



The European Law Students' Association
TILBURG

The ELSA Tilburg *Legal Journal*

Your Voice in the Legal Conversation

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Association updates

ELSA Tilburg has had a busy end of the academic year!

In April, the Professional Development Committee hosted a panel on Careers in the European Union, followed by a panel on Careers in International Organisation in May. More information on these events can be found on page 6 of this issue.

The Seminars & Conferences Committee hosted numerous events this spring. First, a fascinating lecture and discussion on The Question of Antarctica with Tilburg Law School professor and legal historian Dr. Ville Kari. The session was hosted as part of ELSA's Annual Human Rights Campaign, which is supported by the Council of Europe. In May, the committee hosted a workshop delivered by Deneisha Moss from the Institute on Statelessness and Inclusion, delving into this intricate and delicate subject.

Another exciting institutional visit was hosted in May, when ELSA Tilburg visited the headquarters of tech-giant ASML in Veldhoven, where participants spoke with members of the legal & compliance department, specialising in contracts operations and export control. It was an insightful and horizon-broadening opportunity, and we would like to thank ELSA Tilburg alum Horatiu Hudin for inviting us.

The Academic Activities committee released no less than 7 new episodes this Spring, including 2 specials on criminal law, which are all available on our Spotify. The year ended with debate night collaborations with Tilburg University's debate association Cicero and exam preparation workshops for first-year students.

The Competitions committee was also hard at work, with the highly anticipated and attended Fashion Law Moot Court, followed by the local and national rounds of the ELSA Negotiation Competition, with our very own Silvia Sekerková and Dora Babić winning the final national round! The local competitions year ended with Night University, with a fun, challenging and highly

popular Murder Mystery Night, which will hopefully become a tradition.

Finally, this year ELSA Tilburg celebrates its 30th year anniversary, and what better way to celebrate than a Gala? Current members, board and alumni all gathered for a night of good music, good company and good times. Thank you to all who attended!

Amit Ayache, Secretary General and Editor-in-Chief of the ELSA Tilburg Legal Journal

Farewell from the Board of 2025/2026

Dear ELSA Tilburg Members,

On behalf of the board, I want to thank you all for an incredible and successful year. It has been full of special moments, from launching new initiatives, such as this journal, to celebrating 30 years of our association.

It has been a great honour to serve as President of this association. My personal goal, as well as our vision as a board, was to ensure that you, our members, could feel confident and supported throughout law school. That is why could not be more proud or thankful to have been part of this community. Maintaining the high standards ELSA is known for was something we didn't take lightly, but what made this year truly successful are the connections we made and the experiences we got to share with all of you. With over 50 events, close to 500 members and numerous new partnerships, we end this year strongly, confident that we have set future generations of ELSA Tilburg for success.

Lastly, I have the honour to wish the 31st board all the best in the upcoming year! We are confident that ELSA Tilburg is in good hands and look forward to seeing where you take it.

Theo Billetter, President, 2025/2026

Have a great summer!

Get to Know the New Board



ELSA TILBURG · BOARD 2026 / 2027



Dora Babić

President

Hello everyone! My name is Dora, I'm Croatian and I'm in my first year of Global Law. In the past year, ELSA has provided me with countless fantastic opportunities, from a delegation to WIPO to starting the ELSA Tilburg Legal Journal. I came to Tilburg to study Global Law in hopes of meeting people who are proactive, innovative and ambitious, and I have found a community with exactly those values at ELSA.

Next year, I aim to ensure that every law student has a space in our association to grow professionally and academically, meet like-minded people, get challenged and access unique opportunities. Together with such a capable and motivated board, I have no doubt the next year will be a great one, and I'm excited to see what we can achieve together!



Silvia Sekerková

Secretary General

My name is Silvia Sekerková, and I will be serving as the Secretary General of ELSA Tilburg for the 2026/2027 term. I'm currently a Global Law student, and over the past year ELSA has gradually become a significant part of my life. That's why I decided to contribute to maintaining and improving our association.

