



Editorial: 2026 General Issue

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INTRODUCTION

It is our pleasure to present this year's general issue of the Utrecht Law Review (ULR). Out of the very many submissions received, the ULR Editorial Board selected seven articles for publication. Four of these are self-standing contributions spanning international law, criminal law and interdisciplinary legal-sociolegal research; three further articles are united by a single theme – the legal aspects of democracy in Europe – and together form a 'mini' special issue, curated under the auspices of the Utrecht Center for Regulation and Enforcement in Europe (RENFORCE). We will introduce the individual contributions below.

THE GENERAL ISSUE'S SELF-STANDING CONTRIBUTIONS

The issue opens with **Cristian De Fazio** (University of Buenos Aires), whose article 'Principles of International Law as Foundation and Abstraction: The Case of Due Diligence' challenges the International Law Commission's characterisation of general principles as mere 'gap-fillers'. Through a systematic analysis of contemporary jurisprudence, De Fazio demonstrates that principles in fact perform four essential functions simultaneously: systemic integration across fragmented legal regimes, qualification of how other norms apply in specific contexts, autonomous regulation generating independent obligations and the expression of fundamental systemic values. Taking due diligence as a case study, he traces its evolution from nineteenth-century arbitral practice to recent applications in environmental law, human rights, cyberspace and corporate responsibility, with particular attention to the climate advisory opinions of the International Tribunal for the Law of the Sea and the Inter-American Court of Human Rights. The resulting four-function framework reveals principles as essential mechanisms that enable international law to address contemporary challenges without abandoning established frameworks.

In the field of European criminal law, **Kamil Kapica** (University of Warsaw/Polish Academy of Sciences) examines the requirement, established in the case law of the Court of Justice of the European Union (CJEU), that cumulative proceedings for the same act and against the same person be conducted in a manner that is 'sufficiently coordinated and within a proximate timeframe'. In 'Sufficient Coordination Between Authorities as a Prerequisite for Ne Bis In Idem Limitations in European Union Law', Kapica takes the CJEU's judgment in Case C-27/22, *Volkswagen Group Italia SpA and Volkswagen Aktiengesellschaft*¹ – in which such coordination was held to be an indispensable condition for the admissibility of cumulative criminal penalties

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¹ Case C-27/22, *Volkswagen Group Italia SpA and Volkswagen Aktiengesellschaft*, ECLI:EU:C:2023:663.

under Article 52(1) of the Charter of Fundamental Rights² – as his point of departure. The article addresses the many questions the CJEU left unresolved: whether existing jurisprudence allows us to determine the authority responsible for initiating coordination, the measures national authorities are obliged to undertake, the objectives coordination should serve and the consequences of non-compliance.

Lewis Njabulo Sibanda (The Open University) turns to the indeterminacy of the definition of human trafficking in ‘Revisiting the Notion of Exploitation: The Blind Spot in Anti-Trafficking Law’. Sibanda attributes this indeterminacy to the persistent ambiguity surrounding the notion of exploitation, which, although central to determining which practices fall within the scope of trafficking, remains under-theorised and conceptually elusive. Engaging with Marxist as well as Kantian accounts of the fundamental wrong the anti-trafficking framework seeks to address, the article unpacks the purpose element of the trafficking definition, identifies coercion and wrongful gain as the wrongs underpinning exploitation and argues that the degree of severity required to establish trafficking should be determined contextually – with a lower threshold where the abuse of vulnerability operates as a mode of coercion.

The final self-standing contribution, by **Devita Putri, Kees van den Bos** and **Elaine Mak** (Universitas Gadjah Mada and Utrecht University), studies violent radicalisation among people convicted for terrorism in Indonesia. Drawing on in-depth interviews with 40 convicted terrorists, ‘Violent Radicalisation of Convicted Terrorists in Indonesia: Perceived Unfairness, Democratic Values and Legitimacy of the Rule of Law’ reveals that respondents perceive the law to be unfair, consider a democratic system to contradict their religious beliefs and believe jihad to be an obligation superior to legal constraints on violence. These findings show that perceptions of fairness and of the legitimacy of the legal and democratic system play a role in violent radicalisation, and are discussed in view of Indonesia’s post-colonial struggle for a democratic identity and its rejection of a religiously defined legal system.

