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Jean Monnet Network - BRIDGE

The *Latin American Journal of European Studies* is a publication of the Latin American Center for European Studies (LACES), created from the project "Building Rights and Developing Knowledge between European Union and Latin-America - BRIDGE", a Jean Monnet Network initiative (620744-EPP-1-2020-1-BR-EPPJMO-NETWORK) with funding from the European Commission's Erasmus + Program.

The purpose of the Journal is to contribute to the studies of European Union Law and Policies from an analytical, critical and axiological perspective of the European integration process and of the relevant contexts of its international relations with third countries and, especially, with Latin America. We collaborate with the mission of creating new knowledge, building bridges of dialogue and exchanging good practices between regions, always with a view to promoting economic and social development, peace and international security.

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The Journal objectives disseminate scientific articles, comments on jurisprudence, critical reviews and interviews in Portuguese, English and Spanish, which are in line with the following Editorial Lines:

1. European Union Law and Policies
2. European Union International Relations with third countries and Latin America

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Editorial

The co-editors and the Editorial team present the second edition of the Latin American Journal of European Studies!

The Latin American Journal of European Studies (LAJES) is a publication of the Latin American Center of European Studies, created from the BRIDGE Project of Jean Monnet Network with funding from the Erasmus + Program of the European Commission. It is open access, double-blind reviewed journal in English, Spanish, and Portuguese, published semesterly to create new knowledge, build bridges of dialogue, and exchange good practices between European Union and Latin America, always intending to promote economic and social development peace, and international security.

In this volume, readers can explore contributions focusing on the editorial lines European Union Law and Policies and International Relations of the European Union with third countries and Latin America, as well as about themes concerning "Migration and Citizenship in the European Union and Latin America," the subject of the current Thematic Dossier and the II Jean Monnet Network Seminar – BRIDGE that took place on 9 November 2021 at Federal University of Santa Catarina, Brazil. The activities occurred in two distinct moments, including a Seminar with authorities specialized

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in the subject and a Workshop to propitiate a space to present the papers from professors and researchers of different nationalities.

The Seminar was attended by the Member of the European Parliament, Margarida Marques; the Deputy Head of the European Union Delegation in Brazil, Ana Beatriz Martins; the Regional Policy and Coordination Officer of the International Organization for Migration (IOM - South America), Ezequiel Texidó; the Deputy Representative of the United Nations High Commission for Refugees (UNHCR) in Brazil, Federico Martinez; the Legal Adviser on Immigration at Workers' Trade Union (USO) in Spain, Max Adam Romero; and the former employee of Argentina's National Migration Department and professor at the Interamerican Open University (UAI), Emiliano Bursese.

In this opportunity, classical themes related to the general subject of the meeting were considered, such as participatory citizenship, refugees, and statelessness, and also discussed topical issues both for Latin America and for the European continent, as Venezuelan emigration and the challenges posed by the implementation of the Dublin Convention on the right to asylum.

The Workshop featured the presentation of seventeen papers previously selected through the Call for Papers organized by the Scientific Committee composed of Prof. Aline Beltrame de Moura from the Federal University of Santa Catarina - UFSC (Brazil), Prof. Sandra Negro from Buenos Aires University (Argentina) and Prof. Elisa Chiaretto from University of Padua (Italy). The presentation has

been divided into four thematic panels moderated by professors Nuno Cunha Rodrigues (Lisbon University), Beatriz Campuzano Días (Sevilla University), Joana Stelzer (Federal University of Santa Catarina), and Naiara Posenato (University of Milan), all members of the BRIDGE Project. The Workshop's closing included considerations by Professor Walter Arévalo-Ramírez from the University of Rosario (Colombia). The twelve best articles presented are now published in the Dossier Thematic of the Journal and the others in the Event Proceedings.

The first paper of the Dossier, written by Nuria Marchal Escalona, is entitled "Ciudadanía europea y reagrupación familiar de menores sobre los que se ha constituido una *Kafala*" (European citizenship and family reunification of minors on which have been established a *Kafala*), and has been selected as the first best article of the II Workshop Jean Monnet BRIDGE. The author firstly analyzes to what extent the child's best interests and the right to family life oblige the Member States of the European Union to facilitate the entry and residence of a child over whom European citizens have constituted a *kafala*. Secondly, she analyzes its influence on the alien's law of the Member States and, in particular, on Spanish law. Furthermore, she ascertains whether the prior recognition of the judicial decision of the State where the *kafala* has been constituted is a condition to enter a specific EU Member State as a family member.

