

Report on EUPOP Summer School 2021

Introduction:

The School of Law of the University of Central Lancashire, Cyprus and [the Jean Monnet Module](#) entitled “European Union Law and Governance in Populist Times” (EU-POP), co-funded by the European Union and running at UCLan Cyprus for the period 2019-2022, held their second Summer School on the 2nd and 3rd of July 2021. The EU-POP Summer School, which took place both online via MS Teams and in person, promoted excellence in teaching and research and fostered dialogue among the participants. The aims of this year’s Summer School were, among others, to evaluate and assess the role of the courts, both at the national and European level, in populist times. A welcoming address by the Head of the School of Law of UCLan Cyprus, Prof. Stéphanie Laulhé Shaelou, EU-POP Module Leader and Academic Coordinator set the start of the summer school. Prof. Laulhé Shaelou described the aims of the Jean Monnet Module EU-POP and of the Summer School, presented EU-POP interim results, informed participants of open calls for publication in the *Interdisciplinary Journal of Populism* <https://www.lawpop.eu/> and the working paper series <https://eupopulism.eu/>, thanked them for their interest and stressed the increasing importance of rule of law protections in populist times.

Learning Activities:

In addition to interactive materials made available to all participants prior to the Summer School, the Summer School also hosted a series of speakers including Prof. Stéphanie Laulhé Shaelou, Dr Klearchos Kyriakides, Dr Andreas Marcou, Dr Pim Albers, and Prof. Danuta Kabał-Rudnicka in a combination of workshops and lectures.

Commencing the substantive part of the summer school, was a lecture by Prof. Laulhé-Shaelou. The lecture, entitled ‘The Substantive Requirements of Judicial Independence in the EU: Lessons from Times of Crisis’ was based on a paper co-authored by Ms Jacqueline Veraldi and Prof. Laulhé Shaelou. The paper is the inaugural working paper published within the framework of the EU-POP Working Paper Series. In her lecture, Prof. Laulhé Shaelou analysed and evaluated the Court of Justice jurisprudence dealing with the issue of judicial independence, an issue of vital importance for the EU within a milieu of right-wing populism, which deliberately acts to subvert principles of the rule of law, including judicial independence. By looking at recent cases such as *Associação Sindical*, *Commission v Poland*, and others, the authors examined the approach of the Court of Justice towards the identification of substantive

requirements for judicial independence, under Art.19(1) TEU and the principle of effective judicial protection, and proceeded to investigate these substantive requirements—and the possible ways in which they can be conceptualised. Within a context of crisis (populism, COVID-19), the substantive requirements for judicial independence become all the more acute to the upholding of the rule of law.

Following the lecture, Prof. Danuta Kabat-Rudnicka, who was visiting the UCLan Cyprus School of Law from the Cracow University of Economics, Poland, delivered a workshop that discussed the various Polish cases before the Court of Justice. As Prof. Kabat-Rudnicka noted, Poland is but one of several countries that have been subject to legal action because of activities that undermine the rule of law and thus violate a fundamental European value. The workshop invited participants to consider the various instances of Polish legislation that undermine principles of the rule of law, including laws that limit the retirement age of judges, laws dealing with the disciplining of judges, and laws and other executive actions that ultimately aim at enhancing the influence of the executive over the judicial branch. Even though various judges in Poland seek to maintain their cooperation with the Court of Justice, the actions taken by the government in Poland, taken together, constitute a significant threat to the Rule of Law.

Concluding the first day of the Summer School, Dr Klearchos Kyriakides held a workshop entitled ‘Why did Brexit happen and what role did the courts perform in connection with it? Some insights from a Eurosceptic advocate of ‘responsible populism’’. The workshop first delivered a historical recounting of the UK’s relationship with the EU, emphasising the unique character of the UK, with its colonial and imperial past, and the Euroscepticism that has been around since the early stages of the UK’s membership of the EU. Dr Kyriakides then proceeded to discuss the way in which the courts sought to uphold and maintain fundamental constitutional principles in various cases that took place over the period after the Brexit referendum (e.g., *Miller*). By contrast to the court’s measured and nuanced approach, Dr Kyriakides discussed various examples of incendiary populist rhetoric that was prevalent at the time.

