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by Maria Brokou

The Jean Monnet Project "[Enhancing the Debate about Intercultural Dialogue, EU Values and Diversity- EU VaDis](#)", at the Department of International and European Studies of the University of Macedonia, and the [Centre of International and European Economic Law \(CIEEL\)](#) co-organized an e-Conference on "[Social exclusion, vulnerable groups and the new EU Social Rights Pillar](#)", on Friday 5th, and on Saturday 6th of March, 2021.

The e-Conference that was conducted in English through the Zoom platform, gathered prominent speakers from Greece, the United Kingdom, Italy, Cyprus, and Canada. The event that was organized around five thematic Sessions:

Session 1: The EU Social Rights Pillar (05/03/2021)

- **European Social Charter and the Charter of Fundamental Rights of the EU**
Georgios THEODOSIS, Assistant Professor of Labour Law, Democritus University of Thrace, Greece, and Member of European Committee Social Rights, Council of Europe

In his speech, Professor Theodosis brought together and briefly explored the interrelations of the ESC and the CFREU in protecting social rights within the difficult relationship of ESC and EU social law, the limitations and the potentials of both instruments regarding the justiciability of their provisions, and the prospects of a better inter-institutional cooperation in the field of social rights. His conclusion was that the legal constraints presented by the two institutions will be lifted in a certain extent, and the dialogue between the two texts will be intensified as the covid-19 pandemic calls for a review of social policies on the basis of the principle of solidarity.



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- **The Governance of the European Pillar of Social Rights**

Ioannis PAPADOPOULOS, Associate Professor, Department of International and European Studies, Director of the Center for Research on Democracy and Law, University of Macedonia, Thessaloniki, Greece

Professor Papadopoulos analyzed the issues and concerns raised in relation to the implementation of the recent European Pillar of Social Rights (EPSR) using the framework of governance within the European Union (EU) as a basis of analysis. Two methods of governance were the primary focus of his research: the Community Method (CM) and the Open Method of Coordination (OMC). After an in-depth review of these two methods of governance within the EU, an analysis of the history and legal nature of the EPSR was presented. Having placed the EPSR within the wider framework of the EU's modus operandi, an evaluation of the different possibilities and issues that may arise from its implementation at the supranational and national levels through either the OMC or CM was presented, followed by a conclusion on the ways through which the EPSR could be more effectively implemented.

- **[The interaction between the EU budget and the EU Social Pillar](#)**

Dimitrios SKIADAS, Professor, Department of International and European Studies, Jean Monnet Chair on EU Fiscal Governance and Auditing, University of Macedonia, Thessaloniki, Greece

Professor Skiadas, commented that enforcing the social dimension of the Union by pledging to present an Action Plan that will deliver the European Pillar of Social Rights has been one of the core commitments undertaken by the European Commission under Ursula von der Leyen. Given the multifaceted importance of the Pillar, he examined the budgetary tool to be employed for this purpose. Within the Multiannual Financial Framework (MFF) 2021-2027, the next EU long-term budget, the oldest of the Union's Structural Instruments and Funds, the European Social Fund which has been the key financial instrument to invest in people and create quality employment opportunity for European citizens, is going to be reformed. According to his speech, the new European Social Fund Plus (ESF+) will be a simpler but stronger version of its predecessor through the merger of five existing funding instruments. Therefore, his analysis focused on the main features of this new funding reality, taking into account the texts proposed and approved for the new ESF+ Regulation.



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Christina DELIYANNI-DIMITRAKOU (top right), Em. Professor of Comparative Law, Law School, Jean Monnet Chair EU Social Rights Protection and Comparative Legal Cultures, Aristotle University of Thessaloniki, Director of the Centre of International and European Economic Law (CIEEL), Thessaloniki, Greece moderated this Session.

