



University of the  
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# **SLSA**

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## **ABSTRACTS 2010**

financial solidarity with nationals of other Member States, as solidarity between generations, as solidarity between the Union and Member States.

Though it is not specifically defined in the EU law in the same manner as, for example, subsidiarity or proportionality, solidarity has an overarching influence on when and how European laws are made and to which direction European political integration should turn. The real value of solidarity comes into play when economic times are difficult or when a considerable enlargement in the EU occurs. With the 2004 and 2007 new memberships and with the recent economic crisis, it is very timely to examine solidarity not only as a European value, but also as a legal constitutional principle of European law.

**Brenda Daly**

***Tracing the role of the EU as an actor in international conflict mediation***

The EU is one of the most powerful economic, political and legal institutions in the world, with a presence in 118 states worldwide. It is therefore uniquely positioned to positively impact on armed conflict situations, and indeed actively promotes the principles of conflict prevention and resolution.<sup>1</sup> It has mediated in a number of conflicts in the past, on its own, in conjunction with states and it has also supported Non-Governmental organisations' mediation efforts. There is, however, a dearth of research on the place of the EU as an actor in conflict mediation efforts.<sup>2</sup>

The purpose of this paper is to trace the development and evolution of the EU as an actor in international conflict mediation. The first part of this paper considers how the EU initially became involved in international conflict mediation, taking into account the impetus behind its involvement in such efforts, whether this was influenced by internal or external policy factors. The second part of the paper considers the changing nature of the EU and its particular response to conflicts and conflict resolution. This section of the paper will also examine the role of the EU's mediation unit, considering how it has, for the most part, been engaged in the implementation of the mediated plan, such as the Aceh Monitoring Mission. The paper will then discuss the potential use of the EU Mediation Directive as a template for the EU as an actor in international conflict mediation.<sup>3</sup>

This analysis will help strengthen understanding of the EU as an actor in armed conflict mediation and determine how it can be most effectively engaged in conflict mediation in the future.

**Chris Davies**

***Should English And European Football Adopt A Salary Cap?***

The English Premier League has, over last decade or so, established itself as the number one football league in the world while at the same time English clubs Arsenal, Chelsea, Liverpool and Manchester United have been highly successful in the European Champions League. However, despite such results, many of the English clubs remain in serious debt, champions Manchester United reportedly over £600 in debt while other Premier League clubs, most notably Portsmouth and West Ham, are in serious financial trouble that may well impact on their ability to remain in the Premier League. This raises the issue as to whether a salary cap should be implemented in order to ensure that clubs do not overspend on player salaries, a concept that was suggested by UEFA some years ago. Salary caps have been successfully utilised in many other sports, such as the National Football League

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<sup>1</sup> Herrberg, A., Gunduz, C., & Davis, L., (2009), *Engaging the EU in Mediation and Dialogue: Reflections and Recommendations - Synthesis report*, Initiative for Peacebuilding.

<sup>2</sup> Herrberg, A., (2008), *Perceptions of International Peace Mediation in the EU*, Initiative for Peacebuilding.

<sup>3</sup> Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters

(NFL) and the Australian Football League (AFL). This paper therefore examines the legal status of salary caps, the advantages and disadvantages of the implementation of this labour market control and whether it is appropriate that the Premier League, and European football in general, adopt a salary cap. While there are certainly advantages in imposing such a restraint on wages, the world nature of football and the promotion and relegation system present in all European leagues means that football operates in a very different environment to that experienced in the domestic based American and Australian football. It is suggested, therefore, that while salary caps have proven to be highly successful in both the NFL and AFL it is unlikely that it would be as successful in the European football leagues.

**Christian Dadomo and Rick Ball**  
***EU law learning and teaching in UK universities survey***

In 1993 two surveys of law teaching were conducted. The first by Harris and Bellerby concentrated on the new universities and colleges, and Wilson focused entirely on old universities. It is notable that these surveys were conducted before EU law became a core subject. Thus Wilson details the number of institutions providing EEC law as an optional course and then notes the growing importance of the European dimension. Harris and Bellerby consider how the European dimension of law is taught (discrete or integrated units for teaching European legal institutions and substantive law), the percentage of institutions that organise European visits and the percentage of institutions that organise student and teacher exchanges. In 2004 Harris and Beinart conducted a further survey of all law schools in the UK. The European dimension of this report was brief, concentrating on the mobility of students. A further survey was reported in 1986 (but initiated in 1982) that considered the teaching of European law to lawyers in practice. A team from UWE, funded by UKCLE, have now conducted a further comprehensive survey of EU Law learning & teaching in UK universities and would like to present their findings with analysis of the impact of those findings.

**Renée DePalma and María Victoria Carrera**  
***The legal regulation of gender identity: Moving beyond fixed and “natural” categories***

Despite feminist understandings of the socially constructed nature of sex and gender and anthropological studies of alternative constructions, the understanding of sex and gender as mutually-exclusive hierarchical categories is firmly embedded in Western society. Therefore, it is no wonder that our legal systems take the categories of “male” and “female” to be based on a fixed and permanent natural order. Taking the current Spanish law regulating gender identity changes as an example, we analyze how this recent (2007) legal advance continues to pathologize the trans person and reinforce prejudices and inequities. We believe this critical perspective to be not only relevant to the specific Spanish case but more generally applicable to legislation and policy regarding gender identity across international contexts.

Some of the principal ways in which this law resists making rigid dimorphic categories more flexible include: i) the diagnosis by a psychiatrist that guarantees that the individual’s transsexuality will be permanent; ii) the development of secondary sex characteristics by means of hormone therapy; iii) the change of social role; and iv) the selection of a new name that will not lead to error in relation to sex.

The law continues to impose medical criteria as an essential prerequisite for the right to change the name and sex on one’s own national identity document and passport, orthodox criteria that certify that this individual’s identity will remain permanent, rigid and fixed. This pathologizes transsexual and transgender people, negating their subjectivity and implicitly prohibiting them from redesigning, reinterpreting and modifying their identity. Furthermore, within this psychiatric diagnosis, the “adaptation” of one’s sexual orientation to the “new” sex-gender identity is very highly valued. In this manner the law continues to reinforce the social construction of identity “stability and permanence” as well as the rigid coalition of sex-gender identity, sexual orientation and sexual practice.