

CENTRE OF EXCELLENCE 2008-2013
THE FOUNDATIONS OF EUROPEAN LAW AND POLITY

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PART 1. RESEARCH PLANS 2008-2013

1. Overall description and research teams

1.1. Overall description

The foundations of European law, including national legal systems, are undergoing profound changes. What is the direction of these changes? Contradictory tendencies can be detected – integration, harmonization and coherence, on the one hand, and fragmentation, pluralism and polycentrism, on the other hand – and different observers, often occupying different positions in the legal field, offer highly divergent interpretations of the contemporary legal scene in Europe. If there is agreement among the more ambitious and thoughtful observers, it concerns the insufficiency of the traditional legal doctrinal and theoretical tools in front of the rapidly proceeding Europeanization of law. However, legal doctrine and theory, more often than not tied to their traditional nation-state perspective, have been very slow in reacting to the challenge of Europeanization. Academic studies in European law have addressed issues arising from the legal needs for deepening and enlarging integration; studies in this field already count as ‘mainstream’ legal doctrinal work. However, it is evident that at a legal theoretical and philosophical level, legal integration produces problems of a qualitatively new kind.

The Finnish Centre of Excellence in the Foundations of European Law and Polity Research (hereafter CoE) brings together researchers from different substantive areas of law and political science. It takes up the challenge Europeanization has posed for legal theory. It focuses on the perceived need of reassessing traditional legal theoretical, conceptual and doctrinal starting points in the face of a new form of legal plurality and multi-level governance. The key issue the CoE addresses is the relationship between coherence and fragmentation. To what extent can law and legal analysis retain the traditional ideal of a coherent legal order and to what extent and in what respect do discourses on law require new conceptual tools that acknowledge and explain processes of fragmentation within the legal orders? This is the basic question analyzed from different angles by the three Research Teams of the CoE.

What originally after World War II started as a project of securing peace and prosperity in Europe grew first into a comprehensive scheme of creating a common market and has then become a political project of building ‘an ever closer union’. What will be the shape of this ‘closer union’ is still unclear. Will it be a social Europe where politics plays an intermediary role?

From the very beginning, legal instruments have played a central role in achieving these ambitious aims. Complementing the at least originally more economically and instrumentally oriented EC (later EU) law, the human-rights law of the Council of Europe has constituted another important source of common European law. European integration has essentially been integration through law. However, as the fate of the Constitutional Treaty has shown, legal integration should not be regarded as a linear process of progress.

Even in legal respect, Europe remains ‘united in diversity’. The European project has always

incorporated, and it still incorporates, various legal traditions and legal cultures, various linguistic communities, various political traditions and various conceptions of the state. Especially in private law, the ‘common core’, if there is any, has mostly developed outside the realm of political action as common concepts, principles and institutions.

The European project and the interaction between tendencies of harmonization and fragmentation also challenge the premises of nation-state based political theory. The theory of federalism has gained new significance, but its fruitful application to the emerging political and constitutional constellation in Europe requires rethinking its conceptual starting-points. At the same time, the possibilities for a mutually fruitful co-operation between political and constitutional theory have increased.

In a historical perspective, the oscillation between harmony and fragmentation is not new. European legal and political history reflects a continuing interaction, and sometimes even tension, between tendencies towards integration and disintegration. European law has since the Middle Ages been both fragmented and coherent. It was fragmented because of several bodies of *ius particulare* until the 19th century (town law, mercantile law, royal law, customary law) and has continued fragmented thereafter because of the predominance of national legislations. However, coherence was produced since the high Middle Ages in large parts of Europe by Roman law and Canon law, and by their confluence into *ius commune*, the common law of Europe. Starting from the 19th century, the function of *ius commune* was largely taken by comparative law and legislative co-operation.

The analysis of the present and the future of European law and polity requires a firm historical understanding of their foundations. Law cannot in general be understood without paying due attention to its historical roots, its historical continuities and discontinuities. This is especially true of European law.

European law is and has always been closely related to the political structure of Europe. The foundations of European law cannot be studied without a simultaneous analysis of the foundations of European polity. The processes of harmonization and fragmentation of European law must be set in the context of corresponding processes within the political structure of Europe.

Finnish legal scholars are internationally known for their ability to combine legal theoretical work with doctrinal jurisprudence (legal dogmatics). The directors of the CoE have actively participated in both domestic and international debates on the so-called general doctrines of different fields of law. They have also developed their views in the form of a general approach to contemporary law and legal thinking. Their conceptions differ in some significant aspects, which creates a productive tension in the very core of the CoE’s research activity. The private law approach of Wilhelmsson builds on weaker presuppositions of legal coherence than does the public law perspective of Tuori. Wilhelmsson emphasises the increasing orientation towards normative assessment of particular situations within the micro-politics of the legal system, whereas Tuori underlines the capability of normative principles and other general doctrines to provide the system with a certain degree of coherence even under the conditions of inter-systemic influence. Thus, the basic tension between coherence and fragmentation which structures the research work of the CoE is in a way inbuilt in the divergent legal theoretical approaches of the directors of the CoE.

The interaction between tendencies of fragmentation and harmonization plays multiple roles and is

expressed in multiple forms in the research work of the CoE. It informs the general approach conceptual framework of the research; this can be called its methodological aspect. In methodological respect, we can also speak of a dialectic of deconstruction and reconstruction: the law's deconstruction may open the perspective of a new kind of reconstruction. To a certain extent, the tendencies towards fragmentation and harmonization overlap the distinction between private and public law perspectives to the foundations of European law, although contradictory tendencies can be detected in both private and public law development.

The individual research projects to be conducted within the CoE highlight different aspects of the relation between coherence and fragmentation. Ultimately, at issue is our thinking of law and the necessity, caused by the tendencies of internationalisation and Europeanization, to rethink this thinking. Thus, it is the central premise of the CoE that the analysis of the foundations of European law and polity must be sensitive to both harmony and dissonance.

The CoE consists of three interdependent and overlapping Research Teams. The focus in Research Team I (RT I) is on the implications of the European project within legal and political theory and philosophy (Rethinking Legal Thinking). RT I has the specific responsibility feeding the other teams with theoretical impulses and inspirations and of summarizing the legal theoretical conclusions to be drawn from their work. At the same time, Research Team II (RT II) focuses on issues which, in the traditional classification of scientific disciplines, fall mainly into constitutional and political theory, and history (Europe as a Polity). Research Team III (RT III) deals with problems concerning private law theory and doctrine, as well as comparative legal history (Legal Cultural Foundations of the European Market). The Research Teams will work in close co-operation, drawing from the wide and mutually complementary expertise and divergent theoretical orientations of the researchers.

The CoE gathers together researchers with different scientific backgrounds and will thus produce added-value in several dimensions. The CoE crosses the division between private and public law as well as that between European and domestic law, affecting the majority of research on European law. Mainstream research on European law still consists of text-book and commentary oriented legal dogmatic work. Through its organisation and the many-sidedness of the scientific orientation of its researchers, the CoE is able to include in the study of European law theoretical clarity and innovativeness as well as historical depth. It will also make it possible to integrate legal and social scientific approaches to European law and polity, a goal often spoken of but rarely achieved.

1.2. Research Teams

In the following, the Research Teams and the individual research projects of their members are presented. The members of the Teams and their affiliations are listed below under item 6.

Rethinking Legal Thinking (RT I)

Directors: professor Kaarlo Tuori, professor Thomas Wilhelmsson

European law challenges many established starting-points of legal theory and legal doctrine(s). The Luxembourg Court has stressed that EU (EC) law is an independent legal order. But, using the vocabulary of critical legal positivism, is this true only for the surface-level of law? Can we speak of an independent EU law if we expand the concept of legal order to cover even the subsurface layers of

the legal culture and the law's deep structure? If EU law is still lacking its specific legal culture, it is obvious that in each Member State, the national courts apply EU law resorting to their own national legal cultural resources. And if this is the case, instead of one and independent EU law, there seems to exist as many EU laws as there are Member States (jurisdictions). If the legal cultural homogenisation of Europe can in general be deemed a desirable aim, its achievement is likely to be a lengthy process.

EU law manifests for its part the increasing detachment of law from the confines of the nation-state. Many, maybe even most, of the established theoretical and doctrinal premises of legal thinking are bound to the nation-state perspective. We are experiencing an exceptionally lively discussion on the politico-institutional and legal characteristics of the EU. This discussion has been prompted by such developments as the drafting and adoption of the Charter of Fundamental Rights, the failed attempt of the Constitutional Treaty and the process of enlargement. However, as some clear-sighted participants have already remarked, the discussion is confronted with conceptual difficulties and paradoxes. This is due to the fact that the legal and political concepts available to us have received their present established meanings in the context of modern nation-states, although they may originally date from the pre-modern period; this goes, e.g., for 'state', 'sovereignty', 'constitution', 'democracy' and 'demos', 'separation of powers', 'civil society', 'public sphere' and 'citizenship'. But the EU cannot be equalled to a modern nation-state, although our obstinate habits of thinking often in a quasi-automatic way lead us to describe and assess it with conceptual and normative tools tailored to this particular type of polity. Among the scholars, there is no agreement on the positive characterisation of the EU. What, by contrast, is generally accepted is its negative portrayal as a non-state: the EU is not a federation which shares its sovereignty with its Member States, nor is it a confederation of sovereign states. If we are not to abandon wholly the concepts attached to modern nation-states, the task is to assign them a meaning suited to the examination of the trans-national polity of the EU and its trans-national legal order. This need of rethinking legal thinking in the context of the EU may also well reveal the need of rethinking even the conceptual tools with which we are accustomed to approach municipal legal orders.

The concept of sovereignty provides us with a patent example of the urgency of conceptual re-orientation. Sovereignty has traditionally been central to the discipline and practice of both constitutional and international law. However, the foundations of sovereignty have undergone erosion. Throughout the world today, the variety of traditional ideas, doctrines and institutional structures associated with the concept of sovereignty are challenged by developments that shift authority away from the nation-states to new supra-state forms. The most dramatic instance of this process has taken place within the framework of the European Union. Trends toward the relocation of authority from the Member States to the Union have been of such magnitude as to cast doubt on the whole meaning of sovereignty as we know it.

EU law does not only question the established concepts of constitutional and other public law but even those of private law. Thus, the traditional private law theories of rights seem to be unable to catch the peculiarities of the legal positions established by EU law. The law's doctrinal structure has followed its differentiation into different fields, which, in fact, have gained their (relative) independence through their distinctive concepts and principles. EU law, however, defies this differentiation; it cannot be systematised employing the traditional distinctions of municipal law. This is one of the main reasons why the traditional doctrines are inapt in the analysis of EU law. But, again, the peculiarities and at least seeming aporias of EU law lead us to rethink the role doctrines,

concepts and principles in general play in legal thinking and argumentation.