Nancy Eunice Alas Moreno presents the second-best paper of the Workshop, on "Aspectos sociales y legales sobre la inmigración

entre España y Centroamérica” (Social and legal aspects of the immigration between Spain and Central America). The purpose of this article is to provide a historical and social overview of the five centuries ago immigration from Spain to Central America and how this flow of immigration has subsequently inverted due to multiple intertwined to the primary legislation in force in Spain and Central America, as well as to the legal challenges that Central American immigrants undergo as active subjects of the right to asylum. The wave of Central American immigrants recently directed to Spain has led to the collapse of this country’s asylum system. These events have raised the urgent need for the Spanish government to review the conditions and circumstances established in the relevant legislation, following the guidelines provided by the UNHCR on international protection for those who emigrate for security reasons.

The research presented in the paper “O imigrante como cidadão global: uma perspectiva multicultural” (The immigrant as a global citizen: a multicultural perspective), by Claudia Regina de Oliveira Magalhães da Silva Loureiro, addresses particular issues of the intersectionality between migration, citizenship, and multiculturalism. The specific objective is to analyze the legal institute of global citizenship to confer the ability to act to immigrants in the supranational context. As a result, the author examines the idea that global citizenship supplants national citizenship and operates within political and democratic participation spaces that consider the immigrant’s personality rights an international law subject.

In the paper “La política migratoria debe equiparar derechos de nacionales y migrantes para contribuir al desarrollo sostenible” (Immigration policy must equalize the rights of nationals and migrants to contribute for sustainable development), Silvia Fernanda Menéndez examines the Global Compact for Safe, Orderly and Regular Migration where that if migrants are integrated they can better contribute to the development of states. At the regional level, claims that there are pending challenges for the Charter of Fundamental Rights of the European Union and the Strategic Plan of Social Action of Mercosur in the community law.

The reflection about “La integración de la población inmigrante en la Unión Europea” (The integration of the immigrant population in the European Union), by Alfonso Ortega Giménez, seats on the idea of immigration as an exchange, a driving force for progress and peace. Also, focus on recognizing the rights and freedoms of foreigners and on the illegal immigration non-criminalization, suggesting the strengthening of control mechanisms for offenses related to the irregular hiring of foreigners. Considering this, a common model of effective integration of the immigrant population in the EU should offer legislation inspired by the freedom of movement and the principle of equality.

The objective of the article “Os limites atuais do acesso dos estrangeiros aos direitos políticos na América Latina e na Europa” (The current limits of foreign access to political rights in Latin America and Europe), written by Raquel Ramos Machado and Lara

Campos Arriaga, is analyze the limits of foreign access to political rights in Latin America and Europe. Through a documentary, bibliographic, qualitative, and descriptive analysis, they consider the political rights situation in South America and Europe's Hispanic countries. The study establishes that all South American countries grant some political freedom, unlike Central America and Mexico. In Europe, only European nationals have effective local activity; however, foreign residents of third countries have political rights at the municipal level in several countries.

The paper "El derecho a la reagrupación familiar en la Unión Europea" (The right to family regroup in the EU), presented by Nayiber Febles Pozo, analyzes family reunification in the European Union, considering the doctrine of the Court of Justice of the European Union through the analysis of a judgment on family reunification. It also considers the rupture of the family unit as a consequence of emigration.

The problems of discoordination between applicable law to family and succession rights of surviving spouse or partner from the point of view of EU International Private Law is the main topic of the Antonio Jesús Calzado Llamas' contribution, on the "El elemento de extranjería en la planificación sucesoria de las familias: un estudio de derecho internacional privado sobre la coordinación de la ley aplicable a los derechos del cónyuge viudo o pareja superviviente en la UE" (The foreign element in the state planning of families: an international private law study on the coordination of applicable law

to the rights of surviving spouse or partner in the EU). Firstly, the paper presents the Private International Law rules of Regulations (EU) no. 650/2012, 2016/1103, and 2016/1104. Afterward, it examines the chances of getting coordination through jurisdictional authorities and, primarily, by the parties using the choice of applicable law. The conclusion is that the current Regulations do not avoid discoordination efficiently, and therefore, it proposes direct and indirect adaptation solutions to solve the problem.

The aim of the paper "Citizenship: a durable solution for those born as refugees," written by Lutiana Valadares Fernandes Barbosa, provides an overview of the hardships faced by refugee children. Granting citizenship for children born as refugees is proposed based on three lines of arguments: the meaning of citizenship and avoidance of statelessness, the child's best interest, and the prevention of children in a protracted refugee situation. Considering this framework, it discusses three recent initiatives to address refugee's challenges: the New York Declaration for Refugees and Migrants, the Global Compact, and the Model International Mobility Convention. Finally, suggests three possible measures to implement citizenship for those born as refugees: An optional protocol on the Convention of the Rights of the Child, an optional protocol to the Convention Relating to the Status of Refugee, or else that States, while adopting the Model International Mobility Convention, expressly assure the right to citizenship for those born as refugees. The Latin-American States are prone to lead the call for a right to

citizenship for those born as refugees since birthright citizenship is adopted by nearly every State in Latin America.

