

Principal investigator: Pieter Van Cleynenbreugel

Host institution: University of Liège, Belgium

Project duration: 60 months

ERC Starting Grant 2020
Research proposal [Part B1]¹
(Part B1 is evaluated both in Step 1 and Step 2,
Part B2 is evaluated in Step 2 only)

National Institutional Autonomy within the EU legal order:
uncovering and addressing its distinctive appearances,
limits and impact on Member States' administrations

EUDAIMONIA

Despite significant advancements in European integration, the institutional design and organisation of administrative structures implementing and enforcing EU law had traditionally remained the responsibility of EU Member States. Over the past decade, however, EU legislation has increasingly come to impose more organisational requirements on those Member States' administrative structures. That evolution is most remarkable as EU law has long recognised the existence of a principle of national institutional/administrative autonomy. That principle is to guarantee Member States' freedom to designate and structure the administrative bodies responsible for the application and enforcement of EU rules.

How far does the EU's more extensive involvement in Member States' administrative design decisions actually reach and can one find parallels between different fields of regulation? If so or if not, what are the implications for our understanding of institutional autonomy as a principle of EU (administrative) law? So far, legal scholarship, including the PI's previous work on EU market supervision, has paid only scarce attention to those important questions.

The principal objective of this project will be to analyse the scope of Member States' administrative autonomy and to uncover, explain and conceptualise the limits that are imposed on it by EU law. To do so, it will first of all map and compare EU law's influence over Member States' administrative designs across 18 domains of regulation influenced by the EU. Since the traditional legal scholarship toolkit insufficiently allows to grasp the different factors having given rise to Member States' administrative design decisions, the project will subsequently rely on actor-network theory (ANT) to uncover those factors. Using that particular research methodology, new and more extensive data obtained through in-depth case studies and questionnaires will allow to formulate theoretical modifications and policy recommendations.

¹ Instructions for completing Part B1 can be found in the '*Information for Applicants to the Starting and Consolidator Grant 2020 Calls*'.

Section a: Extended Synopsis of the scientific proposal (max. 5 pages, references do not count towards the page limits)

With this project, the PI seeks to uncover, explain and conceptualise the contours and foundations of the institutional/administrative autonomy allotted to Member States under European Union (EU) law. The synopsis presented here will outline the reasons (1.), objectives, structure and methods of the project (2.), before addressing its importance and ground-breaking nature (3.), as well as its feasibility (4.).

1. Background to the project: a frustrating gap in current legal scholarship

The EUDAIMONIA project is borne out of the PI's frustration with the lack of clarity surrounding the notion of institutional autonomy² within EU law. Despite sounding familiar to scholars of EU law, its contours largely remain clouded in mystery. Wanting to remove those clouds, the project promises to conduct a more comprehensive and in-depth analysis than has ever done before with regard to this question.

In its barest essence, the legal concept of institutional autonomy refers to the **powers retained by EU Member States to design and organise their legislative, administrative, and judicial structures in the shadows of EU law**.³ Despite the emergence of an EU executive (Curtin, 2009), EU law indeed heavily relies on Member States' structures and institutions to have its rules applied and enforced (see also Art. 291 TFEU; Rideau, 1972; Schütze, 2010; Chiti, 2015; Volpato, 2019) and calls upon Member States to cooperate sincerely with the EU institutions to guarantee the effective application of EU legal provisions (Art. 4(3) TEU, De Baere and Roes, 2015; Klamert, 2016). In addition, the EU also recognises each Member State's national identity (Art. 4(2) TEU, Cloots, 2015; Dobbs, 2015) and relies on the principles of subsidiarity and proportionality (Art. 5 TEU; von Bogdandy and Bast, 2002; 2009; Weatherill, 2006; Davies, 2006; Granat, 2018) to restrain its interventions into Member States' legal orders. Against that background, Member States have been given significant leeway to organise their legislative, administrative and judicial institutions.

Within the context of the **organisational or institutional design of Member States' administrations**, however, EU secondary legislation appears to grant Member States **ever less autonomy**, despite Art. 197(2) TFEU at first sight excluding any general harmonisation of Member States' administrative structures (see Mungianu, 2016, p. 25 for the limits of that provision). Indeed, the **EU legislator has recently increasingly set out the framework conditions** in accordance with which particular Member State administrative structures have to be designed. By way of examples, it has (1) imposed clear conditions – such as independence and impartiality – on Member States' regulatory authorities (e.g. in the field of data protection with Regulation 2016/679, the so-called GDPR), (2) required modifications to the structure of those authorities in the interest of streamlined enforcement of EU law (e.g. in the field of competition law, with Directive 2019/1, the so-called ECN+ Directive) or, (3) demanded the establishment of new (independent) authorities to oversee certain parts of EU integration (e.g. in the realm of economic governance in the Eurozone (Art. 5 Regulation 473/2013 and Art. 3(2) Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) or, to a slightly lesser intrusive extent, with regard to the establishment of consumer protection enforcement authorities, see Regulation 2017/2394).