Next academic year, I aim to keep a reliable internal structure for both the board and the committees, ensure that communication is clear and consistent, and support an environment where members feel informed, connected and welcomed.



Danne Donkers

Treasurer

Hi everyone! My name is Danne and I will be the treasurer for the upcoming year. I am Dutch and a second-year Global Law student. As treasurer, I will make sure ELSA Tilburg runs smoothly financially while also bringing in new ideas and initiatives. I am very excited for what lies ahead next year and I can't wait to get to know all of you better. Looking forward to a great year with you all at ELSA.



Lucia Lukenda

Vice President in Charge of Marketing

Hi! I'm Lucia Lukenda and I'm truly honoured to have been elected Vice President in Charge of Marketing for the upcoming term. I'm originally from Croatia, but my ELSA journey has taken me across borders and given me the chance to grow through amazing people, projects and experiences. I'm passionate about creating engaging, meaningful and visually strong communication that connects people with ELSA's mission. I look forward to working with an inspiring team in Tilburg, learning from each other, and contributing to a term filled with creativity, collaboration and impact.



Eva Mironova

Vice President in Charge of Academic Activities

My name is Eva, and I was born and raised in Sofia, the capital of Bulgaria. I have always been drawn to international environments, which is why two years ago I moved to Tilburg to study in the Global Law programme. This year I finished my second year, and I can confidently say that ELSA Tilburg has been an incredibly meaningful part of my journey, both academically and personally. That is why I applied for the Vice President of Academic Activities position; I am genuinely excited to give back.



Milo Swagemakers

Vice President in Charge of Competitions

My name is Milo Swagemakers, I'm a Dutch second-year Global Law student, and I am honoured to have been elected as your next VP of Competitions for the 2026/2027 ELSA Tilburg board! My ELSA journey started with a competition (which didn't go too well), and since then I've participated in multiple local moot courts, building my skills with each one.

This past academic year, I have been the Director of the Competitions Committee, where I gained excellent insight into how the Competitions branch of ELSA works and sharpened my organisational, managerial and communicational skills. Two highlights this year were the Halloween moot court competition, featuring a witness-interviewing section with actors, and the murder mystery event at Night University this May.

I am excited to step into my new role and hope to see many of you in next year's competitions!



Daniella Kertész

Vice President in Charge of Professional Development

Hi everyone! My name is Daniella Kertész, and I will be your Vice President in Charge of Professional Development for the upcoming academic year. I'm Hungarian-Ukrainian and currently a first-year Global Law student at Tilburg University. My goal for next year is to make professional development feel more accessible, less intimidating and more inclusive for everyone. I would like to create opportunities where students can receive practical guidance, develop useful skills and find events that genuinely help them grow both professionally and personally. I'm very excited for the year ahead and to meet all of you!



Layla Abdulle

Vice President in Charge of Seminars & Conferences

Hi everyone! I'm Layla, a current first-year Global Law student, and I'm excited to be the new Vice President in Charge of Seminars and Conferences. My ELSA journey started just last year as Director for Institutional Visits, where I learned how important well-organised events can be in connecting students with real legal opportunities. I'm excited to now focus on bringing you inspiring seminars and conferences, institutional visits and study visits that create meaningful discussions and career insights. I believe in creating events where every participant feels seen, heard and motivated. I can't wait to work with my fellow board members to make this term full of memorable and fun events. I look forward to what we can all achieve this year!

Careers Panels: Working for The European Union and International Organizations

By Kārlis Šverns, Vice President of Professional Development, ELSA Tilburg

This spring, the Professional Development Committee of ELSA Tilburg hosted panels to help Tilburg law students learn of and understand career opportunities in various international organizations and the European Union.