The second day of the Summer School began with a workshop by Dr Pim Albers, a Senior Visiting Fellow to the School of Law of UCLan Cyprus. The workshop looked at Populism in the Netherlands before and during the COVID-19 pandemic. After offering an overview of the Dutch socio-legal system and background, Dr Albers proceeded with the discussion of cases that broadly fall into three distinct categories: hate speech, environmental cases, and COVID-19. During the workshop, Dr Albers explained the various approaches the courts maintained in various cases that were brought either by or against agents that used populist rhetoric.

Participants to the workshop were then offered the opportunity to discuss the various court decisions and compare them with decisions taken by courts in their own countries when dealing with similar issues.

Following that, Dr Andreas Marcou's workshop looked at the complex relationship between democracy and democratic norms on one hand, and some court actions, such as judicial review, on the other hand. Through an interactive discussion of complicated cases of judicial review, such as *Roe v Wade* and *Lochner v New York*, participants to the workshop were invited to consider the vast power courts may exercise and the ways in which we tend to view that power. The workshop then proceeded to discuss various arguments for and against the use of strong judicial review in various context and the role courts play within a democracy. In a populist context, however, the rule of law and its 'due process' elements (judicial independence and impartiality, access to justice) should be our first concern.

The last workshop of the Summer School was delivered by Prof. Kabat-Rudnicka and was entitled 'The rule of law – a challenging concept for courts'. In her workshop, she discussed a series of cases of the Court of Justice of the EU that dealt with the concept of the rule of law and its various elements. The concept of the rule of law and its contents, she suggested, are ultimately drawn from the domestic tradition of Member States. Prof. Kabat-Rudnicka identified then the absence of an EU concept of the Rule of Law, which contributes to the adoption of diverging rule of law standards in different member states. The workshop then identified all the difficulties that this creates both at the national and at the European level.

Several participants from all over the world were able to connect to the Summer School. Participants included students, lawyers, legal scholars and academics, who were interested in populism and the ways in which it affects EU governance. Every participant enjoyed full access to the contributions and presentations of the Summer School in an interactive setting. Certificates of attendance were issued for all participants with CPD units. All materials and recorded sessions will be made publicly available on the [EU-POP website](#). Contributions from various guest lecturers will be also published in the upcoming issue of the EU-POP Working Paper Series.

Conclusion:

Holding the EU-POP first Summer School primarily online, due to the ongoing pandemic, offered an opportunity to participants from all over the world and with diverse backgrounds to participate. This year's Summer School built on the outputs of the [first Summer School](#) and further investigated the impact populism and populist discourse has on our contemporary democracies. The second Summer School chose to focus on the courts and their role in populist

times. Courts are not only the institutional actors responsible for safeguarding core EU values, such as the rule of law, but also one of the most common targets of populist attacks. By undermining necessary rule of law conditions such as judicial independence and impartiality, by seeking to enhance the control of the judiciary by the executive branch, and by seeking to install in the judiciary actors that are amicably disposed towards their government's goals, populist parties pose a significant threat to the EU as a whole. Participants to the Summer School were invited to reflect on the ways in which judicial independence is a necessary condition for a democratic state and the ways in which that independence, and other rule of law conditions, are put under pressure from populist agents across the Union. As a result of this discussion and consultation process, the next steps of EU-POP will be looking at different ways in which populist actors seek to destabilise core EU values including the rule of law, such as through digital populism.

Many thanks go to the EU-POP Team for their hard work in organising this Summer School. Feedback received ensured that participants enjoyed the blended learning methods (workshops, lectures, videos) and mode of delivery (face to face and online). We therefore thank all participants for their commitment and hope to see them soon again in the growing EU-POP community.