Those recent EU legislative interventions fundamentally question the nature and contents of institutional autonomy as a value underlying EU law in the administrative realm (also referred to as administrative autonomy, see Schütze, 2018, p. 344). As the EU continues to determine ever more the conditions and powers of Member States' administrative structures, having in place **a clear understanding of the framework conditions enabling and limiting Member States' administrative design as a matter of EU law** appears ever more necessary. Unfortunately, however, the different ways through which the European Union intervenes in Member States' administrative design choices have not been the subject of a comprehensive mapping and comparison exercise, making it difficult to arrive at informed conclusions as to the legal nature, structure and future of institutional/administrative autonomy as a value or principle underlying EU law. Similarly, legal scholarship has not comprehensively addressed the nature and existence

² The concept of autonomy is also used to highlight the key characteristics of EU law as a legal order in its own right (Schilling, 1996; Weiler and Haltern, 1996; Cremona, 2011; Trondal and Bauer, 2017; Burchardt, 2019). The PI will not, however, refer to the autonomy notion in that particular way in this project.

³ Institutional autonomy is also used as a neo-institutional concept in sociology, where it refers to the particular features of an organisation and the ways in which it becomes symbolically or structurally independent from other organisations, see Abrutyn, 2009). In this project, we aim to retrace and clarify the foundations and content of the legal concept alone.

of institutional/administrative autonomy against the background of those ever increasing EU interventions into the organisation of Member States' administrations and has not comprehensively identified the boundaries of institutional autonomy under EU law (although referred to in passing as either a political principle, Verhoeven, 2010; Szydło, 2012; Finck, 2017, De Somer, 2018, a legal principle that can be hollowed out almost entirely by EU legislation, Schütze, 2018 or a legal principle that cannot be invoked before the courts, Mehdi, 2014 and Platon, 2018).

2. *The EUDAIMONIA project: objectives and methodology*

This project's principal objective will be to assess how Member States' institutional/administrative autonomy is understood in practice across different fields of regulation and how that understanding or those understandings have shaped Member States' decisions to design administrative authorities in a particular fashion. As such, the **overall purpose** of the project will be to come to a richer and more informed picture of institutional/administrative autonomy contributing to having in place **a refined balance between EU rules and Member States' administrations**. To do so, the project will rely on qualitative research methods that have not been used in this field so far by taking **an Actor-Network Theory (ANT) approach** to uncovering the factors – including and adding to EU law obligations – that shape Member States' administrations. Using that method will allow for new and richer data to be uncovered, which would better frame and understand the role of and potential for institutional/administrative autonomy within the EU legal order.

To accomplish the project's objectives, it will proceed in three related work packages. Each package will allow gradually to identify the features and limits of institutional/administrative autonomy under EU law: mapping and comparing EU legal provisions (**EU**), uncovering their diversified appearances and impact on Member States' administrative design (**DAIMO**) and reframing the national institutional/administrative autonomy narrative in light of our findings (**NIA**). To do so, every package will rely on its proper combination of both novel and well-known research methods.

EU: The first work package will **comprehensively map and compare** the ways in which EU legislation intervenes in Member States' administrative designs across 18 pre-selected fields of regulation. Each of those pre-selected fields is characterised by either more or less direct EU legislative intervention in the organisation of Member States' administrative structures tasked with the implementation and enforcement of EU rules. Analysing EU legislative provisions and accompanying preparatory documents in those 18 fields, the focus will be **particularly and only on those provisions governing the institutional organisation of Member States' administrative structures**. The package will uncover the extent to which EU law imposes certain organisational templates or requirements on Member States' administrative structures. In doing so, the project will combine **contextual and black-letter legal analysis of EU secondary legislation with functional comparative legal analysis method** as a heuristic device to lay bare those elements (Michaels, 2006). Practically speaking, it will focus its analysis on questions of Member States' administrations' status, legal format, overall structure, composition and qualifications, modus operandi and the need for particular control mechanisms. To facilitate comparison, the 18 identified fields will be classified into three main categories: competition-related rules, safety and stability-related rules and weaker party protection-related rules. **Within each category of fields**, the project will distinguish the different institutional design obligations and compare them, in order to establish both differences and similarities. The comparison will be continued subsequently **between those larger categories**. In the end, that exercise will allow to test whether institutional design requirements are indeed spread out rather incoherently (Schütze, 2018) or whether some previously not uncovered parallels can be detected within and between regulatory fields and categories.