Session 2: Poverty and Social Exclusion in the EU (05/03/2021)



During the second session of the first day of the event, and under the moderation of **Despoina ANAGNOSTOPOULOU**, Associate Professor, Academic Coordinator of the Jean Monnet Project EU Vadis at the Department of International and European Studies at the University of Macedonia, the Speakers elaborated on:

- **Challenges for EU Policy against social exclusion and poverty. How successful was the EU2020 Strategy?**

Gabriel AMITSIS, Professor of Social Security Law, University of West Attica, Athens, Greece

Professor Amitsis in his speech highlighted the fact that the scope, and principles of the integrated national social inclusion and anti-poverty agendas that have been designed and promoted since the mid '90s, vary significantly between different national regimes. In this respect, the European Union has developed since the late '90s a dynamic approach to support welfare reforms through non-binding secondary European law, new governance methods developed under the Lisbon process (i.e. the Open Method of Coordination) and financial instruments (particularly the European Social Fund). He made a presentation of the challenges the EU policy against social exclusion and poverty faces and made a distinct reference to the monetary poverty that is the most widespread form of poverty in 2018, with the very low work intensity being the second, and the social exclusion being the third one.



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▪ **Minimum Guaranteed Income, for whom? Poor, asylum seekers, refugees**

Kostas CHRYSOGONOS, Professor of Constitutional Law, Law School, Aristotle University of Thessaloniki, Greece, and Stella CHRISTOFORIDOU, Post-doc Researcher, Aristotle University of Thessaloniki, Greece

After the constitutional amendment 2019, there is a new constitutional provision according to which the State ensures decent living conditions for all citizens through a system of minimum guaranteed income (art. 21 par. 1b GrConst.). Minimum guaranteed income takes the form of a welfare system for the citizens in which income functions as a mean to ensure decent living conditions. The joint contribution by Professor Chrysogonos and post-doc researcher Christoforidou had two directions, horizontal and vertical, and aimed to explore the range of protection given to the most vulnerable members of society through the national and European legal framework and its implementation in practice, with horizontal direction referring to the weak members of society regardless if they are Greek citizens, i.e. they have Greek nationality, or not, and vertical effect referring to the definition of poor, beyond the threshold absolute poverty.

▪ **Social solidarity economy and social inclusion in Greece: radicalism does not meet vulnerability on the ground and in policy-making**

Dr. Sofia ADAM, Adjunct lecturer at the Department of Social Policy, Democritus University of Thrace, Adjunct Lecturer at the Master Program on Social Solidarity Economy, Hellenic Open University, Greece

In her presentation, Dr. Adam dealt with the relative underdevelopment of social inclusion cooperative enterprises in Greece in comparison with the total number of Social Solidarity Economy (SSE) enterprises according to the data kept at the Registrar of Social Solidarity Economy of the Ministry of Labour. According to her, this picture is also depicted by relevant studies exploring the motivations and reality of grass root initiatives during the period of the crisis and the proliferation of SSE initiatives in Greece. In her speech she offered some potential explanations for this reality following the distinction between redistribution and recognition elaborated by critical thinkers in social policy as well as the institutional fragmentation manifested in Greek social policy-making.



Session 3: Empowering vulnerable groups: Roma, person with disabilities (06/03/2021)

Kalliopi CHAINOGLOU, Assistant Professor, Department of International and European Studies, University of Macedonia, Thessaloniki, Greece moderated the Session where the topic under discussion were:

- **Overcoming the social exclusion of the Roma people**

Dr. Tina MAGAZZINI, Research Associate, Global Governance Programme, Robert Schuman Centre for Advanced Studies, European University Institute, Italy



Dr. Magazzini, opened her speech saying that the past decade, overcoming the social exclusion of the Roma people has become one of the European Union's declared goals, and has been accompanied by a range of directives, communications, and political commitment. In her presentation she aimed to provide an overview of how Roma inclusion became a central concern at the European level, and how it has been declined differently in different national settings, using Italy and Spain as examples. Drawing upon four years of research on the National Roma Integration Strategies in these two countries and on interviews with policy makers in charge of Roma integration measures, in her presentation she questioned the representation of the 'deficit paradigm' that focuses on the 'lack of' (political participation, skills, self-esteem) and offered some pointers as to how to tackle some aspects of socioeconomic exclusion through "explicit but not exclusive" targeting.