Careers in the European Union

Speakers

- Youssef Elshabasi: A former Blue Book Trainee who served as a Data Protection Officer at the Secretariat-General; he currently works as a Data Privacy Consultant in the Netherlands.
- Gonzalo: A former Blue Book Trainee at DG AGRI; now works as an EU Public Affairs Consultant in Brussels.

About the Event

The session introduced students interested in EU law, regulation, and policy to the structure and expectations of EU careers and in particular of the Commission's Blue Book Traineeship program. The panelists shared their experience of the application process, life in Brussels as a Trainee and the effect of the traineeship on future career horizons.

Blue Book Trainees operate in a dynamic, multicultural environment. Common tasks include conducting legal research, supporting unit projects, taking meeting minutes, and collaborating with experienced international colleagues

The panelists discussed the financial and logistical realities of relocating to Brussels, encouraging proactiveness in managing living expenses and searching for housing, possibly taking advantage of the network of former Trainees.

Key takeaways

1. *Application Strategy*: Start application prep early, maintain professional and academic consistency, and strategically apply for positions across different Directorates-General that attract fewer total applicants to maximize your chances.
 2. *Be Target-Oriented*: Build a CV and profile that demonstrate genuine interest (and preferably experience) in EU law and policy.
 3. *Broaden Horizons*: remain open to non-legal or varied roles within the institutions, you may find them interesting or use them as an entry into a legal position.
 4. *Resilience and Networking*: Do not let common rejections discourage you. Treat the traineeship as a launching pad, utilizing active networking to build valuable connections for future careers in and around the EU.
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Careers in International Organizations

About Our Speakers

The speakers represented different stages of one's legal career, as well as diverse career trajectories.

- Nina Skopac: legal intern at UN IRMCT.
- Nicola Costantin: former intern in multiple ICC departments, currently a special assistant to the registrar at the Immediate Office of the Registrar of the ICC.
- Michaela Todd: former intern at the ICC, currently an intern at the Kosovo Specialist Chambers
- Omer Hamed: former legal intern at UN IRMCT, now practices immigration law for a private firm.

About the Event

The event was particularly valuable to students interested in international criminal law and human rights and focused on early-career pathways.

The speakers noted that day-to-day legal intern work primarily consists of legal research, drafting, and taking minutes during meetings.

Panellists shared direct, honest insights on the high competition, frequent rejections, financial challenges, and professional uncertainty inherent to the field, emphasizing that a deep passion for public international law is essential.

Key takeaways

1. *Strengthen Applications*: Elevate your profile by engaging in relevant extracurricular activities like moot courts.
2. *Language Skills*: Acquire additional languages, specifically targeting the official languages of the institution (such as French) or niche languages relevant to specific regional operations.
3. *Network to Maximize*: Once a position is secured, heavily prioritize networking to transition the opportunity into a long-term career at the institution.

The European Union’s Innovation Act: The Shift to Horizontal Innovation Governance

Research article by Daria Lunca

Keywords: innovation governance; better regulation; research commercialisation; regulatory sandbox; European Research Area

List of abbreviations

Abbreviation	Full Form	Abbreviation	Full Form
AI	Artificial Intelligence	GovTech	Government Technology
CEPS	Centre for European Policy Studies	IEA	Interoperable Europe Act
DARPA	Defence Advanced Research Projects Agency	IP	Intellectual Property
DLT	Distributed Ledger Technology	IPR	Intellectual Property Rights
EIA	European Union Innovation Act	R&D	Research and Development
EIC	European Innovation Council	R&I	Research and Innovation
ERA	European Research Area	SME	Small and Medium-sized Enterprise
GDP	Gross Domestic Product	TFEU	Treaty on the Functioning of the European Union

1. Introduction

The EU’s Innovation Act (EIA) has emerged as a legislative response to the persistent barriers preventing EU research outputs and technological capabilities from translating into market deployment across the Single Market. It aims to establish a binding, horizontal, cross-sectoral legal framework spanning the entire innovation lifecycle—from R&D and technology transfers to access to finance, regulatory sandboxes, and the commercialisation of publicly funded research—and is expected to take the form of a directly applicable Regulation under Articles 114, 173, and 182 TFEU.¹ The initiative remains at the pre-proposal stage as of March 2026, though a substantial evidence base has formed through the Commission’s 2025 public consultation and call for evidence, an emerging policy narrative combining innovation deployment with simplification and regulatory learning, and extensive stakeholder positioning. This article synthesises the state of play and analyses consultation outcomes and likely architecture of the instrument.