DAIMO: The data regarding the differences and similarities uncovered in the first work package allow to determine the scope of EU interventions in Member States' administrative designs. In and of themselves, they do not, however, allow to **retrace how far and in combination with what other factors EU law has effectively influenced Member States' administrative designs**. To make that assessment, one has to look beyond the legal provisions in place as well. The second work package seeks to identify the variety of EU law, national law, political, economic, and other design factors that have influenced Member States' administrative designs across the different sectors. The purpose is particularly to uncover all relevant factors, detached from any previous assumptions as to what factors drive integration (Modell et al., 2017) as is common in functionalist (Haas, 1958; Hooghe and Marks, 2009) institutionalism-centred (Pierson, 1996) or liberal-intergovernmentalism (Moravcsik, 1991, 1997) or multilevel administration (Egeberg and Trondal, 2009; Trondal and Bauer, 2017) social theory approaches to EU integration. Determining the particular

factors of interest to this project requires a distinct methodological approach. Within the social sciences, the **Actor-Network Theory (ANT) approach** pioneered in Science and Technology Studies (STS) perspective offers a promising way forward in that respect. That approach will allow to establish the connections between different factors that shape a particular reality (Law, 1992; Latour, 1996; 2010; McGee, 2015), in this case the emergence of an administrative structure at Member State level. The PI currently collaborates with STS scholars and is member of a PhD supervisory committee where STS methods are being applied in the context of EU data protection regulation (Fanouillère, 2019) and has had previous training in STS and ANT, which he will come to rely on to set up the research design. This work will be done in collaboration with an ANT-specialised postdoctoral scholar, who will be hired for a period of 48 months over the course of this project. Making use of qualitative research methods (**semi-structured interviews and ANT-conform questionnaires**), we aim to bring to the forefront the different law and non-law-related factors that have influenced Member States' administrative designs in the fields of regulation captured by this project. To do so, we aim to cover the 18 fields of regulation across all EU Member States. Retracing how those different factors relate and result in the administrative structures currently in place, the package seeks to better frame the role of law in general and EU law in particular in Member States' administrative design decisions. The work package will result in the drafting of a detailed list of factors that have shaped those designs, which will allow for an assessment of how big or little the role of formal EU legal obligations in doing so actually is.

NIA: The lists of factors shaping Member States' administrative design emerging from the second work package allows to shed more light on what the actual reasons for a particular administrative design decision are. To the extent that the EU would like to ensure the correct implementation of its institutional design requirements, awareness of and reliance on those factors will be crucial. Against that background, questions arise as to whether the EU legislator can take all those factors into account and, if so, to what extent, given that the EU only has explicitly or implicitly conferred competences (von Bogdandy and Bast, 2002, 2009; Schütze, 2009; Lenaerts and Fons, 2010), yet does not hesitate to exercise those competences in more flexible ways (Dawson, 2011). It is therefore necessary to investigate whether the EU-Member State competence division framework has allowed or would allow for the previously identified factors to be embedded in EU institutional design law-making initiatives. To do so, the third work package will compare those factors with **key benchmarks underlying EU legal theories of EU-Member State competence division** (Schütze, 2009). That comparison will enable the PI to envisage three scenarios through which the EU's institutional design approaches could be continued in a more informed and structured way and according to which Member States' institutional/administrative autonomy could or could not be turned into a legal principle of constitutional value in the EU legal order. The aim of the third work package is to develop **tailored theoretical modifications and policy recommendations** to EU legal policy debates focusing on the shape and format of Member States' administrative structures influenced by EU law design requirements.

3. Importance and ground-breaking nature of the project

The project's ambitions and planned output will move the field of EU legal scholarship beyond the state of the art in five specific ways, making the project relevant both from a scientific and societal perspective.

Firstly, it will assemble and **analyse a series of EU legislative provisions never analysed together**. If studied at all, the impact of EU law on the design of Member States' administrations has been studied above all in the context of each field of regulation separately (e.g. in data protection, see Ducuing, 2018; in competition law, see Wils, 2018) or in the framework of a particular sub-principle such as independence (Lavrijssen and Ottow, 2012). The consequence of this segregated study is that, from a scientific point of view, a comprehensive picture as to the extent of EU law interventions in Member States' administrative design is lacking. Others (De Somer, 2012, p. 96) have lamented this lack of study and have called for more comprehensive research to be done in this area. This project answers that call and seeks to apply the tools of legal doctrinal analysis to map and compare a larger set of legislative provisions and to analyse their role in and impact on the shaping of Member States' administrations across 18 fields of regulation. In doing so, the project will be able to draw more meaningful conclusions as to the shapes and scope of EU interventions into Member States' administrative design, going beyond the state-of-the-art of EU administrative law analysis.

Secondly, the project would **lay bare factors that shape and determine the design of Member States' administrative structures**. Research into the EU administration essentially focuses on procedures, accountability, discretion of existing institutional designs (Curtin and Egeberg, 2008), but have not focused on the existence of administrative structures as such and the ways in which they have been shaped by EU law

and other design requirements. This project would **break new ground** by offering better insight into how Member States' administrative design take shape. That insight can be used subsequently to inform the EU on whether and how to move forward with imposing or suggesting administrative reforms at Member State level.

