

## **How to Write Histories of European Law? A New RICHIE Workshop**

Historians of European integration have for long neglected the history of European law. Little historical research exists on the role of the European Court of Justice as a motor of further integration, for example. Similarly ignored has been the role of the European Court of Human Rights as a driving force behind the development and implementation of a regime of Human Rights in Europe. As a result, historiography systematically underestimates the extent to which processes of European integration in the Twentieth Century have been influenced and shaped by law. Considering the fundamental legal nature of the European Coal and Steel Community (ECSC), the European Community (EC) and the European Union (EU), the result has been a distorted understanding of the institutional dimension of European integration.

This new RICHIE workshop is organised with the expressed aim to establish the history of European law as a distinctive field of research, identify possible archival resources, construct methodological frameworks and eventually write histories of European law that not only fill in the current gap in historiography, but also contributes to ongoing legal and social science research in European law.

A large legal literature already exists on the emergence and development of EC/EU law and the European regime of Human Rights. The overwhelming focus of this literature has been on the role of Courts and the development of their jurisprudence and doctrine. Only in the last two decades, have the discipline of law begun more systematically to consider European law in a broader social, cultural and political context. This development has been furthered by the increasing interest in European law of social scientists, who on basis of competing theories have provided different accounts of the development of European law as part of a broader political context. What characterises existing literature, however, is the relative lack of empirical research employing archival resources and based on primary sources. A new sociological literature constitutes the only exception, but is mainly focused on exploring the role of jurists.

There is an acute need for historical analysis based on primary sources to provide a new and broad empirical basis for our understanding of the emergence and development of European law. New empirical research would not only provide a test ground for existing theories and interpretations of the history of European law, it might also lead to the discovery of new aspects that deserve further exploration.

Two general insights might guide this work.

First, there is a need to explore more broadly the social, cultural and institutional context in which European law has been produced. Jurists and social scientists have increasingly taken on board the insight that the social authority of law is not created only through the jurisprudence of courts, but largely depends on the social legitimacy granted by legal and non-legal actors. Taken a step further, a central question is to what extent the development of various types of European law actually mattered beyond the narrow legal circles to European and national politics and society. By exploring the emergence and development of European law in such a broad perspective, historians should strive to liberate themselves from established pre-conceptions and reassess the meaning and importance of European law in a broader

sense than does most of the existing literature.

Secondly, preliminary empirical research in the emergence of European law in the 1940s and 1950s demonstrates the extent to which it was shaped by actors and networks that worked across the divide between national and the international/supranational in Europe. Following the most recent trends in historiography that conceptualise European integration as a political system in the making embedded in an emerging transnational society, studies of European law should likewise transcend the dichotomy between the national and international/supranational.

The workshop intends to explore at least four broad fields of study:

- 1) The role of the European Court of Human Rights and the Human Rights regime in the Cold War, European integration and national societies.
- 2) The role of the European Court of Justice and the role of law in the ECSC/EC/EU.
- 3) The historical roots of the European law in the interwar and immediate post war period.
- 4) The impact of the EC/EU legal order and the European regime of Human Rights on European states, societies and actors.

Researchers interested in participating in the ongoing activities of the RICHIE workshop are most welcome to contact the organiser. It is the aim to organise small conferences every half year. The first conference is slated to take place in Copenhagen in late June 2010.

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**Founding members of the workshop are:**

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