European law and its interaction with municipal legal systems is a conspicuous expression of what recent research has called legal pluralism or legal polycentrism. What we face today is a pluralism not only of legal sources but even of legal orders. This pluralism is one of the defining elements of our present legal situation. However, in legal theory and in legal doctrine it has not yet received the attention it deserves.

On the other hand, legal pluralism must be approached historically. Pluralism is not a novelty of contemporary or – as some observers would put it – post-modern law. Instead, legal pluralism has been a constant for most of the European legal history. Medieval law is the often-cited example with a wealth of legal sources. In the early modern period, the situation changed, but only gradually and partially. The prime era of the nation-state, from the 19th century until World War II, was short, and even during that era, the law retained some pluralistic features. The present European constellation of coherence and fragmentation, of unity and diversity, can only be adequately grasped from a historically informed perspective. In the examination of the foundations of European law, legal theory and philosophy must join hands with legal history.

There is much research on EU law from a dogmatic and from a legal policy point of view. Only during the last decade has legal theory realised that EU law affects fundamentally the way law works and must be conceived of in European societies. RT I aims at a deeper synthesis of what European law is and can be, combining legal theoretical, legal philosophical and legal historical perspectives.

RT I will work in close co-operation with RT II and RT III. Thus, RT I's role in the project is, on the one hand, to draw general legal theoretical conclusions from research done in other Teams and, on the other hand, to feed these with theoretical insights and frameworks.

Within RT I, professor Tuori will concentrate on the role legal doctrines play in EU law. He is at present preparing a monograph on the dialectics between the law's historical and systematic nature, especially from the standpoint of legal doctrine. After publishing this monograph examining at a general level the role of doctrine in legal thinking and argumentation, he will focus the analysis on EU law.

Within this RT, professor Wilhelmsson will be engaged in writing a general theory of private law in a multicultural and multilingual society under the title *Free Movement of Legal Ideas and Doctrines – Towards a General Theory of European Private Law*. His study focuses on the consequences of the Europeanization for legal reasoning in private law, analyzed in connection with the specific features of late modern society, as well as with the cultural and linguistic diversity of today's Europe. Wilhelmsson will relate his socio-legal diagnosis to recent developments in the theory of late modern (post-modern) societies. Special attention will be given to the legal theoretical consequences to be drawn from the fragmentation of legal materials caused by Europeanization. Wilhelmsson's aim is to analyze the issue of coherence deeper than is often the case in legal theoretical writing and, for example, submit the connection between coherence and the values of predictability and equality to a critical examination. In Wilhelmsson's view, small stories rather than comprehensive systems should occupy the centre of legal reasoning.

Professor (vic.) Tuulikki Mikkola's work will focus on changes in the functions of comparative law in a situation where Europeanization of law faces the fundamental challenge of diversity despite all the harmonization efforts.

In his project *The Fragmented Foundations of the Modern European Law* Ari Hirvonen will study the elaboration in the Enlightenment philosophy of the basic concepts and principles of modern European law and legal thought, such as freedom, responsibility, rights, contract and sovereignty. The hypothesis informing the study is that this philosophical foundation not merely influences the thinking of law in the European jurisprudential tradition, but also guarantees a fundamental coherence to European law. However, the research will also pose the question whether this philosophical foundation is merely a myth or a narrative that is created and told again and again to guarantee this coherence. The seemingly coherent ground may itself be fragmented. The aim of Hirvonen's research is to analyze the fragmentation and polycentricity immanent in European law and, thus, to open new possibilities for contemporary law and legal thinking.

RT I will work in close co-operation with the RT II and III. Thus Professor Tuori and Professor Wilhelmsson will actively participate in the research work of both RT I and, respectively, RT II and RT III. Of the other researchers of the CoE, the work of, e.g., Pihlajamäki and Mikkeli, is also intimately linked with RT I.

Post-doctorate researchers include Samuli Hurri, University of Helsinki (LL.D.-degree to be earned in 2007).

Post-graduate students include Kim Talus (LL.D.-degree to be earned in 2009) and Emilia Korkea-aho (LL.D.-degree to be earned in 2009).

Europe as a Polity (RT II)

Directors: professor Kaarlo Tuori, professor Kimmo Nuotio

The EU is a trans-national polity which has grown out of an economic community. It has been established through international treaties as an international organisation, and some aspects of this international law background still prevail. However, as legal and political integration has deepened, the identity of the European Union as a polity has also gradually changed. The international law origins of the EU have increasingly receded into the background. Economic integration has managed to harmonise economies, but what has happened to law and polity is an open question which will be studied by the RT II. The specific origin of the European polity building requires close research co-operation with the RT III; public law studies do not suffice. RT II is a multidisciplinary group which consists of theorists looking at common problems from different points of view.

The European Union and its law present an important testing field for legal theoretical tools and innovations. Constitutional thinking in general can greatly profit from the debates on the emerging trans-national constitutionalism in Europe. Europe has been characterised as a 'laboratory of legal pluralism'; it has also been welcomed 'as a journey' or 'as a project'. Europe forces legal theory, as well as legal and political philosophy, to move beyond conventional dichotomies (domestic law/international law) and equations (state = legal order). Two divergent interpretations of this development seem equally plausible, one emphasising the tendencies of fragmentation and the other

one those of integration. This tension serves as the common ground for the individual studies within RT II.

In the 19th century, nation-states emerged as the uncontested main actors on the scene of European politics. One of the principal ideas guiding the constitutional and legal development of the nation-states was that of the rule of law (*Rechtsstaat*). Today, this idea inspires, not only the human-rights law of the Council of Europe, but increasingly the development of the European Union, too. However, it also poses a central problem: how can the ideas of a democratic *Rechtsstaat* be applied to and specified in a trans-national polity, such as the EU?

The EU's constitutional development and the declining of the sovereignty of the nation-state are two sides of the same coin. As power is gradually transferred to the trans-national level, the need to respond to this process within the constitutional structures of the Member States becomes all the more evident. At the same time, creating political legitimacy becomes increasingly important at the trans-national level of the EU. Inclusive citizenship with its concomitant participatory rights is a central means for securing the democratic legitimacy of political authority. In the context of the EU, however, citizenship both as a legal and as a socio-political concept shows challenging peculiarities in comparison with the citizenship of a nation-state.

The problems concerning EU citizenship are a conspicuous example of the difficulties confronting the effort to build at the trans-national level legal and political structures meeting the demanding criteria of a democratic *Rechtsstaat*. In this effort, an important role is played by the human-rights dimension of European law. However, this dimension is affected by internal tensions and conflicts, which require serious attention from the part of academic research. Can human rights serve the basis of harmonization?

The EU Charter of Fundamental Rights confirmed the central place of the protection of fundamental rights in the EU and in the ongoing process of European integration. Fundamental rights can foster European integration by operating as an integrating force and as a source of legitimacy. However, they stand in at least a potential tension with the promotion of the market-oriented rights of free movement, guaranteed by the EC Treaty; they manifest considerations and values different from those underlying the market freedoms. In addition, there is the possibility of internal conflicts between individual fundamental rights, for instance between liberty rights and social rights. And, finally, there is the problem of harmonising the three systems or levels of human-rights protection in Europe: the national constitutional systems for the protection of fundamental rights, the system built around the European Convention on Human Rights and the EU's system for the protection of fundamental rights.

The commitment to the protection of fundamental and human rights can be seen as a unifying goal and value and, accordingly, as an integrating force. On the other hand, the protection of fundamental human rights may function as a source of counter-productive fragmentation and as a source of the conflict of standards (and double standards?) and values as the definition and understanding of fundamental and human rights often differ from polity to polity, at least beyond the minimum standard reflected by the ECHR.

Recently, the EU has adopted a new role as a guarantor of freedom, security and justice. The

increasing activity of the EU within the field of criminal policy raises grave concerns with regard to the rights of the individuals. In this respect, the new dimension of security is intimately related to the issue of safeguarding human rights. Trans-national legal proceedings create a new setting in which the protective legal schemes of a *Rechtsstaat* should be operative. Human rights as intra-state rights do not suffice. Procedural legal instruments based on the principle of mutual recognition constitute an alternative to substantive harmonization of national legal orders, but they also create new types of problems (e.g., European arrest warrant). European legal initiatives in criminal and procedural law have been policy-oriented and have rather increased the risk of fragmentation than enhanced coherence. Differences in the national implementation of the agreed policies further accentuate the risk. Anti-terrorism measures provide examples of such ambiguous recent developments.

The RT II builds on the work of the Research Project 'Europe as a polity' (2006 – 2008/2009), funded by the University of Helsinki. This project covers the work of four researchers (Nuotio, Petman, Hurri, Sankari). The research project has established close contacts with the Graduate School Foundations of European Law as well as with the Centre of Excellence on Global Governance. Nuotio has arranged two international seminars in Finland during the spring of 2006. An upcoming event ('Europe as a Polity: Chasing constitutionalism' seminar, 29-30 September, Helsinki) organised partly by Petman and Sankari will bring together different disciplines of law and some of CoE's co-operating parties. In other words, the group has already built active international contacts.

The individual projects of the researchers working within RT II are grouped around four major, closely inter-connected sub-themes which address the tension between fragmentation and integration from a specific perspective: trans-national constitutionalism and its impact on the constitutional development of the nation-states (Tuori, Kauppi); European citizenship (Tuori, Hänninen), as well as the question of specific European values and identity (Hänninen, Pihlajamäki, Mikkeli); the human rights-dimension of European constitutionalism (Ojanen, Scheinin, Mikkeli); and, finally, the emerging role of security as one of the main trans-national areas of activity (Nuotio, Scheinin, Kotkas).

In his research falling into the field of RT II, professor Tuori will focus on issues concerning the construction of a democratic *Rechtsstaat* at the trans-national level, such as the peculiarities of European citizenship. He will also conduct a comparative study on the impact of the emerging trans-national constitutionalism on national constitutional structures. Building on his previous work, especially his *Democracy, Social Resources and Political Power in the European Union* (Manchester/New York: Manchester University Press, 2005) professor Niilo Kauppi will explore the political interests and strategies that led to constitutional reforms in Finland and France as a case exemplifying the interaction between domestic and European constitutional and political structures.

Professor Sakari Hänninen, who is a specialist in political theory and welfare politics, is at present, particularly interested in the possibility and force of politics to act in situations in which socially vulnerable and disaffiliated people find themselves. His research addresses the social dimension of EU as an object of politics and law. He will specifically focus on the dialectical and contradictory interplay between centrifugal and centripetal forces in the formation of (active social) citizenship.