- **Challenges for EU Policy for Roma integration**

Nuno FERREIRA, Professor of Law, University of Sussex, Brighton, United Kingdom

Discriminatory practices and hostility towards Roma across Europe remain a matter of extreme concern, underlined in his presentation Professor Ferreira. In his presentation, he discussed the range of relevant EU competences in this field and the adequacy of the EU's approach to Roma issues. Drawing from an analysis of legal instruments, policy papers and case law, and integrating considerations of social, economic, and cultural nature, he identified the limitations of the present state of affairs and put forward a range of recommendations. He looked in particular at the recent "EU Roma strategic framework for equality, inclusion and participation for 2020 – 2030", highlighted its



shortcomings, and concluded by advocating in favour of a theoretically-informed and more holistic approach to policy-making in this field.

▪ **Accessibility and Inclusion in EU Disability Policy**

Delia FERRI, Professor of Law, Maynooth University, Ireland

In her presentation, Professor Ferri commented that a major driver for the most recent developments in the EU Disability Policy has been the ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD), which has become an ‘integral part of EU law’. In her speech she first critically discussed the interplay between recently adopted

pieces of legislation and other instruments (e.g., standardisation) in ensuring equal access to different goods and services for people with disabilities. She then focused on the Web Accessibility Directive, which provides for mandatory accessibility requirements for websites and mobile applications of public sector bodies, and on the European Accessibility Act (EAA), which mandates the accessibility of a range of key products and services in the internal market, including, among others, software, banking ATMs and services, payment terminals, e-books, and ticketing machines. Professor Delli highlighted the core tenets of those Directives, as well as their strengths and weaknesses vis-à-vis the CRPD. To sum it up, in her presentation she interrogated the role of the EU in advancing accessibility, and discussed what challenges should be addressed by the new Disability Strategy.

Session 4: Equality and positive discrimination (06/03/2021)



Lina PAPAPOPOULOU, Associate Professor of Constitutional Law, Law School, Jean Monnet Chair for European Constitutional Law and Culture, Academic Coordinator of the AUTH Jean Monnet Centre of Excellence on “European Constitutionalism and Religion(s)”, Aristotle University of Thessaloniki, Greece, chaired the fourth Session of the e- Conference where the Speaker participated were:



- **Deep equality and religious diversity**

Lori G. BEAMAN, Professor, Canada Research Chair in Religious Diversity and Social Change, Ottawa, University, Canada

Professor Beaman in her speech noted that tolerance and accommodation are often the core concepts that permeate discussions about how to ‘manage’ diversity. Focussing on religion as one element of diversity, in her presentation argued that tolerance and accommodation preserve hierarchies of privilege that are inadequate for diverse, inclusive societies with strong human rights guarantees. She considered the shape of equality outside of law, arguing that equality is something that is frequently enacted by people in everyday life.

- **Positive Discrimination: How can this be achieved under Directive 2000/78?**

Philippa WATSON, Barrister, Essex Court Chambers, London Professor of Law, City Law School, Visiting Professor Queen Mary, University of London, United Kingdom

In her paper, Barrister Watson began by briefly summarising the experience hitherto of the EU in the sphere of positive discrimination in social and employment law. To what extent is positive discrimination provided for in the EU Treaty? Why is positive discrimination in the law and policy of Member- States permitted in the context of pay and employment conditions of men and women in Article 157(4) TFEU and Article 23 of the Charter of Fundamental Rights whilst Article 19 is silent on the matter? Is there a fundamental difference between these provisions which warrants such an omission and what are the consequences of that? She then moved on to focus on Directive 2000/78 which has two provisions which provide explicitly for the possibility of positive discrimination: Article 7 and Article 15. Based on her speech, to date there has been only one judgment on Article 7 (1) and the CJEU found it was not applicable to the national provisions invoked in that case (Case C-193/17 Cresco). Afterwards, she answered if positive discrimination is possible – and if so to what extent- through other provisions of Directive 2000/78 such as those providing for exceptions and derogations to the principle of equal treatment. Finally, she considered how positive discrimination been handled by the CJEU in it case law to date in the context of sex discrimination.