Thirdly, it will **introduce a novel methodology to the field of EU administrative law** with a view better to map the impact of EU law on the design of Member States' administrative structures. The Actor-Network Theory (ANT) approach has not been applied explicitly (although van Middelaar, 2019's *realpolitik* approach is built on similar premises) to the field of institutional organisation of Member States' administrations in the shadow of EU law and promises to offer a new way to study the interactions between the EU and its Member States. The project's ambition is to look for ways that can enrich the study of EU – Member State relationships beyond classical legal doctrinal approaches and existing grand theories of EU integration (Hooghe and Marks, 2019). ANT presents such a way.

Fourthly and more generally, the project will contribute significantly to **opening up a new sub-field in the study of EU administrative law**. Although the field of EU administrative law has been booming generally for over twenty years (see among many others Besselink and Widdershoven, 1998; Schmidt-Assman, 1999, 2006; Harlow, 2002; Ziller, 2005; Schwarze, 2006; Hofmann and Türk, 2007; Auby and Dutheil de la Rochère, 2007; von Danwitz, 2008; Eliantonio, 2008; Curtin, 2009; Caranta, 2009; Mendes, 2009; Harlow 2011; Hofmann, Rowe and Türk, 2011; Mendes 2011; Chiti, 2016; Wollenschläger, 2017; Harlow, Leino and della Cananea, 2017; Craig, 2018; Stelkens, 2018), it has spent most of its attention to questions relating to the tasks, processes and institutional organisation of administrative structures at EU level (including EU agencies, see Everson, 1995; Vos, 1997; Chamon, 2016) and to the application of EU general principles of law in national administrative procedures (van den Brink and den Ouden, 2015). According to Hofmann, Rowe and Türk, 2011, p. 4, EU administrative law as a field of study nevertheless is to cover the tasks, processes and institutional organisation of an emerging EU administration at both EU and Member State level. In practice, it turns out that the study of institutional organisation aspects of Member States' administrations responding to EU tasks and processes has been rather limited and at best limited to one or more particular sectors. As the EU intervenes ever more – both directly and indirectly – in the organisational design of Member States' administrations, the scope of such intervention deserves to be mapped and framed more clearly, if only to open the field up for further research beyond the confines of this project as well. This project's importance particularly lies in uncovering similarities and differences between different sectors and in advancing our understanding of how EU law influences Member States' administrative designs.

Fifthly, in addition to pioneering a new sub-field of EU administrative law studies, the project also indirectly **seeks to enrich academic debates on the legitimacy of EU integration**. It cannot be denied that the legitimacy of the European Union policymaking has been questioned, both as to its democratic input (among many others Moravcsik, 1991; Lord and Magnette, 2004; Andreev, 2007; Schmidt, 2012; Lindseth, 2018; van den Brink, 2019) and as to its processes and output (among others Scharpf, 1999, 2010; Weiler, 2012; Ball, 2013). This is done in general terms yet also in the field of EU administrative law (Mestmäcker, 1994; Ruffert, 2011; Widdershoven, 2014; Trondal and Bauer, 2017; Carolan and Curtin, 2018; Pereira, 2019), resulting in proposals to acknowledge the **relative authority of different governance levels** (Mendes and Venzke, 2018). Contributing to that debate with fresh data, the project proposed here would allow to shed light on the factors shaping Member States' administrative designs. Doing so would give fresh empirical insights into where the sites of relative authority are localised in that regard and contribute to policy debates on how to enhance the legitimacy of EU interventions in Member States' administrations.

4. High risk/high gain set-up and feasibility of the project

The PI is very well-placed to carry out and lead this project, as a significant part of his academic work focused the emergence of an EU integrated administrative supervision framework (Van Cleynenbreugel, 2014(1)) and on national procedural autonomy as a principle of EU law (Van Cleynenbreugel, 2012). That work gave him a basic understanding of how national administrative authorities in particular sectors are becoming ever more impacted on by EU rules and obligations. The research completed at that stage, as well as further research projects regarding the enforcement of competition law (Van Cleynenbreugel, 2016), EMU law (Van Cleynenbreugel, 2014(2)) and consumer protection law (Van Cleynenbreugel, 2018) over the past years resulted in him questioning the scope of national institutional autonomy as a principle underlying EU law ever more, allowing this project proposal to come to fruition. In addition, the PI has experience with

ANT-research as part of his on-going collaborations with STS scholars at the Faculty of Law and Political Science in Liège. More specifically, he co-supervises a PhD project on the factors shaping EU data protection legislation. In addition, the PI has benefited from an introduction to Science and Technology Studies (STS) as a member of the Harvard Law School Institute for Global Law and Policy (IGLP) workshops in 2010 and 2011. Those experiences motivated him further to elaborate on STS-related research methods – in this case ANT – as a useful way to enrich the study of his own field.