Professor Tuomas Ojanen will concentrate on the tensions and conflicts within the three-dimensional European system of human-rights protection, i.e. those between EU's fundamental rights and the

ECHR, those internal to the EU Charter and EU law in general, as well as those between EU law and domestic systems of the Member States for the protection of fundamental rights. Professor Martin Scheinin will in 2007 finalize a monograph on the evolution of international human rights law towards a 'global constitution' as leader of a research project Constitutional Issues of the International Community (2004-2007), funded by the Academy of Finland. Within the CoE, he will produce articles and later on a monograph on Europe and the protection of human-rights while countering terrorism. Europe's response to terrorism will be analyzed in respect of the complex interaction of EU law, national (constitutional) law, Council of Europe law (including the European Convention on Human Rights) and United Nations law (including Security Council resolutions).

Professor Kimmo Nuotio's aim is to deepen the debate on the Europeanization of criminal law by bringing in legal-philosophical issues concerning presuppositions for the legitimate use of punishment. He will also relate the Europeanization of criminal law and criminal justice to the development of the EU as a polity. Researcher Toomas Kotkas' project on police regulation concerns the historical roots of the EU as a polity. Police regulation formed a fundamental part of the control systems of the emerging absolutist states of the early modern Europe. Kotkas is particularly interested in finding out to what extent police regulation can be considered a common European phenomenon, and whether it had a 'harmonizing' effect on the early modern European law.

Docent Heikki Pihlajamäki and docent Heikki Mikkeli focus on the historical roots of European legal and political thinking. The case of Sweden is studied from the premise that the analysis of the historical roots of modern legal positivism must pay due attention to the connections between law and theology. Mikkeli's focus is on the monistic and pluralistic theories of European federalist thinking. This will then be connected with the constitutional developments of the European Union.

Post-doctorate researchers in RT II are researcher Jarna Petman, University of Helsinki (LL.D.-degree to be earned in 2007), and researcher Suvi Sankari, University of Helsinki (LL.D.-degree to be earned in 2007).

RT II includes also two post-graduate students, Ida Staffans (LL.D.-degree to be earned in 2009) and Sabrina Praduroux (LL.D.-degree to be earned in 2009).

Private Law: Between a Coherent European Market and Fragmented National Cultures (RT III)
Directors: professor Thomas Wilhelmsson, director Pia Letto-Vanamo, KATTI

The creation of the common market is usually described with reference to the four fundamental freedoms: the free movement of goods, services, capital and labour. This perspective offers a picture of the development which is supposed to catch the most important legal changes introduced by the process of integration. However, it is a question of a short-term view, related to the law's surface level. From another perspective, the main prerequisite of the common market is situated in the deeper layers of (legal) culture: in at least partially common understandings of the basic institutions and legal safeguards of a market. Therefore, in studying the legal cultural foundations of the European market, one has to look at the central legal institutions of European national markets, their differences and similarities. The common core, mainly developed through the influence of Roman and Canon law, as well as the various understandings of institutions like contract, damages (tort), ownership and – more generally – private legal relationships are key objects for such a research.

Similarities are also based on the codification movement during the 19th century, and, at least partly, on the welfare-ideology of the 20th century. However, not only the similarities of the understandings determine the idea of the European Union. Rather, its specific feature consists of the dialectic between the similar and the diverse. The identity of Europe lies as much in the similar patterns of understanding justice as in the pluralism of approaches. The Europeanization of private law is inevitably and continuously characterized by this tension between systematic unity and pluralist diversity. The private law order and many of its institutions are also closely linked to the economic culture (regime). Important aspects of this question have been studied in the research project Private Law in a Multicultural and Multilingual European Society (the PriME project), funded by the Academy of Finland for the years 2005-2007 (project leader Wilhelmsson).

In private law, the coherence vs. fragmentation issue has become acutely topical because, after several recent communications the European Commission, the work on a 'Common Frame of Reference' for European contract law has commenced. It is done within a Network of Excellence funded by the 6th Framework programme. This Network comprises of several research groups, the most important of them being the Study Group on a European Civil Code, the Acquis Group and the Project Group 'Restatement of European Insurance Contract Law'. Whilst the first bases its work on a comparative and legal policy perspective, the second looks at the principles embodied in the existing *acquis*.

This work will profoundly change the setting of European contract law, and more generally, European private law. The question concerning harmony – represented by a new European codification of the same type as previous national codifications such as *Code Civil* and *Bürgerliches Gesetzbuch* – versus fragmentation – meaning a new dynamic between the European and national laws – has reached a new stage calling for reformulating the traditional questions of private law. The CoE will study the consequences of this development for the understanding of private law and its sources in Europe: do we encounter a traditional code on the European level, or will the European codification result in a new type of private law, with new kinds of sources and a new methodology?

This material forms the basis of an attempt to formulate a general theory of private law in a multicultural and multilingual society. An approach that has so far proved promising is based on the idea of a free movement of legal ideas rather than an assumed systematic harmonization. Such a theory, of which pieces already have been published by Wilhelmsson – who also is having the main responsibility within the CoE for developing the theory further – is taking the pluralism and fragmentation of European law seriously. It needs, however the contrast and counterbalance offered by more coherence-oriented conceptions.

Within the CoE such counter-discourses will be offered both by the other Research Teams as well as within RT III. Micklitz in particular, as a representative of the Germanic systematic thinking, will be an important discussion partner. In this context he studies the conceptual structure of European private law and the impact on this structure of the emergence of a new form of competitive contract law. The point is to find out the basic patterns of the national and European institutions and to identify their legal theoretical grounding in the differing national and European context. This implies the need to look at European law not from a top-down perspective, but from a side by side perspective, where national private laws and the emerging European private law co-exist. It may be

that a new ‘law’ is needed, a law which bridges the gap between differing national and European institutions.

The voluminous debate on a European harmonization of private or contract law has been surprisingly intra-judicial. Lawyers have discussed the pros and cons of harmonization and codification measures with other lawyers, and only occasionally have more general views on society and its present condition been included. In its Action Plan for a more coherent European contract law, the European Commission has also followed this line. The only societal question of importance for the Commission – and this is natural, bearing in mind the role of the Commission – is that of the internal market: Does the existence of different contract laws in the Member States form an obstacle to cross-border trade within the Union and increase transaction costs? The CoE attempts to develop and deepen the historical and societal perspective on the issue of harmonization and codification. Only from such a perspective the dialectics between coherence and fragmentation can be rightly understood.

Within private law, consumer law is the area in which the European legislature has been most actively engaged. Therefore the issue of coherence and fragmentation of the European consumer regulation which is closely linked to the level of homogeneity of the European consumer culture is particularly crucial. In comparison with, for example, the USA – not to mention culturally more distant parts of the world – a specific European consumer culture seems to exist, that is, a culture of trust in a regulated market. However, looking more closely, this culture shows significant divergences, too. In general, the protection of consumer expectations through institutions and programmes is typical for Northern Europe, whilst the protection of expectations at the level of personal contacts is predominant in Southern Europe, and the new Member States also show some peculiar patterns of consumer behaviour. The CoE will continue the research already successfully started within the PriME project, concerning the coherence and fragmentation of European consumer markets and its impact on legal coherence and harmonization.

This work will be undertaken partially by Wilhelmsson, as it closely relates to the previous work in the PriME project and to the work done within the Acquis Group (Wilhelmsson is also President elect of the International Association of Consumer Law). Norio-Timonen and Bärlund will be actively engaged in this field as well. Some concrete studies will be performed as testing grounds for the general theory development. One of these studies will focus on the very topical issue of the internationalisation of service markets and the challenges it presents to the development of consumer protection (Norio-Timonen). The internationalisation of service markets allows a consumer to choose not only between a greater number of suppliers but also between products that have not before been available to him. New technical possibilities make it easy to purchase many services abroad, and even to carry out services virtually. One may assume that the problem of cultural differences will be particularly acute in this context, and that it therefore brings very clearly to the fore the difficult balancing between harmonised coherence and culturally sensitive fragmentation in the activities of regulation, supervision and dispute resolution. Another topical area is the regulation of advertising. A good example of an issue that divides Europe within this field is the attitude towards comparative advertising (Bärlund). Different cultures concerning the lawfulness of comparisons in advertising have resulted in different attitudes towards fair practices in business life. This has an impact on how similar provisions can be and have been interpreted in heterogeneous ways in different Member States of the EU.

In the debates on the possibilities and limits of legal integration, scholars of EU law and comparative law have discussed legal ‘transplants’ and the ‘convergence’ of the European legal systems. European legal historians have addressed the issue of (foreign) legal transplants and irritants, as well as the resistance of local (national) legal traditions. One central theme has been the role of the Roman-Canon *ius commune* in the formation of common European legal thinking and the common core institutions of European private law. Another much discussed topic has been the ‘modernisation’ of law after the French Revolution. The specificities of the developments in Europe’s northern and eastern parts are important even for present-day legal integration. In all these developments, one sees a continuing oscillation between coherence and fragmentation.

In its research the CoE can make use of the networks created in the context of already ongoing projects. Two groups, in which Wilhelmsson is participating, should be mentioned: the above-mentioned Acquis Group (the European Research Group on Existing Community Private Law), led from the University of Münster (Reiner Schulze) and the University of Turin (Gianmaria Ajani), and the Social Justice Group, led from the University of Amsterdam (Martijn Hesselink) and London School of Economics (Hugh Collins). In addition, Norio-Timonen participates in the work of the above-mentioned Insurance Contract Law group and Bärlund takes part in the Trento Group, working with a comparative case-law approach. Finally, one should mention a test case analysis of the unfair business practices directive in its cultural context conducted by Wilhelmsson together with cooperation partners Geraint Howells (Lancaster) and Hans-W. Micklitz (Bamberg). Micklitz is now joining the CoE, and will spend some time in Finland, at the CoE.

In particular from the historical perspective the networks of Letto-Vanamo are very important. Letto-Vanamo is a legal historian specialized in European and Nordic legal history. She is the Director of the Institute of International Economic Law (KATTI) at the University of Helsinki. The main focus of the research activity of the institute (21 researchers, Jan. 2006) is on influences of the economic integration – European and global – on law. She has been working on studies concerning the legal historical roots of European private law and the perspectives on harmonization of private law in Europe. She has wide international contacts to scholars not only in European law in a narrower sense, but to legal historians and social scientists as well. She is, e.g., the head of the Nordic-Baltic Network Legal History on the Edge of Europe: Nordic Law in the European Legal Community 1000-2000 A.D. and a member of the scientific board of the European research project Rechtskulturen des modernen Osteuropa, Traditionen und Transfers (organised by the Max-Planck-Institut für Europäische Rechtsgeschichte, Frankfurt a.M).