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- **The circle of equality in Greece**

Kalliopi LYKOVARDI, Deputy Ombudsman for Equal Treatment, Athens, Greece

Ms. Lykovardi presented the Greek national equality body which was constitutionally established as an Independent Authority. Its mandate is to combat discrimination and promote the principle of equal treatment irrespective of gender, racial or ethnic origin, family or social status, religion or belief, disability or chronic illness, age, sexual orientation, and gender identity. She presented several data regarding the cases the authority had dealt with and commented on past outcomes based on the monitoring of the national law and policy from an equality perspective in the framework of the European Union's legislation.

- **Procedural safeguarding of gender equality through burden of proof in EU law. The contribution of Directive 2019/1158 in light of ECJ case law**

Dr. Elina ASIMAKOPOULOU, Lawyer, Post Doc Researcher of International Procedural Law, Aristotle University of Thessaloniki, Greece

In her speech, Dr. Asimakopoulou noted that long before Lisbon Treaty, previous treaties and case law of the European Court of Justice made the protection of gender equality a fundamental goal and, subsequently, principle of European law (Defrenne II and III). Despite the substantive protection of human rights, procedural tools need to be implemented in order to safeguard effective access to justice and real implementation of fundamental legal values (Case San Giorgio). ECJ case law identified the issue in labor law cases and addressed it through the adjustment of the burden of proof (Cases Bilka-Kaufhaus, Enderby, Danfoss). Following ECJ case law, Directive 97/80/EU, subsequently incorporated by Directive 2006/54/EU, regulated the allocation of burden of proof in cases of discriminatory behavior due to gender discriminations (including sexual harassment) in matters of employment and occupation. ECJ case law rendered after the legislative regulation of burden of proof issue identified and extended the realm and the way of its application (Cases Mino Ghannadan, Isabel Gonzalez Castro). Recently, Directive 2019/1158/EU deepened gender equality protection by introducing standards for leave right for fathers and other carers. Work life balance for men and women is the new protection project under the light of gender equality. Procedural tools, adequately and broadly implemented, balance information asymmetry in discrimination cases and facilitate the claimant to justify and prove his/her allegations. Burden of proof



adjustments to the capability to prove facts lead to ad hoc adjustments to the procedural responsibility to invoke facts. Dr. Asimakopoulou concluded that gender equality as a litigation object remains a fundamental human right and as a fundamental human right must be litigated.

Session 5: The role of the Courts in interpreting social rights (06/03/2021)



The Chair of the last Session of the e-Conference was **Virginia TZORTZI**, Assistant Professor of EU Law, Law School, Democritus University of Thrace, Secretary of the Centre of International and European Economic Law (CIEEL), Thessaloniki, Greece. The interesting thematics that the Speakers chose to share their views on were:

- **Can courts safeguard Europe's social acquis? Evidence from national and supranational jurisprudence**

Dr. Anastasia POULOU, Mst (Oxford), Judge at the Administrative Court of First Instance, Athens, Greece, f. Senior Research Fellow, Max Planck Institute for Social Law and Social Policy, Munich, Germany

According to Dr. Poulou, social policy has always been regarded as the “stepchild” of European integration. The economic freedoms of EU citizens had been legally enforceable through treaty provisions already from 1958, whereas social and labour rights became legally binding only in 2009 through the Treaty of Lisbon. The last biggest challenge to Europe's social acquis has been the Eurozone crisis and the measures introduced in response to it, which have been described as a constitutional mutation. While formally regulating economic policies, the measures adopted in the context of the financial crisis, entailed detailed prescriptions that related to wage moderation, decentralisation of collective bargaining, cuts in pensions and social security benefits, reforms in public healthcare and education. As she said, “given the strong impact of those measures on the social rights of individuals, many court cases were launched at national but also supranational level”. In her contribution she aimed at heeding the challenge faced by Europe's social acquis and the role of courts following three steps.



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Firstly, she assessed the crisis-driven case law of the CJEU with regard to social rights and economic rights, and secondly, she presented the case-law of the Greek and Portuguese courts related to austerity measures, especially analysing the legal grounds and arguments on the basis of which restrictions on social rights were assessed. Thirdly, she approached social rights adjudication as a question of legitimacy, suggesting that a procedural model of social rights adjudication would mitigate the tension between decision-making over social welfare decisions and the protection of particular social rights.