MINI SPECIAL ISSUE: THE LEGAL ASPECTS OF DEMOCRACY IN EUROPE

The remaining articles in this issue form a ‘mini’ special issue on the legal aspects of democracy in Europe, curated under the auspices of RENFORCE. The contributions were first presented at the 8th Young European Law Scholars (YELS) Conference on ‘Democracy in times of transition in the European Union’, hosted at Utrecht University in early July 2025. Against the backdrop of the many transitions the European Union (EU) currently faces, the three articles examine, from complementary perspectives, how EU law seeks to secure democracy at both the European and the national level.

Miriam Schuler (King’s College London) opens the mini special issue with ‘The Enforcement of the Principle of Democracy Against the Member States Under Article 10 and 2 TEU’. As adherence to democratic principles has declined in several EU Member States, Schuler asks whether Member States are bound by EU democratic standards and how such standards can be defined. Responding to scholarly doubts about whether the principle of democracy anchored in Articles 10 and 2 of the Treaty on European Union (TEU)³ can be transformed into clear and concrete obligations, the article specifies the legal obligations these provisions impose: under Article 10(2)(2) TEU, Member States must ensure that their government is democratically accountable, while under Article 10(1) TEU they must ensure effective representation in the European Parliament and the (European) Council. On this basis, the article identifies national parliaments, national elections, political parties, citizens’ rights, free and pluralistic media and national courts as ‘institutional double agents’ – institutions essential to Member State and European democracy alike, and as such protected by Article 10 TEU.

Anna Fiorentini (University of Bologna) examines the EU’s response to a different threat to democracy: foreign disinformation. In ‘The EU’s Arsenal to Protect its Democracy from the Threat of Foreign Disinformation’, Fiorentini notes that the digital transformation of the information environment has rendered democratic processes increasingly vulnerable, and

² [2012] OJ C326/391.

³ Consolidated Version of the Treaty on European Union [2008] OJ C115/13 (TEU).

critically examines the EU's evolving legal and policy framework for countering such hybrid threats. She first analyses the extent to which the Digital Services Act,⁴ the European Media Freedom Act,⁵ the Artificial Intelligence Act⁶ and the Regulation on political advertising⁷ can be used to counter disinformation disseminated by non-EU actors, before turning to external action tools, including restrictive measures and bilateral agreements. The article concludes that the EU cannot rely on a single model to address foreign disinformation, but should instead adopt a differentiated approach combining unilateral measures and cooperative frameworks, depending on its ability to assert jurisdiction and the nature of the actor involved.

The mini special issue concludes with **Nora Vissers** (Maastricht University), whose article 'National Elections in a European Framework' starts from the observation that the Union's democratic legitimacy is contingent upon the proper representation of Member State citizens at the national level, so that the deterioration of national democracies – and in particular pressure on free and fair elections – threatens European democracy more broadly. Because EU competence in this field is limited, EU action to uphold democratic elections is not self-evident. Vissers shows, however, that the traditional division between EU and national competences is becoming increasingly blurred, and outlines developments in policy and jurisprudence which signal a more proactive stance by EU institutions. She cautions that supranational involvement in protecting democracy, especially by a judicial body, requires careful consideration if trust in the system as a whole is not to be undermined.

RECENT AND FORTHCOMING SPECIAL ISSUES

We also wish to draw your attention to the special issue the ULR published earlier this year (2026/1) on 'Questioning Economic Security'. As global stability wanes and economic interdependence is increasingly weaponised, the EU and its partners are redefining their approach to trade, investment and resilience. This special issue of the ULR explores the multifaceted and often contentious concept of economic security – a paradigm that challenges traditional notions of openness and cooperation.