The PI's background notwithstanding, the project set-up remains high risk for two reasons. Even with those risks materialising, however, the results obtained would in themselves be sufficiently relevant in order to move beyond the state-of-the-art of the field.

Firstly, the project is risky because it aims to **compare administrative design arrangements that have not been compared before** on that scale and that may not be comparable beyond establishing the vast differences between them. It may very well be that the results of the project confirm the position made in legal doctrine that the principle of institutional autonomy does not exist as a constitutional principle of EU law (De Somer, 2018, p. 582) or that the EU legislator can restrict it completely as long as that fits other objectives of EU law (Schütze, 2018, p. 344). If that were the case, trying to identify common factors that shape and limit Member States' autonomy across different sectors would prove irrelevant as no common factors would be found and dangerous as one would be comparing the incomparable. It needs to be reiterated, however, that the project does not seek to find parallels where there are none and that the comparative legal analysis will be set up to **focus both on differences and similarities**. Having said that, its third work package is to a certain extent premised on finding some parallels to envisage the development of a better structured institutional autonomy narrative. It cannot be excluded at this stage that some parallels may be found effectively that have not been uncovered so far, yet it may also very well be that no such parallels are present at all. In that last scenario, however, the gain obtained by those new data may outweigh the cost of not having found parallels. Even when the project does not permit to identify common features, it will at least allow to obtain a richer understanding of the diversity and factors shaping Member States' administrative designs. That in itself is a meaningful and important addition to the current state-of-the-art research in EU administrative law. The third work package and the conclusions to be formulated within that framework will be less firm, yet it will still be possible to make informed and sound conclusions on that basis. As such, the structure of the project is above all centred on the assembly of new data that may prove useful for further research as well. Whether or not similarities or only differences are found, the data collected will be there and available for further use.

Secondly, the project is high risk as it relies on a scientific approach (ANT) that has not been applied in this field before and that **only to a relatively marginal extent has accompanied research in legal studies** (Cowan and Carr, 2008; McGee, 2018). To minimise the risk of committing methodological errors, the drafting of questionnaires, the structuring of interviews and the analysis of data will be conducted in close collaboration with a specialist in ANT-research, who will be hired as a senior scientist affiliated with the project. The ANT-specialist will work together closely with the PI and with the junior scholars also taking part in this project. Together, both the PI and the senior scientist will put in place regular checks to ensure the ANT-approach is applied according to its scientific standards and to guarantee the collection of relevant and appropriate data from ANT-specific interviews and questionnaires.

To ensure the project will be conducted in a feasible way, procedures will also be put in place to streamline and coordinate the different work packages. In total, **a team of three junior researchers (PhD students) and a senior scientist** would work together with the PI on this project. Clear deadlines and mutual checks and balances have been established; intermediate goals will be determined and enforced strictly. The project team will work intensively together to make sure the deadlines and intermediate goals are set. The PI will devote 60% of his time to the project and will ensure the global coordination of the different researchers' activities. Monthly formal and weekly informal reunions will be organised to allow the project members to communicate and exchange on the progress made in the course of the project. In addition, the project requires the setting up of an academic network of collaborators in different Member States. Those collaborators will also conduct intermediate quality reviews as to the project's progress and development and will have an opportunity to comment on intermediate results. In addition, all research data and publications will be made available on an **openly accessible website**. To disseminate our experiences in applying ANT to EU administrative law, the website will also contain a blog-like feature in which we **share our experiences and difficulties** with the wider world.

Section b: Curriculum vitae (max. 2 pages)**PERSONAL INFORMATION**

Van Cleynenbreugel, Pieter

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Date of birth: 18 November 1986

Nationality: Belgian

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- **EDUCATION**

- 2013: PhD in law, KU Leuven, 3 September 2013, Leuven, Belgium
Supervisor: prof. dr. Wouter Devroe
- 2010: LL.M., Master of Laws, Harvard Law School, 27 May 2010, Harvard University, Cambridge, MA, USA
- 2009: LL.M., Master of Laws, KU Leuven, 5 July 2009, *summa cum laude*, ranked 1st out of 350 students, Leuven, Belgium (part of degree completed at Tilburg University, NL)
- 2007: LL.B., Bachelor of Laws, KU Leuven, 5 July 2007, *summa cum laude*, ranked 1st out of over 450 students, Leuven, Belgium

- **CURRENT POSITION(S)**

- 2019 – Directeur, Institut d’Etudes Juridiques Européennes/Liège Competition and Innovation Institute – IEJE-LCII
 Department of Law, University of Liège, Liège, Belgium
- 2016 – Professor of European Union law (tenure since 1 October 2018)
 Department of Law, University of Liège, Liège, Belgium
- 2016 – Guest Professor (Professeur invité)
 Centre de Recherche Droit Dauphine (CR2D), Université Paris-Dauphine, Paris, France