2. The EU’s Innovation Background: Current Shortcomings and the EIA’s Envisioned Solutions

The EU has long recognised innovation as a driver of economic growth and societal welfare, yet the translation of this recognition into legally binding frameworks has remained uneven. The “innovation principle”, formalised through Tool #22 of the Better Regulation Toolbox, was intended to require that the impact on innovation be fully assessed across all EU legislation. However, CEPS has identified its real-world impact as limited owing to the absence of a legal basis and insufficient institutional awareness, such

¹ Commission, ‘Commission Work Programme 2026: Europe’s Independence Moment’ (Communication) COM (2025) 870 final; Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C326/47.

that it has operated primarily as a procedural guideline rather than a binding enabler of genuine innovation.²

Several high-level diagnoses have since corroborated these structural weaknesses. The Draghi Report of September 2024 concluded that the EU is failing to translate innovation into commercialisation and that innovative companies are hindered at every stage by inconsistent and restrictive regulations, identifying that only four of the world's fifty largest technology companies are European and that the EU's share of global venture capital stands at just 5%, compared with 52% for the US and 40% for China; it proposed transforming the EIC into a DARPA-like agency, creating a 28th legal regime for startups, and doubling the Framework Programme budget to €200 billion for 2028–2034.³ The Letta Report of April 2024 added that the traditional four-freedom architecture of the Single Market is insufficient for a knowledge-driven economy and proposed a fifth freedom—the free movement of research, innovation, and education—a concept whose constitutional significance lies in the fact that treating knowledge circulation as a fundamental economic freedom would render barriers to technology transfer and researcher mobility cognisable as internal market obstacles and potentially justiciable under EU law.⁴ This article submits that the EIA is the most appropriate vehicle for operationalising this Fifth Freedom through secondary legislation without requiring a Treaty amendment.

The Competitiveness Compass of January 2025 translated both diagnoses into a legislative work programme. Its first pillar, centred on closing the innovation gap, announcing the EIA, a 28th regime for innovative companies, noting that only one-third of EU university patents are commercially exploited and that only 13% of EU businesses have adopted AI.⁵ Further, the Startup and Scaleup Strategy of May 2025 acknowledged that nearly 30% of European unicorns relocated outside the EU between 2008 and 2021.⁶

3. The EIA Public Consultation: Stakeholder Priorities

In preparation for the EIA, the Commission launched a call for evidence and public consultation from July to October 2025, generating 202 responses and 336 position papers from businesses, business associations, public authorities, and academia.⁷ Six priority areas were identified: (i) boosting access to finance for startups and scaleups; (ii) creating an EU-wide regulatory sandbox framework; (iii) improving access to research and technology infrastructure, particularly for SMEs; (iv) strengthening public investment in the commercialisation and diffusion of innovative solutions; (v) stimulating the commercialisation of publicly funded research generated in universities and research organisations; and (vi) enabling public and private procurement to promote innovation and support startups. Equally, the main barriers the EIA ought to address were identified as: (i) the absence of harmonised EU-level definitions of innovative companies, startups, and scaleups; (ii) inconsistent national understandings of

² Commission, 'Better Regulation Toolbox' (July 2023 edition); Commission, CEPS, 'Study supporting the interim evaluation of the innovation principle: Final Report' (Publications Office 2019).

