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What a Journal Makes: As we say goodbye to the European Law Journal

4 FEBRUARY 2020 / BY [JOANA MENDES](#) AND [HARM SCHEPEL](#) / 10

On January 31st, the Editorial and Advisory Boards of the *European Law Journal* resigned *en masse* from their positions in protest after the publisher, Wiley, decided that it was not willing to ‘give away’ control and authority over editorial appointments and decisions to the academics on the journal’s Boards. We recount our small act of resistance here because we think there may be lessons for the wider academic community. We are not looking to portray ourselves as martyrs for academic freedom or principled radicals looking to overhaul the entire system of academic publishing.

About Joana Mendes

Joana Mendes is Professor of Comparative Administrative Law at the University of Luxembourg since 2016. She has a doctor degree from the European University Institute (Italy), awarded in 2009. Before joining the University of Luxembourg, she worked at the University of Amsterdam (2009-2016), where she was Associate Professor at the Department of International and EU Law and PhD Dean.

Indeed, the most significant aspect of our rupture with Wiley lies in the modesty of the demands they were unwilling to meet.

In 2018, Wiley sought to appoint Editors-in-Chief without as much as consulting the Board of Editors and the Advisory Board, in a process both unfair to the prospective, excellent, new editors and in complete disregard of the integrity and autonomy of the academic community gathered in the Boards. The new editors withdrew, and the Boards resigned in protest. Wiley finally relented and agreed on an open competitive process administered by a committee of Board representatives leading to an appointment by mutual consent of the publisher and the committee. In the end, our recent negotiations with Wiley broke down on our one necessary if insufficient condition for agreeing to new terms: to simply have this process formalized in our new contract. It is a modest point, but one of vital importance: it clears the way to a model where Editors respond to the Board, not to the publisher, and where Editors work for the journal, not as remunerated contractors for the publisher. In other words, it is a fundamental condition for safeguarding academic autonomy.

To be sure, Wiley acted wholly within its rights. It 'owns' the *European Law Journal*. It has the rights to the title and associated proprietary paraphernalia, and it controls access to content. It operates the ELJ much as it and other commercial academic publishers operate other journals. It appoints and employs editors as 'contractors' who then organize and manage the free labor of authors and reviewers of

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About Harm Schepel

Dr. Harm Schepel is Professor of Economic Law and Director of Law Programs at BSIS. He holds degrees from the University of Amsterdam (Drs.), the International Institute for the Sociology of Law in Oñati (LLM), and the EUI Florence (PhD), and was attached to the Centre for European Law and Politics in Bremen and the Centre de Théorie Politique at the ULB before joining Kent Law School in 2000. He has held visiting research positions at the University of Amsterdam and Columbia Law School, and has taught at the Academy of European Law at the EUI Florence, on the LLM in Law in a European and Global context at the Catholic University of Portugal, on the Executive Master's in European Studies (MEUS) at the ULB, and on the Research Master's in European Studies at the

submissions. It has articles copy-edited, type-set and produced in a low-wage country far far away. From a business perspective, academic publishing is a cool gig: labor costs are spectacularly low, the investment required is largely limited to building (or rather, buying) a proper software system for processing and storing papers, and demand has the elasticity of cast iron: journals are wrapped up and sold in packaged databases which university libraries have little choice but to gobble up. Scholarship and intellectual exchange are but ‘content’ on a ‘platform.’ Academics are but marvelously cheap service providers.

Perhaps naively, we always thought it was the other way around. We saw Wiley as a prestigious publishing house that should be generously rewarded for services rendered to the intellectual project that is the *European Law Journal*. We saw sales and revenue and impact factors as slightly irritating but necessary means to the end of sharing that intellectual project with the wider academic community. And yes, we thought and still think that the intellectual project of the ELJ is ‘owned’ by the academic community of editors, authors, reviewers and readers whose efforts have made the ELJ into a leading journal of European law. Founded twenty-five years ago as a review of European ‘law in context’, the ELJ has offered a distinctive platform for avowedly theoretical and critical work, for a meaningful exchange between disciplines and approaches, and for methodological pluralism. We have given importance to empirical and historical analysis, played a vital role in introducing private law debates into general EU law, and laid bare the gravity of ‘crisis law’ as a matter not just of law

University of Maastricht. He is a regular visiting lecturer at the Universities of Palermo and Torino.