Wilhelmsson and Letto-Vanamo are the leaders of the Graduate School ‘Foundations of European Law’ funded by the Ministry of Education and the Academy of Finland (2006-2009).

RT III includes two post-doctorate researchers. The research field of LL.D. Ulla Liukkunen covers globalisation, EU law, private international law and comparative law. She will be able to bring in the very essential link between EU law and global regulation in the discourses on coherence and fragmentation. In his post-doctorate research, Sampo Mielityinen (diss. LL.D, June 2006) will study the nature and limits of coherence to be achieved by harmonising European tort law. The study is based on a wide conception of coherence, starting from but also looking beyond the relation between principles, rules, and judgements within tort law.

Moreover, RT III includes two post-graduate students, Jan-Peter Trnka (LL.D.-degree to be earned in 2009) and Teemu Juutilainen (LL.D.-degree to be earned in 2009).

2. Scientific significance and innovativeness

The directors of the CoE have different legal dogmatic and legal theoretical backgrounds and orientations. As regards legal dogmatic work, professor Tuori is specialised in public law, whereas professor Wilhelmsson's dogmatic field is private law. Tuori and Wilhelmsson have, at least partially building on their dogmatic experience, developed general legal theoretical and methodological approaches which show significant differences in their emphases and interpretation of our present legal experience. They have also applied their approaches to issues concerning EU law. But the divergences in theoretical and methodological approaches do not prevent but rather promote fruitful co-operation and exchange of views. This has been proved by the discussion between Tuori and Wilhelmsson in Finnish and Nordic legal journals and seminars in recent years. This discussion has also touched on questions of EU law.

Tuori has elaborated an approach to modern law which he has called critical legal positivism; this approach can also be characterised as a theory of legal structuration. Tuori examines modern law in its two aspects: law as a symbolic normative phenomenon, as a legal order, and law as specific legal practices. These two aspects constantly interact with each other: the law could not exist as a legal order without the 'ontological support' of legal practices, such as lawmaking, adjudication and legal science, responsible for the production and reproduction of legal norms. But nor could such legal practices as lawmaking and adjudication exist without the legal norms which confer on certain social practices their legal-institutional character, i.e. transform these practices into legal-institutional facts.

As regards modern law as a legal order, Tuori has emphasised that the law as a symbolic normative phenomenon is not exhausted by explicit surface-level material, such as individual regulations and court decisions. 'Mature' modern law also includes subsurface layers which condition what can happen on the law's surface. These subsurface layers, which Tuori has called the legal culture and the law's deep structure, provide the necessary normative, conceptual and methodological resources without which the legislator could not issue laws, the judge give decisions or the legal scholar write articles and monographs. But what is equally important is that the subsurface layers also impose restrictions on what is possible on the surface level in the form of new laws, decisions and learned opinions. Legal concepts not only open but also close the space for legal regulation and argumentation. The normative principles of the legal culture and the law's normative deep structure, in turn, exercise a kind of internal normative censorship with regard to surface-level normative material. Thus, the law's levels are connected through reciprocal relations, such as the relations of constitution and limitation, mediated through legal practices. The relation of sedimentation, in turn, transfers the feature of positivism to the subsurface layers: the legal culture and the law's deep structure also have their origins in surface-level events and material.

According to Tuori's conception of critical legal positivism, the law's subsurface layers have to be reconstructed from the traces they have left on the law's surface. Such reconstructions always involve an element of interpretation and can never be normatively innocent. If basic rights as general normative ideas are considered an essential component of modern law's deep structure, it can be

argued that our contemporary legal era is that of the maturation of modern law, rather than the dawn of a new, post-modern type of law.

The approach of critical legal positivism has already been applied to the development of EU law. It has provided an important source of inspiration for Tuomas Ojanen's analysis of EU law's fundamental-rights aspect, and both Wilhelmsson and Tuori have employed the idea of the law's multi-layered nature in accounting for the so-called Jack-in-the-Box effect of EU law. This effect refers to the unexpected and unforeseeable appearance of EU law in cases pending in national courts. In municipal law, legal certainty and the predictability of adjudication have traditionally been guaranteed by a relatively homogeneous legal culture and the so-called general doctrines (*Allgemeine Lehren*) of different fields of law as a central part of this culture. EU law, however, challenges and even contradicts many of the basic distinctions of national legal cultures, starting with those between national and international, and between public and private law. And, on the other hand, the development of a homogeneous EU legal culture, consisting of established legal concepts and principles capable of disciplining the unexpected Jacks-in-the Boxes, is still at its initial stage.

Tuori and Wilhelmsson have largely agreed on the characterisation of the Jack-in-the-Box effect and its background. But otherwise, their interpretations of European law and its implications for understanding our contemporary legal situation show significant divergences. Tuori is prone to see in EU law an 'immature' modern legal order, still in the process of developing the deeper layers, supporting surface-level normative material; in this process the legal practices, specific to EU law, play a crucial role. Thus, he does not want to interpret the 'legal trans-nationalisation' manifested by EU law as a sign of fundamental change in the direction of a new historical type of law. He concedes the importance of the law's partial detachment from the perspective of the nation-state legislator; this requires reconsidering, for example, the distinctions on which the systematisation of municipal legal orders has been based. He stresses that the phenomena of legal pluralism and legal polycentrism, referring to the multiplicity and parallelism of not only legal sources but even legal orders, must be taken seriously and their legal theoretical and legal philosophical implications unravelled. But he emphasises that there are counter-weights to the tendencies of legal fragmentation, such as the increasing significance of human-rights principles. He also argues that such normative starting-points of modern law as legal certainty and the predictability of adjudication have not lost their pertinence and that they require of normative legal material a certain degree of coherence and systematisation; in his view, these normative ideals can also be maintained through doctrines detached from the exclusive nation-state perspective.

In Wilhelmsson's conception, by contrast, pluralism and fragmentation are understood as more foundational elements of late modern European law. They are not only interpreted as problematic but temporary features of the present stage of European integration, but, rather, are seen as reflections of more thorough changes in our society and the place of law within society. The idea of a unified legal system is traditionally connected with the idea of a unified state as the centre of the legal order. In the course of globalisation and Europeanization, this view of law becomes increasingly problematic. The EU, which should be the centre of EU law, is still and probably in a foundational way disintegrated to the extent that some observers have even called it a 'post-modern state', that is, a state which 'is abstract, disjointed, increasingly fragmented, not based on stable and coherent coalitions of issues or constituencies, and lacking in a clear public space within which competitive visions of the good life and pursuit of self-interested legislation are discussed and debated' (James Caporaso). From a

federalist's point of view, such features may be regarded as deficiencies in the constitutional structure of the EU which will, in due course, be remedied. However, they can also be understood as more stable characteristics of a new type of polity. Such an understanding would be in line with the claim that the idea of Europe includes pluralism as its core component. This interpretation also puts the issue of legal fragmentation in a new light.

Wilhelmsson stresses that EU law is only one of the factors promoting the law's fragmentation in late modern society. The decreasing ethical and epistemic coherence of society weakens the coherence of the legal system. Traditional private law was developed for a bourgeois society and for uninhibited market capitalism, and reflected a fairly homogeneous worldview. At the time, the mechanisms of market society were understood and interpreted in a relatively simplistic manner. In light of contemporary social theory and philosophy, such an ethically homogeneous approach, combined with an epistemically straightforward conception of society, is no longer convincing. This cultural change has implications with regard to the grand theories of coherent law. The complex structure and chaotic causality chains of the globalized late modern society require of law openness to experiments and learning processes. Ethical pluralism, in turn, presupposes a law which leaves space for contextual moral reasoning.

A theoretically ambitious analysis of European law should not focus only on the harmonization processes at the level of the EU. Europe should be seen as a legal setting with a multiplicity of actors, all participating in the formation of European law: the trans-national and national legislatures; the trans-national and national court systems; semi-private and private actors which contribute to legal development through various kinds of soft-law mechanisms; and finally, the academic legal community which in some areas, like private law, has had a central role in laying the practical groundwork for more far-reaching harmonization. A legal development with so many contributing actors cannot but lead to mounting fragmentation.

For reasons like these, Wilhelmsson emphasises the need to take the fragmentation of law seriously. In a normative vision – making a virtue out of a necessity! – fragmentation does not only pose problems, but opens up new possibilities. It offers new vistas for such a Europeanization of law which takes full profit of the experimental potential of 25 different legal orders and legal cultures, and, for instance, enables us to see that the idea of a comprehensive and coherent European Civil Code is not the only alternative to a nationalist legal approach. According to this vision, a truly European solution defines European identity through the acceptance of the pluralism of languages, cultures and laws, and relies on the free movement of legal ideas and doctrines.

In Wilhelmsson's view, the values of legal certainty and predictability have not lost their importance. However, he stresses that because of the foundational nature of legal fragmentation, these values cannot be defended by clinging to an unrealistic ideal of a coherent legal system. Rather, we should shift our focus on the ways they could be promoted in our fundamentally changed legal environment. Instead of grand theories of coherent law, we should aim at 'small stories' of legal development which can perhaps create some legal certainty and predictability even in the fragmented settings.

The relationship between coherence and fragmentation in the Europeanization processes of the law constitutes the main connecting theme of the CoE. This key tension (re)appears in the fields of all the three Research Teams and forms the inspirational background to the individual projects within the

CoE. Can the decreasing coherence of contemporary European law be understood as a temporary problem, which will be remedied on our way towards a more coherent European system? Or does it affect the very foundations of law, calling for major amendments in our theoretical conceptions of law and its place in society? By posing such basic questions, the CoE will engage in debates which are crucial for understanding our present legal experience but which are most often neglected by the pragmatically oriented mainstream of EU law studies. However, the scientific significance of the CoE is not confined to the legal theoretical and philosophical level: the legal dogmatic attachments of the scholars working in the project secure a constant interaction with more pragmatically minded research.

3. Interdisciplinary and multidisciplinary work

The foundations of European law cannot be fruitfully analyzed without a multidisciplinary approach. This holds even for legal research. EU law ignores the divisions on which the systematisation of modern municipal legal orders has been based ever since the 19th century and which have also determined the differentiation of legal science into specific disciplines, such as private law, criminal law, constitutional law, administrative law etc. EU law scholars have usually received their scientific training within a certain discipline defined through the divisions of municipal law. This cannot but influence their approach to EU law, too. But, due to EU law's rejection of these divisions, this also entails the danger of one-sidedness in their analyses. One of the strengths of the present CoE is to group together theoretically oriented legal scholars with diverse disciplinary legal-dogmatic backgrounds: private and public lawyers, criminal lawyers etc.