³ Mario Draghi, 'The Future of European Competitiveness' (European Commission, September 2024).

⁴ Enrico Letta, 'Much More Than a Market – Speed, Security, Solidarity – Empowering the Single Market to Deliver a Sustainable Future and Prosperity for All EU Citizens' (Report, European Council, April 2024).

⁵ Commission, 'A Competitiveness Compass for the EU' (Communication) COM (2025)30 final.

⁶ Commission, 'EU Startup and Scaleup Strategy' (Communication) COM (2025)270 final.

⁷ Commission, Directorate-General for R&I (DGR&I), 'Commission seeks feedback on the future European Innovation Act' (R&I News, 9 July 2025); Commission, 'Call for Evidence for an Impact Assessment: European Innovation Act' Ares (2025) 5502853; Commission, 'Factual Summary Report: Public Consultation on the Proposal for a European Innovation Act – DG Research and Innovation' Ares (2025) 10442665.

regulatory sandboxes; (iii) unclear and complex research infrastructure access conditions; (iv) uncertainty around state aid rules for university–industry collaboration; and (v) the absence of a harmonised employee stock option scheme.⁸

These findings reveal a fundamental tension in the EIA’s prospective design: while stakeholders are calling for harmonisation and legal certainty in areas currently characterised by national divergence, the six priority areas span distinct legal regimes—state aid law, procurement law, IP law, financial regulation, and administrative law—each with its own Treaty basis, competence allocation, and body of secondary law, such that the EIA’s ambition to address all of them through a single horizontal regulation raises genuine questions of legislative coherence and legal basis validity. This article’s hypothesis is that the Commission will need to adopt a modular regulation structured around distinct chapters with differentiated legal bases in order to withstand potential challenge before the Court of Justice.

4. The Envisioned Structure and Scope of the EIA

Against the background of these shortcomings, the EIA is framed as a legal solution intended to remove barriers to bringing innovative ideas to market across all sectors, whilst also functioning as a vehicle for innovation-proofing EU law in line with the Commission’s 2026 Work Programme emphasis on simplification and legislative “stress tests” of the *acquis*. It is expected to take the form of a regulation—rather than a Directive—to ensure direct applicability and to avoid the further divergences that national transposition typically produces, with a cross-sectoral scope designed to interlink existing regulations in an innovation-friendly manner and reduce administrative hurdles across the entire innovation lifecycle. The *cepInput* study of February 2026 argues, however, that to be truly effective, the EIA must target radical innovation and recommends a dual strategy of improving general framework conditions and providing targeted support for regional innovation hubs, since radical innovation activity is dominated by US-based inventors, while the EU remains peripheral in global innovation networks.⁹

The following table sets out the principal components of the expected EIA, their anticipated content and the principal legal and regulatory risks associated with each:

Component	Expected EIA Content	Perceived Risks
Instrument choice	Multi-legal-basis regulation spanning Arts. 114, 173, and 182 TFEU	Varying EU competence; intersection with Member State tax and labour regimes
Innovation stress testing	Mainstreaming obligation requiring consistent innovation analysis across all policy domains	Dilution of protective regulation through an industry-favoured principle

⁸ Commission, ‘Commission concludes public consultation on the European Innovation Act’ (Research and Innovation, 4 December 2025) https://research-and-innovation.ec.europa.eu/news/all-research-and-innovation-news/commission-concludes-public-consultation-european-innovation-act-2025-12-04_en accessed 13 May 2026; Commission, ‘European Innovation Act’ (Have Your Say, feedback period 13 May–10 June 2025) https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14593-European-Innovation-Act/feedback_en?p_id=19995 accessed 13 May 2026.

⁹ André Wolf, A Growth-Inducing EU Innovation Act: Unleashing Europe’s Potential for Radical Innovation (*cepInput* No 2/2026, 2026, CEPS).

