

Mixity and the Court

Jurisdiction in manifest and blurred mixity

Monday 7 April 2025, VUB Brussels

As a result of the imperfect and incomplete conferral of competences to the European Union (EU), the EU often cannot act independently in its external relations. To conduct its foreign policy and external relations, the EU must then act together with, or through, its Member States, in a 'mixed' (EU-Member State) action. The mixed nature of their combined action may be manifest, in which case the involvement of both the EU and its Member States is formally expressed to the outside world (e.g. because both the EU and the Member States become parties to an agreement, because a position is expressed on behalf of both the EU and the Member States, etc.). Mixed action can also be blurred however, in which case the mixed nature of the action is not immediately apparent to the outside world. The constellations of such blurred mixed action vary from the Commission negotiating a mixed agreement on behalf of both the EU and its Member States to Member States acting following coordination with EU institutions or Member States being exceptionally authorized by the EU to exercise EU exclusive competences.

Both manifest and blurred mixed action in external relations raise several questions, including that of the degree to which the CJEU has jurisdiction over such mixed action. The workshop will identify the grounds for and limits to the CJEU's jurisdiction in the different constellations of mixed external action.

Organizers: Merijn Chamon, Inge Govaere, Eleftheria Neframi

Scientific Committee: Merijn Chamon, Inge Govaere, Joni Heliskoski, Eleftheria Neframi, Allan Rosas

09h30 – Welcome coffee & registration

09h55 – Opening of the workshop - *Merijn Chamon (VUB)*

I. Problem-setting: the CJEU's jurisdiction (10h00-12h30)

The Court's jurisdiction in blurred and manifest mixity – a conceptual framework – *Merijn Chamon (VUB)*

The Court's entanglement of its own making – *Inge Govaere (UGent & College of Europe)*

Mixed agreements - The test as it results from *ÖBB – Tamara Čapeta (CJEU)*

Discussants:

Christophe Giolito - Commission Legal Service

Lucia Serena Rossi – Università di Bologna

Christine Kaddous – Université de Genève

Mielle Bulterman – Ministry of Foreign Affairs The Netherlands

12h30-13h30 – Sandwich lunch

II. Hooks for the Court to seize jurisdiction (13h30-15h45)

Jurisdiction and the principle of conferral: the scope of EU law vs the scope of EU competences (principle of conferral) – *Isabelle Bosse-Platière (Université de Rennes)*

Jurisdiction and the principle of sincere cooperation – *Eleftheria Neframi (Université du Luxembourg)*

Jurisdiction through the protection of fundamental rights: ramifications of KS & KD – *Peter Van Elsuwege (UGent)*

Jurisdiction through safeguarding the autonomy of EU law: the Union interest in the Court claiming jurisdiction – *Allan Rosas (Former Judge at the CJEU)*

Discussants:

Petra Mahnič - Council Legal Service

Luca Prete - CJEU

Gesa Kübek – University of Groningen

Marcus Klamert – Austrian Federal Chancellery & Universität Graz

15h45-16h15 – Coffee break

III. Delimiting jurisdiction in a multilevel system (16h15-18h30)

Jurisdiction and international comity between courts and tribunals – *Enzo Cannizzaro (Università di Roma "La Sapienza")*

Jurisdiction international dispute settlement – *Isabelle Van Damme (Universität Bern)*

Jurisdiction and constitutional pluralism (national highest courts) – *Joni Heliskoski (Supreme Administrative Court Finland)*

Discussants:

Luca Visaggio – European Parliament

Stanislas Adam - CJEU

Christophe Hillion – University of Oslo

Jørgen Skjold – Ministry of Foreign Affairs Norway

19h00 – Speakers' dinner at Le Mess