis Bureau and served as a senior advisor to the director of asylum matters. After serving as a researcher at the Dutch Advisory Commission for Alien Affairs, he coordinated research on governance and security at The Hague University for Applied Sciences. At present he is a senior researcher on international affairs and areas studies, covering Europe, the Middle East, and South and East Asia.

**Helen Kopnina** (Ph.D. Cambridge University, 2002) is a coordinator and Lecturer of Sustainable Business program, and a researcher in the fields of environmental education and environmental social sciences at The Hague University of Applied Science in the Netherlands. She also lectures on anthropology and development and environmental anthropology at the Leiden Institute of Cultural Anthropology

and Development Sociology at the Leiden University. Kopnina is the author of over sixty peer-reviewed articles and (co) author and (co) editor of twelve books, including Sustainable Business: Key Issues (2014); Sustainability: Key Issues (2015); Culture and Conservation: Beyond Anthropocentrism (2015) and Handbook of Environmental Anthropology (2016).

**Chris Koppe** holds a Master's degree in Law and a Bachelor's degree in Arts. He worked as a lecturer/researcher in European Union Law at Erasmus University, Rotterdam and at The Hague University of Applied Sciences. He participated in the EU-28 Watch-project (Issue No. 10), the Jean Monnet Centre of Excellence of Leiden University Campus in The Hague, and still participates in the Research Group on European Integration. Before that, he took an internship at an international law firm and worked as a paralegal. Currently, he has his own consultancy firm and gives lectures in European Union Law at Utrecht University.

**Margriet Krijtenburg, Ph.D.** is Senior Lecturer at the Faculty of Management and Organisation/European Studies and member of the research group on European Integration of The Hague University of Applied Sciences. She is also a Visiting Professor at l'Université de Lorraine, Nancy, Département de Droit, Master Programme. She obtained her Ph.D. on 'Schuman's Europe, His Frame of Reference' from Leiden University in 2012. Margriet Krijtenburg also supervises the Annual Schuman Student Congress & Essay Competition in close co-operation with Dr. Jaap de Zwaan, the Polish Student Association and students from The Hague University of Applied Sciences. She frequently gives conferences about Schuman and his ideas about European unification in The Netherlands and abroad.

**Santino Lo Bianco, Ph.D.** is Lecturer at The Hague University of Applied Sciences since 2001, where he specialises in law and governance in the EU. He also delivered lectures on European politics and integration at the University of Amsterdam. Before he started teaching, he worked for six years at an autonomous institute commissioned by the Netherlands Foreign Affairs Ministry to deliver reports, studies and seminars on international and transatlantic security issues. His contributions there were mainly in the field of common foreign, security, defence and external relations policies of the EU. In 2015, Lo Bianco received his Ph.D. in social science from the VU University of Amsterdam. The subject of his Ph.D. research was the (discursive) origins of policy change in the everyday practice of decision-making in the European Union.

**Stefania Marassi** is lecturer in International and European Law at The Hague University of Applied Sciences, and specialises in "EU Employment Law" and "International Labour Law". She published the book "Globalization and Transnational Collective Labour Relations. International and European Framework Agreements at Company Level" in 2015. In the same year, she was invited to deliver a presentation and participate in experts meetings organised by the European Trade Union Confederation (ETUC). Stefania Marassi obtained her LL.M. *cum laude* in 'International and European Labour Law' at Tilburg University. She previously worked in different institutions, such as the Clean Clothes Campaign and the International Criminal Tribunal for the Former Yugoslavia.

**Zahra Mousavi** joined the Law Faculty of The Hague University of Applied Sciences in 2011, where she gives advanced seminars in International and EU Law. Ms. Mousavi received a Hijmansbeurs in 2012 to conduct a research program at the University of Amsterdam. She worked at the Iran United States Tribunal between 1998 and 2011, and has acted as legal assistant in some international ad hoc arbitrations. Earlier still and when she was in Iran, Ms. Mousavi worked for Iran's Bureau of International Legal Services, where she dealt with Iran's cases before the United Nations Compensation Commission, and was additionally involved in the distribution of compensations paid by the United States to the victims of the 1988 Aerial Incident. She is the author and co-author of a number of articles in scholarly journals, and the co-translator of a textbook regarding International Criminal Law.

**Moritz Pieper, Ph.D.** is Lecturer in International Relations at the University of Salford, Manchester. He has been a visiting Research Fellow at China Foreign Affairs University in Beijing, German Institute for International and Security Affairs in Brussels and the School of Oriental and African Studies in London. He holds a bachelor in European Studies from Maastricht University, a Masters in International Relations in Euro-Atlantic and Eurasian Communities from the Higher School of Economics in Moscow and a Masters and International Relations from the University of Kent where he also got his Ph.D. He has published in European Foreign Affairs Review, the European Journal of East Asian Studies and International Politics among others.

**René Repasi, Ph.D.** is scientific coordinator of the European Research Centre for Economic and Financial Governance (EUROCEFG) of the Universities of Leiden, Delft and Rotterdam. He studied law at the Universities of Heidelberg and Montpellier. He has been an Assistant Professor at the University of Heidelberg and senior researcher at the Institute for German and European Corporate and Economic Law. He has worked for the European Commission and at the European Court of Justice during his legal clerkship. He was also appointed as a legal expert for the European Parliament on the banking union and on the EU constitutional questions relating to economic governance. He published in several English, French and German law journals about the legal issues in the European Union.

**Peter Steenwijk** read History and Law at Leiden University and studied Middle Eastern Studies at the Hebrew University of Jerusalem. He has been working as a consultant for Ernst and Young and TEC. Since 2013, he is Senior Lecturer on risk management, corporate governance and compliance at The Hague University of Applied Sciences. As a researcher he is especially interested on the risk-based combat of money laundering and terrorist financing.

**Ernst E. van Bemmelen van Gent** graduated in law at the University of Amsterdam, the Netherlands. He received a cum-laude post-graduate degree (LL.M.) from the University of Dresden, Germany. As licensed attorney-at-law (in Dutch: advocaat), he builds on his commercial law experience in the past, and focusses on his special interest in governmental regulation of markets and corresponding compliance. Prior to

becoming a lawyer, he served as assistant to Prof. Peter Hay in Dresden. Currently, he is a part-time lecturer at Utrecht University, and a part-time researcher at The Hague University of Applied Sciences. He was an initiator, designer, lecturer and program manager of the International Bachelor of Law Program of The Hague University of Applied Sciences. He was also a course manager of the Master of Arts in European Law and Policy, a combined degree, at the University of Portsmouth, UK.