- **PREVIOUS POSITIONS**

- 2013 – 2016 Assistant professor (universitair docent – maître de conférences)
 Europa Institute, Faculteit der Rechtsgeleerdheid, Leiden University, Leiden, the Netherlands
- 2010 – 2013 Fellow of the Research Foundation Flanders (FWO-aspirant)
 Faculteit Rechtsgeleerdheid, KU Leuven, Leuven, Belgium

- **FELLOWSHIPS AND AWARDS**

- 2019 Bournemouth University, Visiting Fellow, Bournemouth University (€1200)
- 2016 European Central Bank Legal Scholarship Programme Awardee (€10 000)
- 2014 Leiden University Sabbatical Research Grant Awardee (€10 000)
- 2010 – 2013 Aspirant Fellowship, Research Foundation Flanders (€100 000)
- 2012 Best Paper Award presented during the current trends and challenges in competition law enforcement workshop, University College Dublin, Ireland
- 2011 Best Paper Award, Osgoode Hall School of Law Annual Conference, Toronto, Canada
- 2010 Dean’s Scholar honours prize awarded to the best course paper in Crisis, Globalization and Economics, Harvard Law School, 27 May 2010
- 2009 – 2010 Fellowship of the Belgian American Educational Foundation (BAEF), Harvard University
- 2009 – 2010 Fulbright Graduate Fellowship, Harvard University

- **SUPERVISION OF GRADUATE STUDENTS**

Since 2016 PhDs under supervision (as supervisor unless indicated otherwise): 7 (M. Aalbers (law,

submission November 2019), A. Karpetas (law, submission 2020), V. Février (law, member of thesis committee, 2022); V. Vandendaele (law, 2022), B. Jan (law, 2023), J. De Cooman (law, 2023); J-B Fanouillère (political science, 2023, member of thesis committee))

Member of PhD examination committees at Leiden University (6), KU Leuven (1) and University of Liège (2)

Since 2013 Supervision of 11 to 15 master theses per year

- **TEACHING ACTIVITIES (15% of total working time)**

2016 – European Union law (institutional and substantive), University of Liège, Liège, Belgium

2016 – EU competition law, Université Paris-Dauphine, Paris, France

2013 – 2016 European Union law, Leiden University, Leiden, the Netherlands

- **ORGANISATION OF MAJOR SCIENTIFIC MEETINGS**

2020 Fédération Internationale de Droit européen (FIDE), General Rapporteur on Topic 3, The Hague, the Netherlands

2016 Academic Society for Competition Law (ASCOLA), principal organiser of annual conference 2016, Leiden, the Netherlands

- **INSTITUTIONAL RESPONSIBILITIES (5 % of total working time)**

Member of the Faculty Council (Conseil de Faculté);

Member of the Conseil des Etudes – Master;

Member of the Erasmus and International Relations Commission;

Alternate member of the Research Commission;

Ad hoc member of the faculty appointments committee.

- **REVIEWING AND EDITORIAL ACTIVITIES**

Co-editor, *European Papers – Forum* (online journal);

Co-editor, *Ius Mercatorum-Vraagstukken Economisch Recht* book series, Intersentia;

Former co-editor, *Journal of European Competition Law & Practice*, Oxford University Press (2015-2017);

Ad hoc peer reviews for *European Law Journal*, *Maastricht Journal of European and Comparative Law*, *Journal of Common Market Studies*, *Journal of European integration*, *Market and Competition Law Review*, *Yearbook of Antitrust and Regulatory Studies (YARS)*, *European Journal of Risk Regulation*, *Oxford University Press*, and the *Austrian Science Foundation (FWF)*.

- **MEMBERSHIPS OF SCIENTIFIC SOCIETIES**

Academic societies

Member, *Academic Society for Competition Law (ASCOLA)*;

Member, *Socio-Legal Studies Association (SLSA)*;

Member, *International Society for Public Law (ICON-S)*.

Research networks

Directeur, Institut d'Etudes Juridiques Européennes – Liège Competition and Innovation Institute research group, Université de Liège;

Member, Unité de Recherche – Cité, Faculté de Droit, de Science Politique et de Criminologie, Université de Liège;

Affiliated scholar, Institute for Global Law and Policy, *Harvard Law School*;

Affiliated scholar, Lendület-HPOPs Research Group, *Hungarian Academy of Sciences*.