The EU has sometimes been called 'a regulatory state'. It is true that quantitatively, the major part of EU law consists of regulations of very pragmatic, even technical nature. However, this should not obscure the fact that the current Europeanization process of law builds on a common legal cultural heritage, on previous phases or waves of legal integration. This is why both within the CoE as a whole and within all of its Research Teams, the historical perspective has received a prominent position. Scholars trained as legal historians (Letto-Vanamo, Pihlajamäki, Kotkas) add to the interdisciplinary nature of the project. The European legal cultural heritage is characterised by 'unity-in-diversity'. Therefore, the CoE also stresses the indispensability of a comparative view and includes in its personnel a senior member specialised in comparative research (Mikkola, Liukkunen).

Recent debates on the various aspects of the European trans-national polity – such as European constitutionalism, European citizenship and demos or the role of human rights in constructing a European polity and identity – have clearly demonstrated the necessity to combine the legal-theoretical approach with the perspective of social and political theory, as well as that of legal philosophy. The interdisciplinary and multidisciplinary character of the CoE implies not only the crossing of the boundaries internal to legal scholarship (in the large sense of the term), but also an inclusion of researchers whose background lies in social and political theory (Hänninen, Kauppi, Mikkeli, Petman) or legal philosophy (Hirvonen, Hurri).

Corresponding to the broad spectre of the approaches and personnel of the CoE, its international networks and foreign collaborators also represent a rich variety of academic expertise and interests.

4. Integration of research with the host organisation's strategies

The profile of the CoE fits well into the strategies of the Faculty of Law and the University of Helsinki in general. Since the early 1990's the Faculty has realised an LL.M.-diploma programme for international students and hosts an increasing number of foreign researcher students. During recent years, the LL.M. programme has developed into a new channel for recruiting foreign students to the Faculty's regular LL.D. programme. This has already by now had an impact also on the organisation of the post-graduate studies in the Faculty.

For the details of the international LL.M. programme, see:
<http://www.helsinki.fi/oik/tdk/english/intrelations/intrelations.html>

The Faculty has even otherwise consciously promoted the internationalisation of its activities. In 2000, it accepted an Internationalisation Strategy which states, for instance, the following:

'Internationalisation, however precisely defined, will have some obvious consequences for the study of law. One obvious consequence of internationalisation is the growing importance of branches of the law dealing with international issues, i.e. public international law, private international law, and European Union law. [...] Another consequence, hardly less obvious, is the growing importance of international aspects of branches of the law which hitherto could work in relative isolation. One cannot seriously study environmental law these days without taking international and European standards into account; a course on tax law without reference to international and European standards is, at best, incomplete.' In short, most, perhaps all, legal sub-disciplines are affected by processes of internationalisation.

In its Internationalisation Strategy, the Faculty expresses its determination to enhance student, researcher and teacher exchange, and recognises the fact that at present, lawyers are expected to be able to 'work in various places of the globe, under varying circumstances, dealing with various legal systems.' Furthermore, the Faculty will strive for 'ever-increasing opportunities for co-operation, joint programmes and so on.'

In its Internationalisation Strategy, the Faculty also stresses the importance of the very topic of the CoE, that is, the European Law: 'Given the present situation [in the Faculty], in particular the European Union law section (consisting of one professor and one assistant) would deserve to be strengthened: the field of European Union law is already so large, and is growing so rapidly, that it is almost impossible to keep up with developments, let alone teach relatively large groups of students.' Therefore, the CoE would be more than welcomed by the Faculty.

For the full text of the 'Internationalisation Strategy of the Faculty of Law', see:
<http://www.helsinki.fi/oik/tdk/english/faculty/strategy.html>

In its General Strategy from the year 2000, under the heading *Towards research of a higher quality*, the Faculty states, i.a., the following 'As the branches of legal regulation drift further apart, the significance of shared methodical and theoretical premises will grow in legal research. Alongside of a growing complexity of legal regulations, the importance of research knowledge will also grow. In the

course of legal integration, the criteria of legal dogmatic research, as well as the assessment practices, will also become international.’ This corresponds fully to the aims and approach of the CoE.

In addition, under the heading *Measures to be taken*, the General Strategy states the following: ‘The establishment of research teams, the internationalisation of research collaboration and the networking of the researchers will be promoted. At the same time, a sufficient basis will be created for the formation of one or several research *centres of excellence* [emphasis here] around topics such as legal issues concerning internationalisation/integration and legal theoretical problematic.’ Finally, the General Strategy sets as an objective the promotion of researcher training by organising it mainly within graduate schools. All of this is compatible with the present plan for the CoE.

For the full text of the General Strategy (in Finnish), see <http://www.helsinki.fi/oik/tdk/tdk/tdk.html>.

The University of Helsinki, in turn, has defined the promotion of high-quality research as one of its key objectives. This is natural, bearing in mind that the University is already now one of the leading European research universities and a member of the League of European Research Universities (LERU).

In its Strategic Plan for the years 2004-2006, under the heading *Key areas of Development*, University states the following: ‘Internationalisation at home. University personnel will be internationalised through personnel training and international mobility. The number of international teachers, teacher and researcher exchanges as well as courses held in foreign languages will be increased. All students will be encouraged to participate in courses taught in foreign languages.’

Strategic Plan for the years 2007-2009, under the heading *Key areas of Development*, the University states the following: ‘The University of Helsinki will establish its position among the leading multidisciplinary research-intensive universities in Europe. The standards of its research and teaching will be improved with the help of international evaluations. Interdisciplinary research and teaching will also provide a solid basis for the University’s willing interaction and mutual partnership with society at large.’ Furthermore: ‘The University of Helsinki generates new knowledge and innovative scholarly thinking. The quality of research at the University will be raised even higher to reach top international standards. The University will raise its research profile especially through basic research. Strategic choices will be based on the high quality of research. Ethical considerations will be taken into account in research.’

The full text of the Strategic Plan 2007-2009 is available at <http://www.helsinki.fi/inbrief/strategy/index.html>

The University of Helsinki has recently established a *Network for European Studies* as a sign of its determination to further strengthen research on European issues. The CoE members are active participants in the activities of this network. Pia Letto-Vanamo is a member of its Executive Group. For more details, see below item 12.

The University of Helsinki is a member of the *Europaem*, an organisation of a number of leading European universities encouraging European studies. Thomas Wilhelmsson is a member of

Europaeum's steering committee. For more details on Europaeum, see:
<http://www.helsinki.fi/nes/english/europaeum.htm>

The Post Graduate School 'Foundations of European Law' (2006-2009), which would form part of the CoE, is already running and has attracted international interest. Two of the selected six students were from abroad (Italy, Czech Republic).

[5. Old CoE's renewal plans]

6. The Personnel of the CoE

The personnel of the CoE consists of 15 senior researchers, 7 post-doctorate researchers and 10 researcher students. Additional information is given in the form 1b attached. In the following list, the names of only six researcher students are given. The rest of the researcher students will be selected in an open application procedure in 2010.

See forms 1a-1b

RT I

Senior researchers

- Kaarlo Tuori, LL.D., professor of jurisprudence, University of Helsinki
- Thomas Wilhelmsson, LL.D., professor of civil and commercial law, University of Helsinki
- Ari Hirvonen, LL.D., senior lecturer, University of Helsinki
- Tuulikki Mikkola, LL.D., professor of property law (vic.), University of Lapland
- Toomas Kotkas, LL.D., research fellow, Helsinki Collegium for Advanced Studies
University of Helsinki

Post-doctorate researchers

- Samuli Hurri, LL.Lic., (LL.D. during 2007), assistant of jurisprudence, University of Helsinki

Post-graduate students

- Emilia Korkea-aho, LL.M.
- Kim Talus, LL.M.

RT II

Senior researchers

- Kaarlo Tuori, LL.D., professor of jurisprudence, University of Helsinki
- Kimmo Nuotio, LL.D., professor of legal science, University of Helsinki
- Heikki Pihlajamäki, LL.D., senior research fellow, Academy of Finland
- Sakari Hänninen, D.Pol.Sc., research professor at STAKES (National Research and Development Centre for Welfare and Health)
- Martin Scheinin, LL.D., professor of constitutional and international law, director of the Institute for Human Rights, Åbo Akademi University
- Tuomas Ojanen, LL.D, professor of European law, University of Turku
- Heikki Mikkeli, PhD, Renvall institute, European Area and Cultural Studies, University of

- Helsinki
- Niilo Kauppi, D.Soc.Sc., director of research, Institute of Political Studies, University of Strassbourg

Post-doctorate researchers

- Jarna Petman, M.Pol.Sc. (LL.D. during 2007), lecturer, University of Helsinki
- Suvi Sankari, LL.M. (LL.D. during 2007), researcher, Institute of International Economic Law, University of Helsinki

Post-graduate students

- Ida Staffans, LL.M.
- Sabrina Praduroux, LL.M.

RT III

Senior researchers

- Thomas Wilhelmsson, LL.D., professor of civil and commercial law, University of Helsinki
- Pia Letto-Vanamo, LL.D., director, Institute of International Economic Law, University of Helsinki
- Hans-W. Micklitz, LL.D., professor, Jean Monnet Chair of Private Law and European Economic Law, University of Bamberg
- Jaana Norio-Timonen, LL.D., senior lecturer, University of Tampere
- Johan Bärlund, LL.D., acting professor of civil law, University of Helsinki

Post-doctorate researchers

- Ulla Liukkunen, LL.D., researcher, Institute of International Economic Law, University of Helsinki
- Sampo Mielityinen, LL.D. (diss. 16.6.2006), lecturer, University of Joensuu

Post-graduate students

- Jan-Peter Trnka, LL.M.
- Teemu Juutilainen, LL.M.

7. Funding for 2008-2013

In the following, an overall description of the costs and financing of the CoE will be presented. A detailed presentation is given in the appended forms 2a-2b.

The main funding of the CoE consists of the share of the Academy of Finland and the share of the University of Helsinki. The latter includes, not only the employment costs of its personnel's participation in the CoE and the costs for the facilities, but also an additional annual contribution of 160.000 € For Foundations Graduate School (2006-2009), the CoE has received funding from the Ministry of Education. Furthermore, the research project Europe as a Polity, financed by the University of Helsinki and led by Kimmo Nuotio, will be integrated in the CoE, where it will constitute the core of Research Team II. The CoE will apply for additional funding from domestic and international sources. For instance, funding will be applied for from the 7th Framework

Programme of the European Commission. Moreover, all senior members of the CoE will also in the future apply for funding from the Academy.

