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Introduction: A Tribute to Jean-Claude Piris, Director-General of the Legal Service of the Council of the European Union

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Abstract

On the occasion of his retirement, the Fordham International Law Journal is dedicating this issue on topics concerning European Union law to Jean-Claude Piris, who brilliantly served as Director-General of the Legal Service of the Council for the last twenty-three years. The Legal Service, currently composed of around 120 lawyers, not only provides legal advice to the Council itself and all of its supporting committees and staff, but also reviews all draft legislation and other legal acts of the European Union and represents the Council in proceedings before the Court of Justice of the European Union.

INTRODUCTION

A TRIBUTE TO JEAN-CLAUDE PIRIS, DIRECTOR-GENERAL OF THE LEGAL SERVICE OF THE COUNCIL OF THE EUROPEAN UNION

On the occasion of his retirement, the *Fordham International Law Journal* is dedicating this issue on topics concerning European Union law to Jean-Claude Piris, who brilliantly served as Director-General of the Legal Service of the Council for the last twenty-three years. The Legal Service, currently composed of around 120 lawyers, not only provides legal advice to the Council itself and all of its supporting committees and staff, but also reviews all draft legislation and other legal acts of the European Union and represents the Council in proceedings before the Court of Justice of the European Union.

The head of the Legal Service thus has a weighty responsibility, both as the administrator of all of this legal activity and as the lawyer ultimately determining the Legal Service's opinion in difficult legal issues. Jean-Claude Piris, however, has actually served in an even more important role since assuming his post: that of the *Conseil-Juridique*, or Legal Advisor, to the European Council, the body composed of the Heads of State and Government of the Member States, which has the role of providing "the Union with the necessary impetus for its development [and defining its] general political directions and priorities."¹

Not only has Jean-Claude Piris provided legal counsel to all the regular and extraordinary sessions of the European Council for over twenty years, he has also served as the Legal Advisor to each of the five Intergovernmental Conferences of the ministerial representatives of the Member States, which have successively drafted the texts of the Treaties of Maastricht, Amsterdam, and Nice, the failed draft Constitutional Treaty, and the current Treaty of Lisbon. As such, he has headed the Legal Service in

1. Consolidated Version of the Treaty on European Union art. 15(1), 2010 O.J. C 83/13, at 23.

providing assistance in the drafting of the final Treaty provisions, often highly technical compromise texts. Perhaps more important, he has personally acted as Legal Advisor to the European Council when it has had to resolve the final issues upon which any Intergovernmental Conference has proved unable to agree.

His colleague, Thérèse Blanchet, in her contribution to this issue on the drafting of the Treaty of Lisbon, describes the crucial role Jean-Claude Piris exercised in deciding to provide the European Council session in June 2007 with an entire draft treaty, derived from the failed Constitutional Treaty, with some crucial modifications. This enabled the June 2007 European Council, under the presidency of Chancellor Angela Merkel, to modify the draft treaty text and turn it over as a “mandate” to the Intergovernmental Conference that ultimately prepared the Treaty of Lisbon. This demonstrates his unusual and indeed extraordinary influence on the shaping of the present European Union treaty structure.

Jean-Claude Piris has also provided an invaluable service to lawyers, political scientists, and academics in general through his studies of the new texts of the treaties. His 1994 *European Law Review* article, “After Maastricht, Are the Community Institutions More Efficacious, More Democratic and More Transparent?,” highlights the institutional and structural progress achieved in that treaty.² Similarly, his 1999 essay in the *Fordham International Law Journal*, “The Treaty of Amsterdam: Overview and Institutional Aspects,” provides a parallel analysis of that Treaty.³ Even more comprehensive and informative are his two books, *The Constitution for Europe: A Legal Analysis* (2006) and *The Lisbon Treaty: A Legal and Political Analysis* (2010).

It would be remiss not to present briefly Mr. Piris’ earlier legal career. After graduating in 1972 with a law degree from the University of Paris and one from the prestigious National School of Administration (ENA), he immediately joined the Conseil d’Etat (Administrative Court), ultimately becoming its deputy secretary-general from 1976–1978. Mr. Piris then entered the

2. Jean-Claude Piris, *After Maastricht, Are the Community Institutions More Efficacious, More Democratic and More Transparent?*, 19 EUR. L. REV. 449 (1994).

3. Jean-Claude Piris & Giorgio Maganza, *The Amsterdam Treaty: Overview and Institutional Aspects*, 22 FORDHAM INT’L L.J. S32 (1999).

French diplomatic service as Legal Counsellor to the French Mission to the UN, serving for four years in that post. After returning briefly as a judge to the Conseil d'Etat, Mr. Piris became in 1985 the Legal Counsel and Director of the Legal Service of the Organisation for Economic Co-operation and Development ("OECD"), holding that position until he was named as head of the Legal Service of the Council.

Eight authors have provided essays to this issue in honor of Jean-Claude Piris. Judge Allan Rosas of the European Court of Justice, long recognized as an expert in the field of EU external relations, has contributed "The Status in EU Law of International Agreements Concluded by EU Member States." Judge Rosas authoritatively examines the varied types of such agreements and their relation to the EU legal order, either incorporated in whole or in part, or as a "mixed" agreement concluded together with the EU, or remaining outside by virtue of a derogation for agreements entered into with third states prior to accession.

Three of Mr. Piris' colleagues in the Legal Service have contributed Essays. Taking first, in alphabetical order, that by Thérèse Blanchet, "The Treaty of Lisbon: A Story in History or the Making of a Treaty," is a fascinating and informative study of the evolution in events and the modification in the Treaty text in moving from the unfortunate draft Constitutional Treaty to the present Treaty of Lisbon. Giorgio Maganza's "Can the Enlarged European Union Continue to Be That United?" studies the strains on the operational efficiency for the Commission and the Council as a consequence of the 1995, 2004, and 2007 accessions of fifteen nations, more than doubling the number of Member States. He evokes the possibility that some Member States may want to adopt some form of closer political relations inside the EU. Julian Schutte's "UK v. EU: A Continuous Test Match" provides a detailed review of the evolution of the Schengen Agreement for free transborder movement of persons without checkpoints, together with its flanking arrangements to which virtually all Member States adhere. He also describes the possible practical relations between the United Kingdom and those Member States in application of the Treaty Protocol pursuant to which the UK is not bound by the Schengen arrangements.

Four academics provided Essays to this issue. Professor George Bermann of Columbia Law School contributed

“Reconciling European Union Law Demands with the Demands of International Arbitration,” a valuable analysis of how international arbitration awards might acquire a more coherent status within the EU legal order. Yves Mény, former President of the European University Institute, contributed “Can Europe Be Democratic? Is It feasible? Is It necessary? Is the Present Situation Sustainable?” As the title suggests, he probes these challenging issues, criticizing the post-Lisbon EU structure as still one that is “pre-democratic” and unsatisfactory. Professor Ramon Torrent of the University of Barcelona provides another critical study: “The Contradictory Overlapping of National, EU, Bilateral, and Multilateral Rules on Foreign Direct Investment: Who Is Guilty of Such a Mess?” The title is suggestive of his careful analysis of the variety of international modes of protecting foreign direct investment, observing their general incompatibility with EU treaty obligations. Finally my own Essay, “The European Council after the Treaty of Lisbon,” attempts to analyze the significance of designating the European Council as one of the fundamental institutions within the EU legal order, and the important structural changes in its operational role.

Altogether, this issue of the *Fordham International Law Journal* serves as a fitting tribute to the many achievements of Jean-Claude Piris.

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