Vitória Westin Barros has written the article “A proteção internacional dos refugiados nos sistemas interamericano e europeu de direitos humanos” (The international protection of refugees in the Inter-American and European human rights systems), which aims to present the international protection of refugees and asylum seekers in the Inter-American and European Human Rights Systems, based on the similarities and differences about the refugee concept and the scope of the principle of non-refoulement. Thus, it compares jurisprudence of the Inter-American Commission and Court of Human Rights and the European Court of Human Rights, particularly on the return of refugees, verifying the challenges for the human rights guarantees of refugees in the European and American contexts. It concludes that the European Human Rights System has a more extensive and vast jurisprudence related to refugees, whereas the Inter-American Human Rights System presents more protective standards and positive tendencies on migrants’ and refugees’ rights.

The last paper of the Dossier is presented by Aline Memória de Andrade on “Análise comparada entre a aferição de idade de jovens refugiados na União Europeia e no Brasil” (Comparative analysis between the age assessment of young refugees in the European Union and in Brazil). The study shows the methods used by the European Union to measure the age of unaccompanied

and undocumented young migrants. Preliminarily, it investigates the advantages of being considered a minor in terms of rights and more significant assistance by the legal regime of special protection for children and adolescents; the minor is in fact considered an exception to the Dublin System, which, in theory, allows a child not to be bound by the processing of their asylum application in the first European country they entered. Then, it analyses the Directive n. 32/2013 of the European Union, which allows medical methods for age assessment, but does not determine which is to use, leaving a wide margin for European countries and offering no standardization on the subject. Finally, it investigates if Brazil can use such parameters, as the country is facing an intensification of migrations from Venezuela, composed of large numbers of unaccompanied and undocumented minors.

The following section of the Journal includes the two best monographs in a summarized format awarded in the “I Monograph Contest for Young Latin American Researchers - Jean Monnet Award,” submitted by researchers up to 30 years old enrolled in a higher education institution in Latin America.

Marcelo Terra Bento Martinelli was the winner of this edition of the competition with the monograph entitled “O Pacto Ecológico Europeu e seus efeitos sobre a comunidade internacional” (The European Green Deal and its effects on the international community). The researcher conducts exploratory and documental research on the European Green Deal, the provisions in the bloc’s

founding treaties, and official documents, assessing its objectives and unveiling its bases to indicate some possible effects of the Pact in international relations. It discusses how the fight against climate change, as a European strategy for the green reboot of the economy, can influence other international actors' adoption of similar behaviors. This article focuses on the influence the European Union can exert from the European Green Deal rather than how this influence occurs. Lastly, the situation of Brazil and the Free Trade Agreement between Mercosur and the European Union in the face of the European quest for climate neutrality is addressed. The prospective conclusions of this work are a possible strengthening of the European Union's normative role and the deliberate guiding of its external relations and internal policies by the principle of sustainable development.

The Honorable Mention was won by Victor Matheus de Santana Santos, with the monograph "The 2014 and 2019 European Parliament elections: the growth of the eurosceptic right and opposition voting in second-order elections". The research first notes that several authors consider the elections to the European Parliament as second-order elections. This opinion is due to the low voter turnout, the better performance of opposition and radical parties compared to first-order national elections, the dynamics of "opposition voting" and "sincere voting," among other aspects. The growth of Eurosceptic parties in the 2014 elections, especially on the right side of the political spectrum, as well as the increase in the turnout

in the 2019 elections, brought this discussion back to the fore, in which certain authors reaffirm the persistence of this second-order character, while others relativize it. In this sense, this paper aims to present this debate, identifying different explanations for the rise of the Eurosceptic right in 2014 and the increase in turnout in 2019, correlating this debate with readings on Euroscepticism and far-right. Secondly, verifying whether the logic of the opposition vote, one of the theory's central assumptions, was present in the 2014 and 2019 elections regarding the right-wing Eurosceptic parties. Among the 56 cases analyzed in the two elections, 26 fit the dynamics predicted by the opposition vote, while another nine cases also fit the dynamics predicted by other assumptions of the theory. It is noteworthy that some right-wing Eurosceptic parties, especially the more radical ones, tend to be small and opposition parties, which usually perform better in second-order elections.

As Editors of this issue, we thank the authors and contributors who made it possible to publish the second issue of the Latin-American Journal of European Studies and wish all a stimulating reading!

Aline Beltrame de Moura, Naiara Posenato & Sandra Negro