Appendix: Current research grants and any on-going applications related to the proposal of the PI (Funding ID)

Mandatory information (does not count towards page limits)

Current grants (Please indicate "No funding" when applicable):

<i>Project Title</i>	<i>Funding source</i>	<i>Amount (Euros)</i>	<i>Period</i>	<i>Role of the PI</i>	<i>Relation to current ERC proposal⁴</i>
Price regulation in EU digital commerce	FRS-FNRS – Belgian Scientific Research Foundation	180 000	2018-2022	Supervisor of a PhD thesis - 5% of total working time	No direct relationship to the current proposal – this project deals with the EU’s take on price regulation and studies the enforcement mechanisms in place there and does not focus directly on Member States’ administrative structures and their design.
DIGITAL PLATFORMS – Regulation for AI-powered Digital platforms: researching “in” and “out” of the BlackBox	ARC Fund – Government of the French Community of Belgium	712 739	2019-2023	Main coordinator of the project, awarded to me and three colleagues, each acting as project’s co-PI – PhD thesis supervisor – 10% of total working time (5% project coordination and 5% PhD supervision)	No direct relationship – this interdisciplinary project deals with the challenges of algorithmic decision-making and what legislative and enforcement authorities could do as a matter of EU law.

On-going and submitted grant applications (Please indicate "None" when applicable):

<i>Project Title</i>	<i>Funding source</i>	<i>Amount (Euros)</i>	<i>Period</i>	<i>Role of the PI</i>	<i>Relation to current ERC proposal⁵</i>
EU artificial intelligence regulation between a rights- and a risk-based approach	FNRS - Belgian Scientific Research Foundation FRESH programme	130 000	2020-2023	Supervisor of a PhD thesis (potentially 5% of total working time)	None, this project would be related to the DIGITALPLATFORMS project I currently coordinate (see previous table).

⁴ Describe clearly any scientific overlap between your ERC application and the current research grant or on-going grant application.

⁵ Describe clearly any scientific overlap between your ERC application and the current research grant or on-going grant application.

Section c: Early achievements track-record (max. 2 pages)⁶

A full list of publications and conference presentations is available via <https://tinyurl.com/y9y5z4br>. In the years following his PhD award, the PI has continued research in the realm of EU (economic) administrative law, yet also branched out into fields of digital market regulation and substantive competition law. When branching out, however, the key questions that kept underlying his research considered the division of competences and powers between the EU and its Member States and the role of Member States' administrations within those frameworks. The branching out exercise into those other domains permitted him to gain a deeper understanding of the key issues underlying the project currently proposed. In the following overview, an overview will be given of the five key publications (1.), the research monographs published (2.) ten main presentations and book chapters (3.) and the prizes/awards received (4.).

1. Publications (up to five for Starting Grant and up to ten for Consolidator Grant);

- (1) P. Van Cleynenbreugel, 'Member States in the EU economic constitution: rule of law challenges and opportunities', 46(4) *Legal Issues of Economic Integration* (2019), accepted and forthcoming;
- (2) P. Van Cleynenbreugel, 'Meroni circumvented? Article 114 TFEU and EU regulatory agencies', 21(1) *Maastricht Journal of European and Comparative Law* (2014), 64-88;
- (3) P. Van Cleynenbreugel, 'Article 101 TFEU and the EU Courts: adapting legal form to the realities of modernisation?', 51(5) *Common Market Law Review* (2014), 1381-1436;
- (4) P. Van Cleynenbreugel, 'Institutional assimilation in the wake of EU competition law decentralisation', 8 *The Competition Law Review* (2012), 285-312;
- (5) P. Van Cleynenbreugel, 'Judge-Made Standards of National Procedure in the Post-Lisbon Constitutional Framework', 37(1) *European Law Review* (2012), 90-100.

2. Research monographs and any translations thereof (if applicable);

- (1) P. Van Cleynenbreugel and S. Van den Bogaert, *The Law of the European Union: An introduction* (Oxford, Oxford University Press, 2020, forthcoming);
- (2) P. Van Cleynenbreugel, *Droit matériel de l'Union européenne – libertés de circulation et marché intérieur*, Brussels, Larcier, 2017, 347 pp;
- (3) P. Van Cleynenbreugel, *Market supervision in the European Union. Integrated administration in constitutional context*, Boston/Leiden, Martinus Nijhoff, 2014, 373 pp.

3. Selection of ten invited presentations to peer-reviewed, internationally established conferences and/or international advanced schools (if applicable) and five contributions to edited volumes;

Conference presentations

- (1) 'The principles of impartiality and independence and their impact on EU-mandated national supervisory authorities', *Europeanisation of national administrative law Conference and Summer School*, Leiden University, Leiden, 4 September 2019;
- (2) 'The implicit transformation of national administrative authorities in the service of supranational 'fair trial' rights', *2017 Cambridge International and European Law Conference*, Cambridge University, Cambridge, United Kingdom, 24 March 2017;
- (3) 'Sharing powers within exclusive competences? Rethinking the 'dual federalism' logic in EU antitrust law enforcement', 14th University of Zagreb Jean Monnet Seminar in European Union Law – Rethinking EU Competences, Dubrovnik, Croatia, 22 April 2016;
- (4) 'The Failure of 'Market Failure'? Rethinking the Role of Law in Post-Crisis EU Governance', *The Euro-crisis conference*, Cambridge University, Cambridge, United Kingdom, 1 April 2016;
- (5) 'Effectiveness through fairness? Due Process' as institutional precondition to effective decentralised EU competition law enforcement', *Ninth Academic Society for Competition Law (ASCOLA)*

⁶ Please list the order of authors as indicated in the original publication.