▪ **The Lochnerian trend in the core collective labour law jurisprudence of the CJEU**

Dr. Fotis VERGIS, Lecturer in Law, Law School, University of Manchester, United Kingdom

In his presentation, Dr. Vergis examined the suggested Lochnerian undercurrents in the jurisprudence of the European Court of Justice Court, following the seminal Viking/Laval saga, as regards labour rights and especially their collective manifestations. He drew upon the Lochner case of the US Supreme Court (SCOTUS), and the juridical paradigm it gave birth to, drawing parallels to the understanding of contemporary CJEU case law.

Mr Vergis highlighted that the Court's embrace of an implied predominance of individual economic freedoms continues to underpin its relevant interpretations, even though such an approach is no longer necessarily sanctioned by the current formulation of EU primary law. He then continued saying that, "its skewed understanding of the place of collective labour rights within a systematic construction of the EU constitutional framework has often led to hollow declarations that fail to offer workers any substantive protection, or even, in the extreme, to arguably contra legem interpretations that jeopardise fundamental collective labour related rights and institutions, including such established by the EU treaties themselves (as in the example of the EPSU case and Social Dialogue)". Generally, as he stated, despite some advances in relation to employment law (i.e. 'individual' labour law) rights, the Court has failed to grasp the complexity of the employment status and to recognise the respective polymorphic value of work beyond its narrow economic aspect. Dr. Vergis suggested that the Court's Lochnerian trend in relation to collective labour rights in particular casts doubt as regards its capacity to consistently protect and promote social (but also economic) rights. He also drew scepticism as to whether the Court could provide cover and clear pathway towards full appreciation of the true employment status and the relevant rights of individuals involved in emerging forms of work such as gig work and crowd work, that will only



intensify following the COVID-19 pandemic. In his concluding remarks, he stated that it is far from certain that the Court alone will be able to open a pathway towards full appreciation of the true employment status of gig workers and crowd workers and the subsequent recognition of the full nexus of their rights, including those on collective bargaining and collective action.

- **[The right of the employee to access the internet before the European Court of Human Rights](#)**

Dr. Dimitrios KOUKIADIS, LL.M., Lecturer of Law, University of Nicosia, Cyprus, Adjunct Professor of Law, Goethe University Frankfurt/Main, Germany

The overall issue of Dr. Koukiadis' presentation was the right to access to the internet. According to him, there have been, so far, general and more special rules and decisions on the issue of access to the internet, as well as on the general right of the data subjects to access their personal data, and on the special right of employees to access their personal data and specific internet services. A key factor to understand the application of the right to internet the access is to establish a clear picture of what the internet has become in its three decades of life. Based on his presentation, *"the internet ecosystem has become a revolutionary field of action challenging the traditional forms of technological, economic, and social behavior. Fundamental Constitutional rights have given birth to new fundamental rights and new legal concepts. The fundamentality of the right to access to the internet has been highlighted by several national, supranational, and international legislations as well as by some landmark Court decisions of national and international Jurisprudence"*. Case law of the United States Supreme Court, the French Constitutional Court, and the European Court of Human Rights was also addressed and presented in the course of Dr. Koukiadis presentation.

The Speakers made extremely interesting and documented positions, parts of which you can watch on our [YouTube channel](#). Their and the audience's participation contributed to the realization of the objectives of the Jean Monnet EU VaDis Project and to the strengthening of the dialogue in the field of EU values, to the exchange of good practices and positions on the protection of social rights and the elimination of social exclusion.



UPCOMING EVENT(s)

Next month, the three-day (21-23 April, 2021) international e-Conference [“EU Values, Diversity and Intercultural Dialogue: Enhancing the debate”](#) will be co-organized with the [Hellenic Association for European Law \(HAEL\)](#), in collaboration with the [Center for Research on Democracy and Law](#), and with the support of the [European Parliament Liaison Office in Greece](#).

For more information click on our website www.jmpeuvadis.uom.gr or our social media platforms ([Facebook](#)/[Instagram](#)/[YouTube](#)), or write us at jeanmonnetproject-euvadis@uom.edu.gr

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The Jean Monnet EU VaDis Team



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