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and governance, but as matter of European legal scholarship. If the enduring importance of, say, Heller and Schmitt, Habermas and Luhmann, Foucault and Bourdieu, or Hayek and Polanyi has been seeping through in EU legal discourse, it is surely partly the merit of the ELJ.

The *European Law Journal* is an intellectual project we are determined to continue. This will have to happen in a new journal which will not be called the *European Law Journal*, will not have a pink cover, and will not carry the subtitle of the ‘review of European law in context.’ God forbid we encroach on the publisher’s proprietary interests.

Meanwhile, Wiley is looking to appoint new editors, refill its fully depleted masthead and continue something that is called the *European Law Journal*. New contractors, new service providers. Same name, same logo. Same paywall in front of the same thousands of pages of dedicated scholarship. Business as usual. It is their right to do so. After all, they ‘own’ the *European Law Journal*. Or do they?

Formerly the editors-in-chief: Joana Mendes and Harm Schepel

Formerly on the Board of Editors: Daniela Caruso, Edoardo Chiti, Michelle Everson, Agustín Menéndez, Alexander Somek, Daniel Thym, Renata Uitz, and Floris de Witte.

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Formerly on the Advisory Board: Gráinne de Búrca, Carol Harlow, Imelda Maher, Miguel Poiares Maduro, Wojciech Sadurski, Silvana Sciarra, Francis Snyder, Neil Walker, Joseph Weiler, and Bruno de Witte.

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10 COMMENTS



Johan Van Haersolte says:

February 4, 2020 at 11:44 am

Shocking to read this, and every editor should take this message as a warning. Ask yourself, what is your relationship with your publisher?

Johan van Haersolte

(former member of the Board of Editors of the 'Nederlands Tijdschrift voor Europees Recht (NTER))

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Pingback: [Editorial and Advisory Board of Journal Resign En Masse - Daily Nous](#)



Lorenzo says:

February 4, 2020 at 5:54 pm

how to have news about your new editorial project?

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Hans Micklitz says:

February 4, 2020 at 8:37 pm

this is a courageous decision. Thank you for what could turn into a precedent. My respect. with all best wishes

Hans

[Reply](#)



Peter Drahos says:

February 5, 2020 at 2:16 pm

A principled response by the members of the boards, but a sad story nevertheless when one thinks of the collective efforts that have gone into the journal. Figuring out alternatives to these proprietary webs being woven by academic publishing cartels should be a priority for all of us.

Peter Drahos

[Reply](#)



Eleanor Spaventa says:

February 5, 2020 at 5:18 pm

Thank you for this – and as per petition being circulated I would urge all academics from withdrawing their services from Wiley and ELJ – don't send articles, do not referee, do not act on the board. If we do not send articles and referee them they have no journal,

Thanks again for doing this,

Eleanor

[Reply](#)



Laurens Ankersmit says:

February 6, 2020 at 8:20 am

My article got officially accepted for publication in the ELJ one week before this resignation decision was taken. I was not informed that this was in the works. The peer-review process took about a year, not to mention the work on the article before first sending it in. Bad timing I guess.

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Sonia Morano-Foadi says:

February 5, 2020 at 11:48 pm

I cannot believe this and I wonder whether this is a reflection of the time/politics of this time. Sonia Morano-Foadi

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Pingback: [Entire board of law journal resigns in a 'small act of resistance' – Retraction Watch | Watch Tech Market](#)



Pol_Eco_Pub (@Pol_eco_pub) says:

February 7, 2020 at 7:14 pm

Classic move of journal independence as SPARC named it 20 years ago. If you haven't already done it, contact OLH or OpenEdition to host your new project. Good luck !

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