- Conference – Procedural Fairness in Competition Proceedings* –,CARS, University of Warsaw, Warsaw, Poland, 26-28 June 2014;
- (6) ‘Efficient justice in the service of justiciable efficiency? Converging supranationally structured litigation standards in national antitrust law and state aid disputes’, Competition Law Scholars Forum Conference *Competition and State Aid Litigation – The Effect of Procedures on Substance*, University of Luxemburg, Luxemburg, 19-20 September 2013;
 - (7) ‘United in institutional diversity? Consumer financial protection in the EU and U.S. and the road towards global institutional convergence’, *14th International Association of Consumer Law Conference*, University of Sydney, Sydney, NSW, Australia, 1-4 July 2013;
 - (8) ‘The political economy of supranational post-crisis governance and law’, *Harvard Institute for Global Law and Policy first Bi-Annual Conference*, Harvard University, Cambridge, MA, USA, 3-4 June 2013;
 - (9) ‘National courts as legitimising trendsetters: national institutional adaptations and strategic cooperation among judges in the shadow of EU constitutional law’, *24th Annual Socio-Legal Studies Association Annual Conference*, University of York, York, United Kingdom, 26-28 March 2013;
 - (10) ‘The European Court of Justice and national (procedural) choices: guided deference in the shadow of crypto-federalism’, *Standard of Review in International Courts and Tribunals. Rethinking the Fragmentation and Constitutionalization of International Law*, University of Seville, Seville, Spain, 26-27 October 2012.

Chapters in edited volumes:

- (1) P. Van Cleynenbreugel, ‘Asymmetry as a way to move forward with multi-tiered integration? A study of constitutional asymmetry in the European Union’ in P. Popelier and M. Sahadzic (eds.), *Constitutional asymmetry in multinational federalism. Managing Multinationalism in multi-tiered systems*, (London, Routledge, 2019), 163-196;
- (2) P. Van Cleynenbreugel, ‘Streamlining EU law enforcement in a regulated digital market environment’ in M. Veenbrink and A. Looijestein-Clearie and C.S. Rusu, (eds.), *Digital markets in the EU* (Nijmegen, Wolf Publishers, 2018), 111-136;
- (3) P. Van Cleynenbreugel, ‘Effectiveness through fairness? Due process as an institutional precondition for effective decentralised EU competition law enforcement’, in P. Nihoul and T. Skoczny (eds.), *Procedural fairness in competition proceedings* (Cheltenham, Edward Elgar, 2015), 44-85;
- (4) P. Van Cleynenbreugel, ‘Due process in EU Commission competition law proceedings: what lessons (not) to learn for structuring the rights of defense at the national level?’ in C.S. Nagy (ed.), *The procedural aspects of the application of competition law: European frameworks – Central European perspectives* (Groningen, Europa Law Publishing, 2016), 36-55;
- (5) P. Van Cleynenbreugel, ‘Procedural autonomy as integration-reinforcement. The Court of Justice of the European Union and national procedural choices’ in W. Werner and L. Gruszczynki (eds.), *Standards of Review in International Courts and Tribunals*, (Oxford, Oxford University Press, 2014), 175-191.

4. Prizes/Awards/Academy memberships (if applicable).

- (1) 2016 awardee, European Central Bank Legal Scholarship Programme;
- (2) Best Paper Award, Sixth Annual Postgraduate Workshop ‘In Search of Effectiveness: Current Trends and Challenges in Competition Law Enforcement’ for paper entitled ‘Institutional assimilation in the wake of EU competition law decentralisation’, 22 March 2012, Dublin, Ireland;
- (3) Best Paper Award, Osgoode Forum, May 10, 2011, Osgoode Hall GLSA Conference on Transnational Law and Global Governance, 9-10 May 2011, Osgoode Hall Law School, York University, Toronto, ON, Canada;
- (4) Research Foundation Flanders, Aspirant Grant, June 2010, renewed June 2012;
- (5) Dean’s Scholar honours prize awarded to the best course paper in Crisis, Globalization and Economics, Harvard Law School, 27 May 2010;
- (6) Belgian American Educational Foundation, National Lottery Fellow 2009-2010;
- (7) Fulbright Programme, Graduate Study Grant 2009-2010.

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