EU-level definitions	Harmonised definitions of innovative company, startup, and scaleup	Risk of excluding non-tech innovators
Regulatory sandboxes	EU-wide framework with rules on establishment, operation, and cross-border recognition	Legal certainty versus flexibility; interaction with current sandboxes
Technology transfer	Clarified state aid exemptions for university–industry collaboration; IPR licensing frameworks	Balancing open science with IP protection
Research infrastructure access	Harmonised access frameworks; simplified state aid rules for SME access	Avoiding bureaucratic overhead
Public procurement	Minimum requirements for buying European innovations	Compatibility with current Procurement Agreements
Access to finance	Legislative measures promoting access to publicly funded R&I intellectual assets; improving university–business relations and commercialisation prospects	Alignment with Capital Markets Union; risk of undermining research funding autonomy

The choice of regulation as the legislative instrument is itself constitutionally significant: the existing EU innovation governance framework, built on the 2021 ERA Pact Council Recommendation and the 2022 New European Innovation Agenda—operates through political commitments rather than justiciable obligations, and the shift to a directly applicable regulation signals a decisive departure from the Open Method of Coordination, counselling in favour of a modular design that allows for sector-sensitive implementation whilst preserving the binding character of core definitional provisions.¹⁰

4.1. *Regulatory Sandboxes*

The sandbox framework particularly warrants additional treatment in view of its potential to promote innovation by enabling the testing of innovative products and services in controlled environments under temporary regulatory relief.¹¹ Regulatory sandbox provisions proliferated rapidly across EU sectoral legislation between 2020 and 2024—appearing in the AI Act, the Net-Zero Industry Act, the Interoperable Europe Act, and the DLT Pilot Regime. Nevertheless, as the comparative table below illustrates, they lack a common legal framework governing their establishment, operation, and cross-border recognition, as well as evaluation criteria and feedback loops into the legislative process.¹²

¹⁰ Council Recommendation (EU) 2021/2122 of 26 November 2021 on a Pact for Research and Innovation in Europe [2021] OJ L431/1; Commission, ‘Commission Staff Working Document: A New European Innovation Agenda’ SWD (2022) 187 final.

¹¹ Council of the EU, ‘Regulatory Sandboxes and Experimentation Clauses as Tools for Better Regulation: Council Conclusions’ (16 November 2020) 13026/20.

¹² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (AI Act) [2024] OJ L1689/1; Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology products manufacturing ecosystem (Net-Zero Industry Act) [2024] OJ L1735/1; Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) [2024] OJ L903/1; Regulation (EU) 2022/858 of the European Parliament and of the

Legal Basis	Sandbox Type	Cross-border Recognition	Liability Shield
Articles 57–63 AI Act	Mandatory (with at least one per Member State by August 2026)	Partial, bilateral	Yes (Article 57(12))
Articles 11–12 IEA	Optional, GovTech focus	None explicit	None explicit
Article 4 et seq. DLT Pilot Regime	Time-limited exemption	EU passport	None explicit
Article 33 Net-Zero Industry Act	Optional, clean-tech focus	None explicit	None explicit
<i>Articles 114, 173, and 182 TFEU, expected EIA</i>	<i>Horizontal, all sectors</i>	<i>Full (intended)</i>	<i>Intended</i>

The fragmentation illustrated means that a company operating at the intersection of two sectors may be subject to different, incompatible eligibility criteria, liability protections, and mechanisms for cross-border recognition of outcomes. This article posits that the EIA should accordingly establish a “sandbox passport” mechanism: a system whereby participation in any nationally established or EU-coordinated sandbox generates a harmonised legal status recognised across all Member States and sectoral regulatory regimes. This would simultaneously reduce fragmentation and transform sandboxes from temporary derogations into a constitutive element of EU innovation governance.

