

*EUROPEAN INTEGRATION THROUGH LAW: JUDICIAL REVIEW OF THE EUROZONE
CRISIS IN EUROPEAN NATIONAL, REGIONAL AND SUPRANATIONAL COURTS*

FOREWORD

Recent measures designed to tackle the European financial crisis are multi-faceted, but most of all, they have a strong legal dimension. This accentuated and multifarious legal feature reverses the “law-lite” component of the European Union’s euro currency. It is significant that these “anti-crisis” legal measures have survived broad judicial review. The arguments and procedures involved in this judicial review challenged our previous understanding of the role of law in European integration and the capacity of judicial review to provide checks and balances.

Because of the financial crisis, the EU Member States have had to assume significant responsibilities, both for their own troubles and for each other. As a result of these changes, the EU has had to quickly evolve into more than what it was in terms of its legal purview. Attempts to resolve the Eurozone crisis through law have generated a flurry of postnational rule-making. However, its character is extraordinarily complex and manipulates the state of integration within the Eurozone. Moreover, it has already generated significant challenges for a wide variety of judicial bodies, parliaments and tribunals.

In reflection of this emerging body of precedent, this symposium explores the theme of *European Integration Through Law*. We have selected themes raised in judicial review of the anti-crisis measures at the national, regional and supranational level. Our goals were to consider the form and character of the legal measures created to resolve the EU’s financial crisis, and also to evaluate the outcome of judicial review of the financial crisis and related response measures in light of the expectations that were raised at the outset of such review.

Our publication process began at the beginning of 2013. In February 2013, the University of Michigan Law School community was honored to welcome Juliane Kokott, Advocate General of the Court of Justice of the European Union. During this visit, the Advocate General accepted an invitation to participate in this symposium. The speech presented here was delivered extra-judicially by the Advocate General in Karlsruhe, Germany concerning the leading decision of the Court of Justice on the Eurozone crisis, *Pringle v. Ireland* from 2012, where the Advocate General presented her view to the Full Court. Her speech is presented here almost in full, after translation from German and minimal editing.

In addition to the speech by Advocate General Kokott, the symposium features short articles by Samo Bardutzky (Fulbright Postdoctoral Researcher, University of Michigan, Ann Arbor Law School 2012-13), Elaine Fahey (University of Amsterdam; Visiting Research Scholar University of Michigan, Ann Arbor Law School 2012-13), M.Elvira Méndez-Pinedo (University of Iceland), Martinho Lucas Pires (Católica Global School of Law, Lisbon; Visiting Research Scholar University of Michigan, Ann Arbor 2012-13) and Giuseppe Martinico (CEPC Madrid). These authors are scholars of European Union Institutional and Constitutional Law and its important affiliate, EEA/ EFTA Law. The MJIL editorial staff was pleased to work with these authors and hopes to continue this online symposium format in future years.

The convenors wish to express their tremendous gratitude to the editors of MJIL and Daniel Halberstam for their support, assistance and inspiration. We hope you enjoy reading the symposium.

Samo Bardutzky, Fulbright Postdoctoral Visiting Research Scholar, University of Michigan, Ann Arbor Law School.

Elaine Fahey, Visiting Postdoctoral Researcher, University of Michigan, Ann Arbor Law School; Amsterdam Centre for European Law and Governance ACELG), The Netherlands

Julia Stuebing, Editor in Chief, Michigan Journal of International Law

Elisabeth Madden, Managing Blog Editor, Michigan Journal of International Law

ABOUT THE SYMPOSIUM PIECES

Advocate General Juliane Kokott: The Symposium begins with the text of a speech delivered by Advocate General Juliane Kokott of the Court of Justice of the European Union, Luxembourg, delivered extra-judicially. However, it is not an ordinary speech of a judge of a highest court delivered extra-judicially. Instead, it constitutes one of the most insightful background pieces currently available on the *Pringle* decision, the leading decision of the highest European Union Court on the Eurozone crisis. Importantly, the Advocate General engages with the actions and inaction of Germany's highest constitutional court with respect to the same law adjudicated before the EU's highest court on the Eurozone crisis, remarks which she delivered before Germany's highest court extra-judicially, thus both substantively but also location-wise distinctive and remarkable. In her speech, she engages directly with questions of supremacy or primacy in way that makes this one of the most important extra-judicial contributions of all time of an Advocate General.

Samo Bardutzky and Elaine Fahey consider the character of Eurozone law, specifically its "postnational" characteristics, as an area on the margins of EU Institutional law and one that readily manipulates the character of its instruments and the place of Member States. They consider the case study of the European Stability mechanism and its review in 5 Member States, along with its review before the Court of Justice, as a failed opportunity for judicial review and participation before the EU courts, at national and supranational level.

Martinho Lucas Pires considers the adjudication of the Portuguese Emergency Law before the Portuguese Constitutional Court. The law was a result of an IMF-ECB-European Commission agreement for financial assistance with Portugal. The adjudication is considered as a casestudy of the nature and form of judicial review of socio-economic and financial policy.

Giuseppe Martinico considers the constitutional impact of the noteworthy Treaty on Stability, Coordination and Governance in the form of regionalism. He provides a thoughtful and novel perspective on the notion of a deepening union and the federalising effects of the Eurozone crisis.

M. Elvira Méndez-Pinedo portrays the grey areas of the internal markets of the EU in banking and finance law as manifested before the EFTA Court when it considered the Icelandic Icesave dispute. In that case, the UK and Netherlands initiated proceedings against Iceland following a high profile financial crisis dispute. Her account provides a fascinating analysis of discrimination law and the treatment of depositors.