As regards the senior researchers employed by the University of Helsinki, the CoE has agreed with the University and its relevant departments that 30 % of their other duties will be reduced in order to allow for their effective participation in the activities of the CoE. As regards other senior researchers, the University will reimburse 30 % of their employment costs to their employers. In addition, periods of research leave for the senior researchers will be funded by the CoE. Post-doctorate researchers will be employed by the CoE on a full-time basis for differing periods, depending on the funding granted by the Academy. Researcher students will be employed for a period of four years.

The CoE's other costs include those incurring from invitations to guest researchers and lecturers, travel expenses of the members of the CoE, costs of the joint seminars, the possible term fees for travelling post-graduate students, as well as fees for specific services, such as it-consultation and language revision.

8. Exit strategy

The CoE will constitute an integral part of the Faculty of Law, either as a separate research institute or as a division of one of the Faculty's existing departments. Because of the continuing demand for the type of work done within the CoE, it is probable that in the future, both domestic and EU funding will be available. Nevertheless, it is important that the CoE has a strategy for the eventual termination of its funding. The CoE will continuously apply for additional funding in order to weaken the effects of the termination of the Academy's funding.

The cutting down or termination of the CoE's funding is not likely to have very dramatic consequences in respect of individual researchers. Experts in European law will presumably find employment relatively easily, not only in the academic world in Finland and elsewhere, but also in the public sector (public administration, the EU) or in private companies and NGO's. Specialists in European law are increasingly expected to master research skills, which further augments the demand for trained researchers in this field. Professionally, lawyers have been the true winners of the European integration. Academic interest in European law is still growing both in Finland and elsewhere. The CoE's trainee program and other co-operation especially with the public sector actors will further the researchers' prospects of employment even after the closing down of the CoE's activities. The CoE will also pursue the policy of promoting systematically the career of its researchers.

Most of the CoE's senior researchers already have permanent academic positions. Some of the post-doctorate researchers too have permanent or long-term academic positions. However, this group of the personnel requires most attention in the CoE's exit strategy. The researcher students will, as always, compete for post-doctorate research funding. All in all, it is likely that persons who have benefited from having worked within the CoE will not confront any special problems in their future academic or other careers.

PART 2. RESEARCH ENVIRONMENT

9. The specific value to be added

As regards the substance of the CoE's research work, the added-value is based on the differences and points of contact between the theoretical approaches discussed above. The CoE will constitute a solid basis for genuine interdisciplinary collaboration. The CoE's senior researchers' expertise covers philosophy and history as well as social and political science. The leaders of the project are among the leading legal theorists of the country as well as the key experts in substantive private law and substantive public law. This combination enables the CoE to have a truly lasting effect on the relationship between law and other disciplines.

In terms of research environment, the benefits of the CoE are perhaps most obvious for young researchers. The CoE will not only promote their careers financially, but also provide them with a co-operative and critical milieu for their daily work. Young researchers will also profit from senior researchers' international networks and contacts. Furthermore, the CoE will facilitate the international publication of their research.

Finally, with respect to researcher training, the trainee programme of the CoE's Foundations Graduate School is designed to meet the demands of, not only the scientific community, but also society in general. Through its exchange programme, the Graduate School makes possible studies abroad and, thus, gives the students the opportunity to enlarge their perspective and to enrich their identity as future scholars and experts.

10. Systematic and deep co-operation with foreign research units and research teams 2008-2013

A selected group of scientific institutions in Europe have been asked about their preliminary interest of co-operation with the CoE. As possible forms of co-operation were mentioned reciprocal research and lecturing visits, joint seminars and colloquia, contributions to the CoE's open access publication, as well as researcher student exchange. Co-operation with foreign research units and teams is crucial for the CoE, whose activities require well-functioning international networks. As requested, the collaborators are presented in the form of table below.

Collaborator	Type of collaboration	Expected results	Significance
Acquis group	Joint seminars 2/year, joint research in the field of law drafting	Joint publications, both a collection of principles and refereed articles	Basis for European harmonization
Centre for European Law and Integration (CELI), University of Leicester, prof. P. Minkinen	Researcher visits, researcher student training & exchange, colloquia	Joint publications	Networking, developing theory & philosophy of European law
Centre for the Study of European Contract Law (CSECL), Universiteit van Amsterdam, Dir. prof. dr. M.W. Hesselink	Joint research project partially funded by Dutch sources, researcher training	Joint publications	Developing theory of European private law
The Centre for Law and Society, University of Edinburgh, dir. prof E. Christodoulidis	Researcher training, researcher exchange	Joint publications	Theory of European law
Department of Management, Politics & Philosophy, Copenhagen Business School, prof. Inger-Johanne Sand	Researcher visits, researcher training	Publications, networks	Nordic perspective
European Constitutional Law Network	Joint research programmes		Comparative constitutional law
European Law, University of Maastricht, prof. Jan Smits	Joint seminars, researcher exchange, researcher training	Collections of essays	Input into the harmonization discourse

European University Institute, Law Department, Florence, dir prof. W. Sadurski, prof. N. Walker	Reciprocal research and lecturing visits, joint seminars and colloquia, and researcher students exchange, summer schools for the researcher students	Joint publications	Important in many respects: substantially as well as in terms of researcher networking and training
Humboldt-Universität zu Berlin, Faculty of Law, professor Stefan Grundmann, professor Felix Herzog and professor Gerhard Werle	Joint seminars and researcher exchange	Joint publication channels (European Contract Law Review)	Input into the harmonization discourse
Institut d'études politiques, Groupe de sociologie politique européenne, Strasbourg. Director, professor Didier Georgakakis.	Joint seminars, researcher exchange	Publications in French and English	Development of a political science theory of European integration
Institute of European and Comparative law, University of Oxford. Director, Professor Stefan Vogenauer, professor Stephen Weatherill.	Joint seminars and researcher exchange	Joint publication channels	Developing the theory of European law
Law and Society centre, Lancaster University, Professor Geraint Howells	Joint research, seminars, researcher exchange, researcher training	Joint monographs and other publications	Developing the theory of European consumer law
Max Planck Institut für europäische Rechtsgeschichte Frankfurt a/M, prof. Marie Theres Fögen, prof. Michael Stolleis	Researcher visits and training (Summer School in European Legal History and Marie Curie Programme: Europäische Rechtskulturen)		Developing historical analysis of European law

London School of Economics, Law Department, prof. Hugh Collins	Joint seminars and researcher exchange	Collection of essays	Developing theory of European private law
Network of Fundamental Rights Experts	Joint research programmes	Reports published together yearly	Comparative constitutional law
Norfa Network: History on the edge of Europe: Nordic law in the European legal community 1000-2000 A.D. (REUNA)	Researcher training		Promoting studies in European legal history
Nordic Network of Criminal Law Research.	Joint seminars	Publications, networks	Nordic perspective
Oñati international institute of the sociology of law, dir Joxerramon Bengoetxea	Joint seminars, researcher and researcher student exchange	Publications, networks	Developing sociology of European law (especially important as sociology of law in Finland is underdeveloped)
School of Politics, International Relations and Philosophy (SPIRE), Keele University, prof. R.B.J. Walker	Researcher visits, researcher training & exchange	Joint publication	Developing social philosophy of Europe
Study Group of Social Justice in European Contract Law	Joint seminars 1/year	Collections of essays	Input into both the harmonization discourse and the theory of European private law
Pour un Espace des Sciences Sociales Européen	Researcher exchanges	Organisation of seminars	Input into sociological studies of European integration

11. Systematic and deep co-operation with Finnish research units and research teams 2008-2013

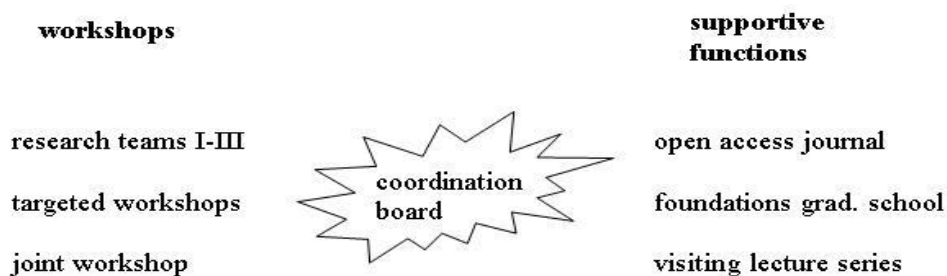
Collaborator	Type of collaboration	Expected results	Significance
The CoE in Global Governance Research, University of Helsinki, prof. Jan Klabbers	Joint seminars, researcher training	Joint publications	Globalisation, international law
Institute of Human Rights, Åbo Akademi, dir., prof, Martin Scheinin	Joint courses and seminars; researcher training, including co-operation within and between graduate schools	Joint publications	Important for systematic researcher training and for Nordic and international co-operation
Law in a Changing World Graduate School, dir. prof. Kimmo Nuotio	Joint seminars, researcher training		Important for systematic researcher training, development of wider research environment
Renvall institute, European Area and Cultural Studies, University of Helsinki	Joint colloquia, visiting lectures	Joint publications	Important in developing interdisciplinary discourse
The Network for European Studies, University of Helsinki, director Teija Tiilikainen	Researcher training, joint seminars		Multidisciplinary European studies

12. Collaboration with enterprises

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13. Organisation of the CoE

Organisation chart of the CoE



The organisation of the CoE is based on concrete activity, immediate interaction and unreserved communication. Much of the organisation presented here is not merely plans for the future. Many of the activities have already been launched. The present plan is based on forms of activity developed by the group to facilitate long-term thematic progress.

The substantive work of the CoE is conducted in workshops, the heart of which consists of the three Research Teams. Targeted workshops are mainly built around visits by invited guest researchers. Joint workshop, organised around a precisely defined theme, will be of a more permanent nature. Other functions of the CoE are supportive by nature and consist of the open access web-journal, Foundations Graduate School, and visiting lecture series.

13.1 Substantive work

(i) Research Teams. Two of the CoE's Research Teams are already partly running their programmes as individual research projects. Research Team III, Private Law: Between a Coherent European Market and Fragmented National Culture continues the work of the research project Private Law in a Multicultural and Multilingual European Society funded by the Academy of Finland until the end of 2007. The project has organised two international colloquia in Helsinki; the first major research results are already in print. Research Team II, Europe as a Polity, is based on a research project, by

the same title, funded by the University of Helsinki until 2008/9. It has been working since January 2006 and has organised an international seminar taking place in Helsinki in September 2006.

The Research Teams have been presented in detail above in Part I.

(ii) Targeted workshops. In the CoE's vocabulary, a targeted workshop is defined by:

- selected study materials;
- specific research subjects for each member;
- a plan for inviting an international guest as an integral part of its programme; and
- a publication plan.