4.2. *Synergies with the ERA Act and the Fifth Freedom*

The EIA does not operate in isolation: a parallel ERA Act is also expected in 2026, establishing legally binding national commitments to increase R&D investment towards the 3% GDP target and reinforce alignment of research funding with EU strategic priorities.¹³ Together, the two Acts could form the legislative backbone of Letta’s proposed Fifth Freedom even absent a Treaty amendment, by establishing binding frameworks for the free movement of knowledge, researchers, and innovation. While the ERA Act would govern knowledge creation, the EIA would govern knowledge deployment. Read alongside the 2022 Council Recommendation on Knowledge Valorisation, the emerging architecture could become the most coherent EU innovation governance programme since the Framework Programmes.¹⁴

5. Discussion

Drawing together the preceding analysis, three interconnected hypotheses may be advanced regarding the EIA’s likely form, content, and constitutional significance. The first concerns instrument choice: the selection of a regulation over a directive represents a deliberate constitutional shift from coordinated national policies towards centralised norm-setting for the conditions of innovation, justified by the consultation’s finding that national divergences—in sandbox frameworks, infrastructure access

Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology [2022] OJ L151/1.

¹³ Commission, ‘ERA Act’ (ERA Platform, 2026) <https://european-research-area.ec.europa.eu/era-act> accessed 13 May 2026; Commission, DGR&I, ‘ERA Act: Analysis of the Responses to the Call for Evidence’ (19 December 2025).

¹⁴ Council Recommendation (EU) 2022/2415 of 2 December 2022 on the guiding principles for knowledge valorisation [2022] OJ L317/1.

conditions, definitions of innovative companies, and employee stock option schemes—are themselves Single Market barriers under Article 114 TFEU. However, the instrument will be most effective if it combines maximum harmonisation where divergence is demonstrably market-fragmenting with minimum harmonisation approaches in areas such as procurement and technology transfer, where Member State discretion carries legitimate policy justifications.

The second concerns the Fifth Freedom: the EIA's most significant long-term contribution may lie in its potential to establish, through secondary legislation, the legal infrastructure for the free movement of knowledge as a *de facto* fifth freedom, operationalising Letta's constitutional proposal by creating harmonised frameworks for technology transfer, research infrastructure access, cross-border sandbox recognition, and access to finance without requiring Treaty amendment.

The third concerns horizontal coherence across all six priority areas: the EIA's ambition will be realised only if its modular chapters are designed to interoperate, so that sandbox frameworks, infrastructure access rules, IP licensing provisions, access-to-finance measures, and EU-level definitions form a coherent and mutually reinforcing whole.

6. Conclusion

The EU Innovation Act represents the most structurally ambitious legislative project in EU innovation governance since the establishment of the Framework Programmes, and its substantial pre-proposal evidence base reflects the political urgency with which the Commission has approached the EU's widening innovation gap. This paper argues that its success will depend on whether its drafters can navigate the competence constraints of the TFEU, design a genuinely coherent and interoperable instrument, and lay the legal groundwork for a Fifth Freedom of knowledge circulation without requiring Treaty amendment.

Bulgaria Joining the Euro: Overview of Cases T-654/25 and T-653/25

Research Article by Eva Mironova

1. Introduction

On 15 September 2025, two notable cases were submitted to the Court of Justice of the European Union, *Stoyanov v Council* (Case T-654/25) and *MS and Others v Council* (Case T-653/25).¹⁵ While based on different legal argumentation, the essence of both claims made to the CJEU is the same: the claimants believe that the adoption of the euro currency in Bulgaria was done “illegally”, as the process of adoption did not follow the right legal procedure.¹⁶ The Court has not given its final verdict yet, but the CJEU has proceeded to reject applications for any interim measures.¹⁷ The following article strives to explore how this unprecedented situation came to arise from both a legal and a political point of view.

