

# Research Handbook on Legal Pluralism and EU Law

*Edited by*

**Gareth Davies**

*Professor of EU Law, Department of Transnational Legal Studies,  
Faculty of Law, Vrije Universiteit Amsterdam, the Netherlands*

**Matej Avbelj**

*Associate Professor of European Law, Graduate School of Government  
and European Studies, Nova Univerza, Slovenia*

RESEARCH HANDBOOKS IN EUROPEAN LAW

 **Edward Elgar**  
PUBLISHING

Cheltenham, UK • Northampton, MA, USA

---

# Contents

---

<i>List of contributors</i>	vii
-----------------------------	-----

1. Introduction	1
<i>Matej Avbelj and Gareth Davies</i>	

## PART I THE NATURE OF EUROPEAN LEGAL PLURALISM

2. Claim-making and parallel universes: legal pluralism from Church and empire to statehood and the European Union	11
<i>Poul F. Kjaer</i>	
3. Subverting sovereignty's voluntarism: pluralism and subsidiarity in cahoots	22
<i>Maria Cahill</i>	
4. From pluralism to perspectivism	39
<i>Kaarlo Tuori</i>	

## PART II THEORIZING EU CONSTITUTIONAL PLURALISM

5. The anatomy of constitutional pluralism in the European Union	59
<i>Cormac Mac Amhlaigh</i>	
6. Constitutional conflicts and agonistic pluralism: what can we learn from political theory?	78
<i>Giuseppe Martinico</i>	
7. Human dignity and EU legal pluralism	95
<i>Matej Avbelj</i>	
8. Constitutional pluralism beyond monism and dualism	111
<i>François-Xavier Millet</i>	
9. Triangular constitutionalism: some consequences of constitutional pluralism for domestic constitutional thought	133
<i>Tom Flynn</i>	
10. The sociological concept of EU constitutional pluralism	154
<i>Jiří Přibán</i>	

## PART III EU LEGAL PLURALISM AND DEMOCRACY

11. Pluralism through its denial: the success of EU citizenship	179
<i>Dimitry Kochenov and Justin Lindeboom</i>	
12. The false promise of constitutional pluralism	199
<i>Nik de Boer</i>	
13. The metabolic constitution and the limits of EU legal pluralism	223
<i>Peter Lindseth</i>	

- |  |     |
|--|-----|
| 14. Of politics and pluralism: governmentality and the EU legal order<br><i>Jessica Lawrence</i> | 243 |
| 15. The pluralist socio-economic character of the European Treaties<br><i>Clemens Kaupa</i>      | 257 |

PART IV THE PRACTICE OF EU LEGAL PLURALISM AND ITS  
FUTURE

- |   |     |
|---|-----|
| 16. Is there room for legal pluralism in EU relations with third states?<br>A study of Nordic approaches to European integration<br><i>Päivi Leino and Liisa Leppävirta</i> | 291 |
| 17. Constitutional pluralism and judicial adjudication: on legal reasoning,<br>minimalism and silence by the Court of Justice<br><i>Suvi Sankari</i>                        | 309 |
| 18. Interpretative pluralism within EU law<br><i>Gareth Davies</i>  | 323 |
| 19. Discretion, not rules: postunitary constitutional pluralism in the<br>Economic and Monetary Union<br><i>Matthias Goldmann</i>   | 335 |
| 20. The EU's relationship to international law: lessons from Brexit<br><i>Pavlos Eleftheriadis</i>  | 355 |
| 21. Legal pluralism in the European regulation of border control:<br>disassembling, diffusing, and legalizing the power to exclude<br><i>Galina Cornelisse</i>              | 373 |
| 22. The dangers of constitutional pluralism<br><i>R. Daniel Kelemen</i>   | 392 |

AFTERWORD

- |  |     |
|--|-----|
| 23. Pluralism then and now<br><i>Neil Walker</i> | 407 |
|--|-----|

- |              |     |
|--------------|-----|
| <i>Index</i> | 411 |
|--------------|-----|