In practice, targeted workshops are fuelled by scholar visits. Internationally renowned researchers are invited to discuss topics of interest for the CoE. A targeted workshop prepares the visit by studying the work of the invited guest and preparing critical papers for him or her. The prospect is to have an intensive and well-oriented seminar with the guest. After the visit, the papers presented are developed further in the workshop and published together with the contribution of the guest.

Recently, several targeted workshops have been successfully conducted by the members of the CoE. In March 2005, Maria Drakopoulou, a feminist legal philosopher from the University of Kent visited a workshop, and the papers presented were published together on the internet. In September 2005, Miguel Maduro, professor, University of Lisbon, Advocate General from the European Court of Justice, visited a workshop, and a very intensive seminar was held with him. In January 2006, professor Roger Cotterrell, a legal theorist from the University of London, Queen Mary, visited a workshop. The seminar with him will produce a publication as well. In September 2006, professor Samantha Besson from the University of Fribourg, professor Joxerramon Bengoetxea from the Oñati International Institute of the Sociology of Law, and professor Maduro will visit a workshop, and a joint publication is planned on the basis of that event as well. In the spring 2007, professor Klaus Günther from the Institut für Sozialforschung, Johan Wolfgang Goethe-Universität, Frankfurt am Main and professor Panu Minkkinen from the University of Leicester will also visit workshops.

(iii) Joint workshop. The purpose of the joint workshop is to elaborate and provoke the CoE's basic theoretical tension between coherence and fragmentation. The task of this workshop is to crystallise the basic features of the coherence/fragmentation divide and to map its diverse aspects and manifestations. The orientation in joint workshop is methodological on the one hand and interdisciplinary on the other. The joint workshop will be dealing with questions of the following type:

- Normative/empirical. What are the links that the coherence/fragmentation divide has with basic methodological issues of the social sciences? Would, for instance, an emphasis on coherence imply normative commitments that are foreign for an empirically oriented study of fragmentation?
- Deconstruction/reconstruction. Can the fragmentation/coherence divide be interpreted as successive stages of a particular research strategy, where fragmentation is the product of a deconstruction of existing coherence for the purposes of reconstruction of an alternative coherence?
- Private/public. Is private law, both as a cognitive structure and as a field of regulation, more geared towards fragmented and pluralistic society than public law that, in turn, is perhaps oriented

towards coherence and integration? What is the relation of the legal concepts to the social theoretical and ethical concepts of private and public, as developed from the antiquity up to modern feminist critique?

- Unitarian/federalist. Could the opposite poles of the fragmentation/coherence divide be combined in the conceptual vision of a political theorist? Very close to such combination is perhaps the traditional federalist constitution that is essentially coherence through fragmentation.

13.2 Supportive functions

The supportive functions are the open access journal, Foundations Graduate School, and the visiting lecture series. They aim at facilitating the achievement of the following three goals:

- participation in international debates;
- international publication and distribution of research results; and
- effective researcher training.

(i) Open access journal. The CoE's prime fora for publication are international publishers and refereed scientific journals with an international distribution. However, the CoE will contribute to international scientific debate, not only through the individual publications of its members, but also through adding to its infrastructure by establishing an open access publication on the world-wide-web. The publication aims at the highest possible quality and the widest possible distribution of its contents. The CoE's workshops are the main source of materials for the publication. Especially, it will publish the lectures of the CoE's visitors.

(ii) Foundations Graduate School. The School, to be integrated in the CoE, is presently funded by the Ministry of Education, and has been in operation since March 2006. The Graduate School will be presented below in the Part III of this plan. The individual researcher students as well as the researcher training as a whole will be fully integrated into the activities of the CoE and its Research Teams.

(iii) Visiting lecture series. For the purposes of enhancing contacts and a genuine exchange of views with foreign scholars, the CoE will initiate a visiting lecture series. As the above presentation of the targeted workshop shows, the CoE members have a lot of positive experiences in arranging workshops with guests. These visits have turned out to be instrumental in many ways, but especially with regard to the CoE's researcher training this mode of activity is very important.

13.3. Coordination and management

The CoE has two directors responsible for the overall management of it. Each Research Team has two directors, who are responsible for organising the team's activities. In addition, there is a coordination board, the meetings of which one of the directors presides and in which each personnel group is represented. The board coordinates the activities of the teams.

14. Promotion of research careers

Promoting the careers of young researchers is one of the CoE's core interests: the CoE will provide them with interesting and rewarding research work, as well as a stimulating and supportive environment for its conduct. They will also benefit from the CoE's international networks and be encouraged to build up their own personal and institutional contacts. The CoE will also promote the international publication of its members' research. The specific emphasis in the CoE's personnel policy on young researchers is manifested already by the fact that the CoE's funds will be primarily allocated to them. Maybe even more important is the CoE's determination to create a research milieu, which facilitates individual professional and intellectual development and is open towards international scientific fora.

The CoE will open two two-year positions for post-doctorate researchers in 2009/2010. Thereby it creates a possibility also for some of the students of the Foundations Graduate School (2006-2009) to be elected for those positions and continue their academic career within the CoE.

The CoE includes in 2008 three female and two male post-doctorate researchers. Of the post-graduate students 2006-2009, three are female and three are male. As regards the future allocation of the four Foundations Graduate School's vacancies or the two post-doctorate positions in 2010, the general policy of the University of Helsinki will be followed: if two applicants of different sex are equally merited, the female applicant will be given primacy.

15a-b. Facilities of the proposed CoE and Core facilities used jointly

The University of Helsinki has agreed to provide the CoE with facilities in terms of working rooms and offices. Furthermore, the library of the Faculty of Law and its European Documentation Centre are especially experienced in procuring services for the researchers in the field of EU law.

The library has a large collection of European legal publications and documents, both in printed and electronic form. New items are added each year and the collection of legal e-journals is growing rapidly. All the most important journals on European law are included in the collection. The library offers access to a range of legal databases, both national and international, and all library users get instructions in how to use them in the library. The CoE's staff has access to the collections and databases in their own offices. The library catalogue Helka is accessible in the internet and the legal databases are linked to the website of the library.

The European Documentation Centre (EDC) housed by the library of the Law Faculty maintains an extensive collection of documents and publications published by the European Institutions. The staff of the EDC has a long experience in gathering and distributing information on all aspects of the European Union. The EDC offers access to all the most important European databases as well as help and instruction to those who are interested in European studies. The EDC is part of a worldwide network of libraries offering information on and access to European related research and documentation. The EDC, which serves the whole university, is particularly concerned with the legal issues of European affairs and, among other things, produces information handouts on the activities of the Court of Justice of the European Communities on a regular basis.

See: <http://www.helsinki.fi/oik/kirjasto/english/index.htm>

15c. New facilities

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16a. Promoting creative research in the field of study outside CoE

The prime focus of the CoE's research lies on the examination and re-assessment of the historical and ongoing processes of European integration from a multi-disciplinarily oriented legal theoretical perspective. The members of the CoE have been selected with this central purpose in mind; in addition to legal theorists, an important role has been assigned to legal historians, as well as social and political scientists. The CoE's work aims at re-structuring the conceptual and cognitive space in which both the law's normative dimension and its involvement in social and political practices can be adequately grasped. The research aims to have an impact on the international level on the scientific disciplines involved, when they study European law or Europe as a polity. In pursuing its aims, the CoE can draw from the diverse legal and social theoretical traditions its members represent, as well as from the creative tensions between them.

The CoE will actively participate in international scientific discussions (publications, conferences and seminars). This, together with the working plans of the CoE described above, ensures that the research results of the CoE will promote research in its field of study.

16b. Means to promote development of creative research and training environments

The proposed CoE in itself is a means to promote development of creative research and researcher training. The CoE will promote development by bringing together experts of several fields of research and allowing them to develop a more structured way of working together, in a highly motivated, challenging, and inspiring environment. This will especially benefit the younger researchers, as they will receive support and criticism from the expert senior members of the CoE.

The detailed plans for supporting the post-graduate students include: support for publishing their work internationally; developing their methodological and theoretical abilities; guaranteeing international connections and student exchange; and a structured, high-level environment for earning their LL.D.-degree.

17. Contribution to various sectors of society

Legal science itself is a social practice participating in the (normative) reproduction of society. In this respect, legal science differs radically from natural sciences, and even from other human sciences, which do not have corresponding immediate societal consequences. Such close involvement in social practices constitutes a specific feature of legal scholarship in general.

More specifically, reference should be made to the growing need of expertise in European law, created by the acceleration of European integration. Especially, this holds for small countries, such as Finland. The trainee programme of the Graduate School ensures that the researcher students will be acquainted with the practical aspects of European law, too.

PART 3. RESEARCHER TRAINING

18. Organisation of the researcher training

Researcher training and research itself are intertwining and equally important interests of the CoE. The CoE contains and generates both human and material resources; its organisation will allow for these resources to be fully invested in researcher training. In the organisation of the CoE, the Research Teams will be the prime loci for the training and supervision of researcher students: in other words, the Graduate School will not be an isolated pigeonhole for researcher students, but a body with clearly defined functions which do not interfere with those of the Research Teams.

The CoE includes a graduate school. This graduate school has already started its work in March 2006, after a Graduate School 'Foundations of European Law' funded by the Ministry of Education had started its work. Currently, the graduate school consists of six researcher students, two of which are from abroad. The graduate school has already established itself, and it meets on a regular basis. See, <http://www.helsinki.fi/katti/tutkijakoulu/english/index.htm> .

In the CoE application, additional positions for four new researcher students are applied for (2010-2013). The new beginners will follow for the first two years basically a similar programme as those who started this year. In addition to normal supervision relations, also tutorship arrangements (between post-doctorate staff and the post-graduates) will be established.

In the following, the organisation and specific functions of the Graduate School are presented (18.1). The supervision methods to be employed in the CoE will be explained under 18.2. It should be emphasised that the international networks of the CoE will be fully utilised in researcher training. The international aspect will be, in a very concrete way, involved in all the activities of the Graduate School, as well as those taking place in the Research Teams.

18.1 Organisation

The Graduate School has three functions under its organisational and coordinative responsibility: (i) the trainee programme, (ii) the exchange programme, and (iii) the Summer School. The executive management of these functions falls to the director of the Graduate School, who will be nominated from the researchers of the CoE. The Coordination Board of the CoE will act as a counselling body for the Graduate School. The Board will also take the principal decisions, for instance, select the researcher students. The board has already established itself, and it is prepared to take these new responsibilities as well. Thomas Wilhelmsson, the director of the Foundations Graduate School chairs the board, and Pia Letto-Vanamo acts as the School's co-director. As the CoE starts its full activities, the board will be supplemented by new members in order to promote interdisciplinarity within the activities of the Graduate School. International profile will be sought as well.

