



Conference hosted by the Saxo Institute at the Faculty of the Humanities in collaboration with the Center for European and Comparative Legal Studies (CECS) at the Faculty of Law

University of Copenhagen

Time: Thursday 29 and Friday 30 September 2022 / Venue: Auditorium 22.0.11, South Campus

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Colonialism and the EU Legal Order

i.

This conference aims to explore the ways in which the economic, legal and political structures of colonialism have shaped the EU legal order.

Historians of European integration, like Giuliano Garavini and Kiran Klaus Patel, have shown that colonialism determined political bargaining during the early days of the European Economic Community. The political scientist Véronique Dimier has unveiled how actors who once populated the administration of European colonialism reappeared as agents in what are today European Union institutions. At the same time, Aline Sierp and Kalypso Nicolaïdis, respectively, describe the European Union's lack of political and institutional memory of its colonial past.

These accounts capture the ways in which the connections between European colonialism, including in its transition into a postcolonial era, and the construction and current practises of the EU legal order may be multifaceted, while at the same time obscured.

ii.

In 1957, when the European Economic Community was founded, four of the original six Member States were colonial powers: France, Belgium, Italy and the Netherlands. Part Four of the Treaty of Rome regulates the 'association' with the EEC of 'overseas countries and territories'. This group of 'countries and territories', which were neither included nor excluded from European integration, and were not represented in the treaty negotiations, were listed in an annex to the Treaty as follows:

French West Africa: Senegal, French Sudan, French Guinea, Ivory Coast, Dahomey, Mauritania, Niger, and Upper Volta;

French Equatorial Africa: Middle Congo, Ubangi-Shari, Chad and Gabon;

Saint Pierre and Miquelon, the Comoro Archipelago, Madagascar and dependencies, French Somaliland,

New Caledonia and dependencies, French Settlements in Oceania, Southern and Antarctic Territories;

The Autonomous Republic of Togoland;

The trust territory of the Cameroons under French administration;

The Belgian Congo and Ruanda-Urundi;

The trust territory of Somaliland under Italian administration; Netherlands New Guinea

Algeria, where the War of Independence was ongoing, as well as the French overseas departments, were regulated separately in Article 227 EEC as integral parts of France.



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The late 1950s and 1960s however, were periods of rapid decolonialization, and as many countries gained independence new legal arrangements were instated. An early example is the Yaoundé Convention of 1963 between the EEC and 18 Associated African States and Madagascar.

The list of ‘associated countries and territories’ expanded in 1973 when the UK and Denmark joined the EC with former colonies still within their jurisdictions. Moreover, Ireland, which also joined in 1973, is a former UK colony. The territorial implications of that long history were again brought to light when the UK voted to leave the EU in 2016. In 1986, Spain and Portugal entered the EC with colonised territories within their respective jurisdictions.

The legal construction whereby Member States’ colonial acquisitions are associated with the EEC/EC/EU has remained through all treaty iterations, into the Lisbon Treaty. The Maastricht Treaty introduced the category ‘Outermost Regions’ to encompass territories more embedded in Member States constitutional structures, following the same logic as Article 227 EEC.

iii.

EU treaty regulation of Member States’ colonial acquisitions apart, the economic, political and ideological structures produced by colonialism and its long aftermath may take different legal forms, which are yet to be fully explored. A good example of what such an inquiry could look like is Daniela Caruso and Joanna Geneve’s analysis of the Court of Justice of the EU’s case *Melki* from 2010, which illustrates how a careful examination of a contemporary legal episode may uncover a determinative colonial legacy. Understanding more about colonialism and the EU legal order is not merely, although is importantly also, a historical exercise; it has the potential to constitute a starting point for examinations of the EU law of today.

This conference will bring lawyers, legal historians, sociologists and political scientists together to discuss the ways in which colonialism has shaped the EU legal order. The reverberations of colonialism will be addressed with respect to the construction of EU law in areas such as development aid; trade and free movement; the interpretation and application of specific legal categories such as ‘worker’ and ‘citizen’; as well as the in the re-emergence of actors; the setting up of institutions; and the maintenance of political and professional networks.

Ultimately, this conference will reflect on the implications of these imprints of colonialism, and its iterations in the postcolonial period until today, for the individual subjected to EU law and for the societies that the EU legal order touches.