

28 September 2018 – Ghent, Belgium

CONCEPT

The workshop is built around one central research question, viz.

'How should the phenomenon of facultative mixity be legally conceptualized'

The questions derived from this main question are i.a. the following: is there scope, and if so to which degree, for facultative mixity? Which parameters (e.g. legal basis, political discretion) are relevant to assess this scope? What are the ramifications of facultative mixity in legal terms (e.g. institutional balance, vertical division of powers between the EU and Member States) and practical terms (e.g. coherence and effectiveness of EU external action), etc.

Bringing together academics and practitioners from around the EU, this question will be addressed both in deductive and inductive fashion. From a top down perspective the question is what framework for facultative mixity may be deduced from the general principles and rules of public international law and EU and national constitutional law. Conversely, from a bottom up perspective, the question is which legal reality can be induced from the practice of facultative mixity 'on the ground'.

Indeed, while mixity itself is part and parcel of EU external relations, the specimen of facultative mixity largely remains *terra incognita* (or for some even *terra inexistens*). The workshop thus aims to chart this terrain by exploring it from the two angles indicated. To focus and guide the discussions, the workshop will be built around two panels. Panel I will take an EU constitutional law perspective to the phenomenon of mixity, while panel II brings in the public international law and the national constitutional law perspective. The findings of the presentations are discussed in plenary, involving practitioners from the EU institutions and the Member States. Working languages are English and French. Chatham House Rules apply.

Provisional programme

09h30 *Registration and welcome*

General introduction:

10h00 Allan Rosas – Facultative mixity as a logical corollary to the EU's shared competences under the principle of conferred powers

10h20 Inge Govaere – Functional and Facultative Mixity in the light of the Principle of Partial and Imperfect conferral.

10h40 Merijn Chamon – Facultative mixity as a constitutional mechanism and communicating vessel with supervening exclusivity

Coffee break

11h10

I. Morning session: Facultative mixity and key principles of EU law

Facultative mixity as a necessary corollary to the principle of subsidiarity?

11h25 Perspective 1: Isabelle Bosse-Platière
Perspective 2: Marise Cremona

Facultative mixity as a tolerated mechanism under the duty of cooperation?

11h55 Perspective 1: Eleftheria Neframi
Perspective 2: Christophe Hillion

Panel discussion: practitioners from the EU institutions:

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- 12h25
Luca Prete (Référéndaire, Chambers of Advocate General Wahl, Court of Justice)
Fernando Castillo de la Torre (European Commission)
Anders Neergaard (European Parliament)
Sonja Boelaert (Council of the European Union)
- Lunch*
- 13h30
II. Afternoon session: Facultative mixity, a view from the EU's policies and the (inter)national context
- 14h15
Facultative mixity in the EU's FTAs
Perspective 1: Guillaume Van der Loo
Perspective 2: Gesa Kübek
- 14h45
Questions of Facultative mixity in the CFSP?
Perspective 1: Peter Van Elsuwege
Perspective 2: Daniel Thym
- 15h15
Facultative mixity in JHA?
Perspective 1: TBC
Perspective 2: TBC
- 15h45
Panel discussion: practitioners from the EU institutions
Roland Klages (Référéndaire, Chambers of Advocate General Szpunar, Court of Justice)
Sonja Boelaert (Council of the European Union)
Stephan Marquardt (European External Action Service)
Fernando Castillo de la Torre (European Commission)
- Coffee break*
- 16h45
Facultative mixity in the international legal order – tolerating European exceptionalism?
17h00
A Swiss perspective: Michael Hahn
An international perspective: Jed Odermatt
- 17h30
The reception of EU facultative mixed agreements in Member States' national legal orders
Italy – Carlo Tovo
Germany – Wolfgang Weiß
Netherlands – Andrea Ott & Ramses Wessel
- 18h10
Panel discussion: practitioners from the Member States:
Matthew Holt (former UK agent before the CJEU)
Diégo Colas (agent of France before the CJEU)
Bogusław Majczyna (agent of Poland before the CJEU)
Joni Heliskoski (agent of Finland before the CJEU)
- Closing speech**
- 19h15
Speakers' dinner at the workshop venue
- 19h30