The supportive functions of the Graduate School serve precise and clear goals:

- to familiarise the researcher students with the practice of European law (trainee programme);
- to give them a possibility to study abroad (exchange programme); and
- to facilitate international interchange between researcher students (Summer School).

(i) Trainee programme. Each researcher student will be sent to a domestic or supra-national institution dealing with EU law for a trainee period of 2-4 weeks. The tasks of the trainees will be negotiated with the institution in question, bearing in mind the prime purpose of the programme, i.e. to enhance the students' critical awareness of the practical reality of European law. Below, we present a preliminary list of the institutions which will be contacted as possible partners in the trainee programme:

- the European Court of Human Rights
- the Court of Justice of the EC
- the Legal Service of the EU Commission
- the European Parliament
- the European Ombudsman
- the units for EU Law and EU Litigation in the Legal Department of the Finnish Ministry for Foreign Affairs
- the European Law Unit in the Law Drafting Department of the Finnish Ministry of Justice
- the Grand Committee in the Parliament of Finland, and
- the Supreme Administrative Court of Finland

NGO's practising law or trying to influence its development in the CoE's research area can also be involved in the trainee programme. As examples, reference can be made to the Finnish League for Human Rights, which is a member of the International Federation of Human Rights, and the Finnish Refugee Advice Centre, which is a member of the European Council on Refugees and Exiles.

The above-mentioned institutions are presented merely as examples of desirable partners. None of them have yet been contacted.

(ii) Exchange programme. Each post-graduate student will be granted a study period of 1-6 months in one of the collaborating institutions of the CoE. The senior researchers will help the students in finding a relevant institution. In addition to the regular salary, the CoE shall provide the students with funding for possible term fees etc.

(iii) Summer School. The Graduate School will organise Summer Schools in co-operation with those of its international collaborators which are active in researcher training. The CoE members have a far-reaching experience of this type of activity, particularly in the Nordic milieu. Previous experience and contacts can be utilised, but collaborators outside the Nordic countries will be invited too. Possible non-Nordic partners are, for example, the European University Institute in Florence, the Faculty of Law at the University of Leicester and the Centre for Law and Society at the University of Edinburgh (see the list of collaborators under item 10).

18.2 Supervision methods

Each student will have two personal supervisors. At least one of them will be a senior researcher of

the CoE. The other supervisor can be chosen from amongst the CoE's international collaborators. The CoE emphasises its interdisciplinary and multidisciplinary nature also in researcher training. Therefore, the role of the historians and social scientists among the CoE's personnel is crucial even in the supervision of researcher students. The Research Teams, which constitute the daily working milieu of the students, will provide the students with continuous support, feedback and criticism.

The working relationship between the supervisor and the researcher student has to allow for a case-by-case variation. However, the CoE will ensure that the common minimum of pedagogical requirements is met. At the beginning of the CoE period, the student will draft a detailed work plan for the approval of the supervisor. The student will proceed in the writing of the dissertation according to the plan, and the supervisor will comment on his/her text. The plan will, of course, be amended according to the needs arising in the course of the work.

Heikki Pihlajamäki will arrange a pedagogical course for the CoE supervisors. He has co-authored several pedagogical articles in refereed international journals, as well as organised and taught courses in pedagogy for Law Faculty teachers together with Sari Lindblom-Ylänne (professor of university pedagogics, University of Helsinki). The advantages of a course tailored for the specific needs of the CoE are obvious: the different backgrounds of the supervisors can be adequately taken into account. However, the CoE supervisors will be encouraged to attend the general pedagogical courses at the University, too.

The organisation of researcher training will draw from the previous experiences of the CoE's members. Thus, successful working methods of existing graduate schools, one of which is presently co-directed by Kimmo Nuotio, can, after a careful scrutiny and eventual adaptation, be assumed. Nuotio has, together with a Swedish scholar Petter Asp, edited a volume on 'The Art of Legal Science, Tacit Knowledge in Legal Research' (Konsten att rättsvetenskap, Den Tysta Kunskapen i juridisk forskning. Iustus Förlag, 2004). This work has been widely used in researcher training in the Nordic universities.

Several of the CoE's senior researchers have worked as visiting fellows in foreign institutions, notably in the European University Institute. Some of its methods in researcher training, such as the 'June paper' which the students are required to submit at the end of each semester and which consists of a draft chapter of the thesis, may be applicable within the Graduate School of the CoE.

In recent years, new teaching methods have made considerable headway at the University of Helsinki, and several senior members of the CoE have significantly contributed to this progress. At the Faculty of Law, new learning methods such as problem-based learning have been introduced. Pihlajamäki has, together with others, published results of those teaching experiments in international journals (see, e.g., Sari Lindblom-Ylänne, Heikki Pihlajamäki & Toomas Kotkas: What Makes a Student Group Successful? Student-student and Student-teacher Interaction in Problem-Based Learning, *Learning Environment Research*, vol. 6 (2003), nr. 1; and Sari Lindblom-Ylänne & Heikki Pihlajamäki: Can a collaborative network environment enhance essay-writing processes? *British Journal of Educational Technology* 34 (2003)). These experiments show that new teaching methods, adapted, of course, to the needs of researcher training, are worth pursuing even in the CoE environment.

Finally, it should be noted that the research within the CoE is oriented towards theoretical problems, with close links to methodical issues. Consequently, the CoE can be expected to make significant contributions to the general methods of legal science. The unity/diversity tension underlying the CoE's research plan has important methodical implications. The impact of European integration on legal scholarship will occupy a prominent place also in the CoE's researcher training.

The national graduate school 'Law in a Changing World' (2007–2011) has very recently received funding from the Ministry of Education for 10 post-graduate training positions for four years. Kimmo Nuotio was the main applicant and the proposed director of that programme. The national graduate school is thematically a broad one, with a special emphasis, however, on European and international developments in law. Co-operation between the Graduate School Foundations of European Law and the national graduate school has already been planned. The establishment of the CoE will further strengthen and deepen this co-operation.

One of the main new ideas in the new national graduate school is to plan much more detailed than before the courses that the researcher students are expected to participate. A similar principle will be applied here as well. The applicants will know roughly the contents of the courses, and can thus integrate these into their personal study plans. This raises the level of training as the contents can be better designed to fit the individual study purposes.

19. Doctor's and licentiate's degrees supervised 2001-2005

– See attached form 3a.

20. A plan of doctor's and licentiate's degrees to be earned during 2008-2013

– See attached form 3b.

21. Need of researchers and experts trained in the CoE

The demand for experts in European law will rise as European integration proceeds. The CoE's researcher training, especially its trainee programme (18.1), will provide the students with skills and knowledge which are of use, not only in the academic world, but also in other sectors of society. The preliminary list of institutions to be contacted within the trainee programme (18.1-i) manifests the broad range of these sectors. Reference should also be made to the fact that researcher skills are increasingly important in legal practice too. This holds especially for practice involving EU law.

PART 4. SCIENTIFIC MERITS AND OUTPUT

22a-d. The quality and quantity of the scientific output 2001-2005

– See attached forms 4a-d.

23a-c. Improving professional and public understanding of science

Legal science is not only a scientific but also a legal practice, which, together with, first of all, lawmaking and adjudication, contributes to the production and reproduction of the legal order, i.e. the normative structure of society. Legal science is one of the participants in the ongoing discussion which determines the legal order's continuously changing contents. This also holds for the relationship between EU law research and EU law: legal scholarship constitutes one of the actors determining EU law's development. The debates within the legal community in *sensu stretto* – i.e. among legal professionals – are, or at least they should be, open to the influences from the general normative discourses in society.

Thus, it belongs to the defining features of legal scholarship that the barrier between scientific and (other) professional debates is significantly lower than, especially, in natural sciences. Monographs and articles in refereed legal scientific journals are accessible to practical lawyers and, in fact, also widely read by them. This regards domestic and EU law. It also means that no specific strategy for publications directed to the legal profession in general is needed.

There are no insurmountable walls between the debates within the legal community and those among the general public, either. However, here legal scholars have a specific responsibility of deliberately addressing the general public too, for example in the media. This responsibility also covers issues concerning the development of EU law. The CoE's leading researchers have a large experience of participating in public debates in their field of expertise, for instance through newspaper articles or radio and television interviews. They regard such activities as part of their professional responsibility and identity, and intend to continue them also on the basis of the research conducted within the CoE.

24, 25a-b. The status of researchers in their field

– See attached forms 5 & 6a-b.

26a-c. Researcher mobility

– See attached forms 7a-c.

27. Involvement as a coordinator or partner in international research programmes during

2001-2005

In the following, there is a list of those projects that are counted as research programmes, although some of them have had also other functions.

- *Acquis Group*, Thomas Wilhelmsson
- *Expert survey on prime ministers*. Research programme led by prof. Michael Laver, Trinity College, Ireland, Niilo Kauppi
- *European Constitutional Law Network*, Tuomas Ojanen
- *Legal Cultures of Modern Eastern Europe. Traditions and Transfers*, Pia Letto-Vanamo
- *Media Intellectuals in Europe*. A research project led by professor Dick Pels at Brunel University, Niilo Kauppi
- *Network of Fundamental Rights Experts*, Tuomas Ojanen
- *Nordic Network of Criminal Law Research*, Kimmo Nuotio
- *The Northern Dimensions Network*, Pia Letto-Vanamo
- *Pour un Espace des Sciences Sociales Européen*, Niilo Kauppi
- *REUNA Legal History on the Edge of Europe: Nordic Law in the European Legal Community 1000-2000 a.d.*, Pia Letto-Vanamo, Heikki Pihlajamäki
- *Study Group of Social Justice in European Contract Law*, Thomas Wilhelmsson
- *The Unfair Business Practices Team*, Thomas Wilhelmsson
- *International Symposium in Phenomenology*, Ari Hirvonen
- *Nordic Network for Law and Literature*, Ari Hirvonen
- *Critical Legal Conference*, Ari Hirvonen
- Project ‘*Extreme*’ carried out in five countries of the European Union (Trans-national exchange project supported by the European Commission), 2002-2003, Sakari Hänninen
- *EQUAL-project ‘Operation Work’* funded by the European Social Fund (ESF), 2002-2003, Sakari Hänninen
- *Implementation of European law* (European Union law and public international law) in the national legal order. A research programme within the Fifth Framework Programme of the European Union led by professor P.A Nollkaemper at the Amsterdam Center for International Law, Jarna Petman
- *COST Action A 28, Human Rights, Peace and Security in EU Foreign Policy*, Management Committee member and team leader, 2004-2008, Martin Scheinin

Helsinki 21 June 2006

Kaarlo Tuori