The issue grew out of the third edition of the workshop on EU trade and investment law, organised by Dr Thomas Verellen and Dr Alexandra Hofer (Utrecht University) in December 2024 in the context of the [RENFORCE building block on EU Values in International Trade](#). From the EU's de-risking strategies to the tensions between security, human rights and institutional balance, the contributions by Eleftheria Asimakopoulou (The University of Edinburgh), Brendan Walker-Munro (Southern Cross University), Maria Vittoria Morrone (European Commission) and Lukas Schaupp (EUI) critically examine how economic security is reshaping EU trade law, policy and constitutional values.

Looking ahead, the editorial board, together with the many external peer reviewers with whom we collaborate, is busy assessing the submissions received for **next year's general issue**. We are grateful to everyone who makes this work possible: the authors who entrust their manuscripts to ULR, and the reviewers who so generously devote their time and expertise to the peer review process. Thanks to their efforts, ULR can continue its mission of publishing high-quality, multidimensional legal research in an open access format.

We also have several special issues in the pipeline.

Later this year, we hope to publish a special issue convened by Dr Miroslava Scholten and Dr Lisette Mustert (Utrecht University) marking the **50th anniversary of EU agencies**, which have

⁴ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC [2022] OJ L277/1.

⁵ Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU [2024] OJ L2024/1083.

⁶ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 [2024] OJ L2024/1689.

⁷ Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on transparency and targeting of political advertising [2024] OJ L2024/900.

grown from an initially contested institutional experiment into some 50 bodies wielding powers ranging from information-gathering to decision-making and direct supervision.

In the course of the next year, we will publish a special issue on the **legitimacy of judicial law-making in public interest cases in South Africa**, convened by Prof Rob van Gestel (Tilburg University), Prof Elbert de Jong (Utrecht University), Nurina Ally (University of Cape Town) and Faranaaz Veriava (University of Pretoria), which examines how courts legitimise their decisions in public interest litigation – a topic of lively debate in the Netherlands and well beyond.

Two further special issues are in preparation: one on **private actors in EU lawmaking**, convened by Dr Esther van Schagen and Dr Lavinia Kortese (Utrecht University), exploring how the EU legislator's growing reliance on privately developed rules and standards can be reconciled with democracy and the rule of law; and one on **business, armed conflict and international law**, convened by Dr Alessandra Spadaro (Utrecht University) and Dr Laura Íñigo Álvarez (NOVA Law School), which turns to the increasing entanglement of private business – from tech companies to extractive industries – in warfare and military occupation.

EDITORIAL BOARD UPDATES

Finally, some news about the Editorial Board. Our editor-in-chief, Prof Cedric Ryngaert, is stepping down from that role as he becomes research director of Utrecht University's School of Law. We are delighted that Prof **Alex Oude Elferink**, Professor of the International Law of the Sea at Utrecht University, is willing to succeed him as editor-in-chief, and we wish him the best of luck in that role. Thomas Verellen stays on as ULR managing editor, while Cedric Ryngaert will remain a regular member of the Board of Editors.

We also welcome several new members of the Board: Prof **Hanneke van Eijken** (Professor of Rule of Law and Democracy), Dr **Wendy Yan** (Assistant Professor of Constitutional and Administrative Law), Dr **Lisette Mustert** (Assistant Professor of Administrative Law), Dr **Luigi Prosperi** (Assistant Professor of International Criminal Law) and Drs **Kim Schuurman** (PhD Candidate at the Utrecht Center for European Research into Family Law), all affiliated with Utrecht University School of Law.

At the same time, we take this opportunity to thank the members who have left the Board over the past year: Mr dr **Caia Vlieks**, Mr dr **Evelien Brouwer**, Prof dr **Michiel Luchtman**, Prof mr dr **Rianka Rijnhout** and former managing editor Dr **Malgorzata Kozak**. We thank them warmly for their support of the ULR over the years.

COMPETING INTERESTS

Both authors are members of the Editorial Board of the Utrecht Law Review (Cedric Ryngaert as outgoing Editor-in-Chief, Thomas Verellen as Managing Editor). Apart from these editorial positions, the authors have no competing interests to declare.

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