

Revisiting Judicial Politics in the European Union

16 - 17 June 2022

Sala Teatro - Badia Fiesolana, Via dei Roccettini 9 - San Domenico di Fiesole (Fiesole, Florence)

Organised by Mark Dawson, Bruno de Witte & Elise Muir

Introduction

Context and Purpose

While long considered an important actor in European integration, there are signs that the Court of Justice's role in EU politics is increasingly contested. This contestation comes from both sides, with national Courts and scholars deriding 'activist' rulings in particular areas while simultaneously complaining of a failure to proactively defend European legal values in others. This project aims to revisit the debate over judicial politics in the EU by examining the causes and outcomes of increasing contestation of the EU judiciary. In doing so, it aims to bring together a group of leading lawyers and political scientists within the Civica network to examine a key research priority within Civica, namely the constitutional resilience of the EU political order and the role of the judicial branch in safeguarding its basic principles. It will also include leading experts from outside the network.

The core of the project is a workshop in June 2022 and a collective publication bringing together experts from six Civica partners, as well as external scholars and practitioners. By focusing on a common area of interest across the Civica network, and taking advantage of new research on judicialization in both law and political science, the project plans to lay the foundation for broader and more ambitious research collaboration within Civica on the role of courts and the European constitutional order.



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Programme

16 June

09:00 Welcome

Erik Jones | Robert Schuman Centre for Advanced Studies, EUI

Panel 1: Judicial Politics and the Constitutional Features of the EU Legal Order

09:15 - 10:00 The Political Face of Judicial Activism: Europe's Law-Politics Imbalance
Mark Dawson | Hertie School of Governance

10:00 - 10:45 Contesting the Court's Activism in Identity Terms
Loïc Azoulay | Sciences Po

10:45 - 11:30 Beyond Activism: Europe's Judicial Narratives
Antoine Bailleux | Université St Louis

11:30 - 11:45 *Coffee break*

11:45 - 12:30 Legitimising Activism: Functional and Ethical accounts
Floris de Witte | London School of Economics

12:30 - 13:15 The European Court of Justice: A Fundamental Rights Institution Among Others
Elise Muir | University of Leuven

13:15 - 14:15 *Lunch break*

Panel 2: Judicial Politics and the Dynamics of Specific Areas of EU Law

14:15 - 15:00 The European Court of Justice and Institutional Balance
Julio Baquero Cruz | European Commission and Université Libre de Bruxelles

15:00 - 15:45 The Court and the Internal Market: From Activism to Restraint
Jan Zgliniski | London School of Economics

15:45 - 16:00 *Coffee break*

16:00 - 16:45 The Court of Justice and its Review of Science-based Decisions: Limited or Extensive Review?
Ellen Vos and **Luca Knuth** | Maastricht University

16:45 - 17:30 Judicial Activism in Climate Change Cases
Sacha Garben | College of Europe

17:30 - 18:15 Judicial Control of the Politics of Differentiated Integration
Bruno de Witte | EUI and Maastricht University

18:15 - 19:00 *Cocktail*

17 June

Panel 3: Judicial Politics in a European Context

09:30 - 10:15 Judging Judiciously: The Effects of Politicization in the Rulings of the European Court of Justice
Urška Šadl | EUI

- 10:15 - 11:00 The Activism of National Constitutional Courts in Interpreting EU Law
Matthias Wendel | University of Leipzig
- 11:00 - 11:15 *Coffee break*
- 11:15 - 12:00 Comparing the Activist Claim between Strasbourg and Luxembourg in the Field of Non-discrimination
Matthias Möschel | Central European University
- 12:00 - 12:45 The Role of Judges in Academic and Political Discourse
Eleanor Spaventa and **Fulvia Ristuccia** | Bocconi University
- 12:45 - 13:45 *Closure and lunch*

General Discussants (all panels)

Virginia Passalacqua | University of Utrecht
Tommaso Pavone | University of Arizona
Ronan Riordan | Hertie School of Governance
Orlando Scarcello | University of Leuven
Lilian Tsourdi | Maastricht University