

LAUDATIO:
PROF. JAAP W. DE ZWAAN

MATTEO GNES*

1. FOREWORD

IT IS a great honour and pleasure to contribute to the *laudationes* for the 35th anniversary of the European Group of Public Law and especially in honour of our distinguished colleague and friend, Professor Jaap de Zwaan. Thus, I thank Professor Spyridon Flogaitis for having asked me to perform such task on behalf of the Group.

The scientific and public life of Professor Jaap de Zwaan has been illustrated by our Dutch colleagues. Thus, I will concentrate my *laudatio* on his membership and contribution to the European Group of Public Law and more generally to the activities of the European Public Law Organization.

The *laudatio* is divided into four parts. After this short foreword, I will say a few words on Professor de Zwaan's experience as an academic, in so far as his interests relate to the activities of the European Group of Public Law. Then I will focus on his membership and contribution to the European Group of Public Law. And finally, I will say a few words on his scientific contribution to the activities of the Group.

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2. A EUROPEAN LAWYER WITH A PUBLIC LAW EXPERTISE AND INTEREST

As it is known, today the qualification of Professor de Zwaan is Professor Emeritus of European Union Law at the School of Law of Erasmus University Rotterdam, and former Director of the Netherlands Institute of International Relations 'Clingendael' in The Hague, The Netherlands.

Thus, he is not, differently from most of the members of the Group, a public, constitutional or administrative lawyer. However, his contribution to the debate and research activities of the Group has been very important not only because he offered his wide knowledge of European Union law, but also because of his peculiar perspective in analysing legal issues.

Prof. de Zwaan entered Academia relatively late in his professional career. He was appointed as Professor of the Law of the European Union at the Law School of Erasmus University Rotterdam in 1998, and he served as Dean of International Relations from 1999 to 2001 and as Dean of the Law School from 2001 to 2004.

Before joining the Academia, for about twenty years (that is, from 1979 till 1998) he served, holding different positions, as legal advisor and/or member of the Legal Service for the Dutch Government. In this role, he acted as agent for the Netherlands Government in many cases before the Court of Justice of the European Union. Moreover, he was involved as Legal Advisor of the Dutch Permanent Representation in Brussels in the negotiations on and the drafting of the Single European Act, and, later on, of the Treaties of Accession of Spain and Portugal to the European Communities and of the Treaty of Amsterdam. It might also be underlined that, from 1979 to 1985, he worked as a substitute judge in the District Court of The Hague, and, from 1973 to 1979, he has been a member of the Bar of The Hague, working in a major Dutch law firm.

His previous professional experience both in the private and in the public sector made him develop an important expertise and perspective focusing especially on two complementary aspects. First, the notion and application of the concept of public interest. Second, the func-

tioning of the public institutions, on the national as well as on the European Union level.

3. THE MEMBERSHIP AND CONTRIBUTION OF PROFESSOR DE ZWAAN TO THE EUROPEAN GROUP OF PUBLIC LAW

The full membership of Professor de Zwaan to the European Group of Public Law is a relatively recent achievement, as he was admitted to the Group exactly ten years ago, in 2014. However, he has been an active participant in the activities of the Group since the beginning of this century.

One may ask how a professor of European Union Law could get in touch with the European Group of Public Law. The answer is connected to the cases of life. As some of the oldest members of the Group may remember, amongst the founders there was Professor Piet Akkermans, who has been – *inter alia* – Dean of the Faculty of Law of the Erasmus University of Rotterdam, and then Rector of that University. When Professor Akkermans was appointed Rector of the University, the position of stakeholder on behalf of the Erasmus University was taken over by Professor de Zwaan, who, also with the support of our colleague Flora Goudappel, already member of the Group, got immediately in touch with the Group.

Since then, he participated with continuity to the activities of the European Group of Public Law, by participating to the annual Reunion and by giving lectures to the European Law and Governance School, etc.

He contributed widely to animating the debate during the sessions of the Reunion, providing insightful comments and remarks; he also acted as conference speaker a few times, and also during the current Reunion.

4. THE SCIENTIFIC CONTRIBUTION TO THE EUROPEAN GROUP OF PUBLIC LAW

As the purpose of my intervention is to focus on the contribution of Professor de Zwaan to the intellectual life of the European Group of Public Law, I will concentrate only to the six reports he gave at the Reunion, and which have been published in the *European Review of Public Law*.

The first contribution is a “country report”. As some of the older members of the Group remember, for a long time there has been a tradition to prepare country reports, based on a common questionnaire, to be used by the general rapporteurs as the basis for their reports. He presented, together with Ton van den Brink and Flora Goudappel (at that time his younger colleagues at the Erasmus University) a country report at the 2006 Reunion (and subsequently published in the *ERPL* of 2007, vol. 19, no 1, (63)), dealing with the topic of “Rights of Foreigners: The Netherlands”. This work provides a concise but complete description of some of the most challenging issues related to the integration of immigrants in Dutch society, especially as regulated by the 2000 Dutch Aliens Act. The main issues and concerns of the legislation were carefully examined.

The second contribution, published in 2015 (*ERPL*, vol. 27, no 1, (95)) is the long and detailed report he presented at the 2014 Reunion on “New Challenges to Democracy”. In his report, concerning specifically “European Integration and Democracy - A Gradual Process, with Certain Limits”, he analyses the integration process of the European Union, especially as concerns the democratic character of the EU decision-making, firstly from a historical perspective, examining, for each stage of development, the improvements both as concerns policies and democratic character. Finally, perspectives of further cooperation in smaller groups of Member States are proposed, that is, models of differentiated cooperation.

The third contribution is the report he presented at the Workshop he organised during the 2016 Reunion, related to “Schengen and Migration - Is Schengen at Risk and How to Cope with the Migration Crisis?” (published in the *ERPL* of 2017, vol. 29, no 1 (103)). During the workshop the many problems of the migration crisis were dis-

cussed, and especially two of the most dramatic issues, *i.e.* those related to the application of the Schengen regime regarding external border controls and the Dublin system dealing with the designation of the Member State responsible to examine applications for international protection.

The fourth and fifth contributions relate to the Brexit. At the 2018 Reunion he presented one of the introductory reports on “Brexit: State of Play and Perspectives” (then published in the *ERPL* of 2019, vol. 31, no 1, (111)). He described with an in-depth analysis, the background, the legal basis, the negotiations, the problems and consequences of the exit of the UK from the European Union.

The following year he organised a Workshop on the Brexit (limited) developments (published in the *ERPL* of 2020 (vol. 32, no 1, (115)): a limited number of substance matters were discussed, as direct democracy versus indirect democracy, Article 50 TEU procedures and the complexities of a withdrawal from the EU.

Finally, during the 2024 Reunion, he gave a lecture on “The EU Fundamental Values in relation to the Enlargement of the European Union”, providing insightful perspectives. He furthermore coordinated – during that same Reunion – the Workshop on Asylum and Migration, focussing on the recently agreed New Pact of the European Union.

5. FINAL REMARKS

Professor de Zwaan, our dear friend and colleague, greatly contributed to the teaching, research and scientific activities of the European Group of Public Law, to the debate during the Reunion and conferences, providing his knowledge and expertise in some of the fields that are at the hearth of public law, such as the issues of migration, of border control, of the relationship between European institutions and national governments.

Not only, in the name of the European Group of Public Law, do I wish to express our gratitude to what professor de Zwaan has done for the Group until today, but we hope that the *laudationes* in his hon-

our will provide him an extra stimulus to work even with a greater energy with and for the Group.

Thank you!