2. Procedure and criteria for joining the euro area

First, understanding the procedural route to the adoption of the euro is crucial. The criteria for joining the euro area are known as the Maastricht criteria, established in the Maastricht Treaty of 1992.¹⁸ The Maastricht criteria set out different economic and legal requirements for the Member States of the European Union to ensure that adoption would be unproblematic to the Member State.¹⁹ The economic convergence criteria are based on four indicators: price stability, sustainability of the government financial position, normal fluctuation margins, durability of convergence.²⁰

Price stability is determined based on inflation rates.²¹ More specifically, the metric is met if the candidate Member State’s inflation rates are “no more than 1.5 percentage points above the rate of the three best-performing member states”.²² Further, the economic criteria call for “sustainability of the government

¹⁵ Case T-653/25 *MS and Others v Council*, Action brought on 15 September 2025

https://infocuria.curia.europa.eu/tabs/document/T/2025/T-0653-25-00000000RD-01-P-01/REQ_COMM/314100-EN-1-html accessed 8 April 2026; Case T-654/25 *Stoyanov v Council*, Action brought on 16 September 2025

https://infocuria.curia.europa.eu/tabs/document/T/2025/T-0654-25-00000000RD-01-P-01/REQ_COMM/314102-EN-1-html accessed 8 April 2026.

¹⁶ *ibid.*

¹⁷ T-653/25 R *MS and Others v Council*, Ordonnance du Président du Tribunal 26 mars 2026

https://infocuria.curia.europa.eu/tabs/document/T/2025/T-0653-25-00000000RD-01-R-01/ORD_NP/318390-FR-1-html accessed 8 April 2026; T-653/25 RII *MS and Others v Council*, Ordonnance du Président du Tribunal 26 mars 2026

https://infocuria.curia.europa.eu/tabs/document/T/2025/T-0653-25-00000000RD-01-R-02/ORD_NP/318388-FR-1-html accessed 8 April 2026 ; T-654/25 R *Stoyanov v Council*, Ordonnance du Président du Tribunal 26 mars 2026

https://infocuria.curia.europa.eu/tabs/document/T/2025/T-0654-25-00000000RD-01-R-01/ORD_NP/318389-FR-1-html accessed 8 April 2026.

¹⁸ Council of the European Union, ‘Joining the euro area’ (*European Council, Council for the European Union, 1 January 2026*) <https://www.consilium.europa.eu/en/policies/join-the-euro-area/> accessed 8 April 2026.

¹⁹ *Ibid.*

²⁰ Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C 202/47 [TFEU], art 140.

²¹ *Ibid.*

²²(n 4); Consolidated version of the Treaty on the Functioning of the European Union

financial position”, meaning the government deficit should not be above 3% of the GDP of the country, and the overall debt ratio should not be above 60% of the GDP.²³ Interest rates are also considered in the economic evaluation; the long-term interest rates, not adjusted for inflation, should be no more than 2 percentage points higher than the same rates for the three best-performing Member States in the Union.²⁴ Finally, participation in the ERM II—exchange rate mechanism—is mandatory for at least two years.²⁵ The system ties the non-euro country’s currency to the euro at a central rate, with the possibility of 15% fluctuation.²⁶ Assuming that during the two-year period of participation in the ERM II there are no significant deviations or devaluations, the exchange rate is considered stable.

Nevertheless, even if the economic requirements are met, to ensure legitimacy, there is also a legal criterion to be fulfilled. The national legislation of the candidate Member State has to be compatible with the Treaty and Statute of the European System of Central Banks (ESCB) and the ECB. Convergence reports by the European Central Bank and the European Commission examine whether the non-euro area fulfils the convergence criteria every two years. Simultaneously, the Council of the European Union has to receive a proposal from the Commission and a recommendation from the euro area Member States, consult the European Parliament, and conclude a discussion in the European Council.²⁷ After all that is finished, then a final decision taken unanimously by all the EU Member States can be made for the candidate Member State to adopt the euro currency.²⁸

3. Bulgaria’s journey to adopting the euro

Bulgaria’s road to the euro has undoubtedly been challenging. It started in 2007, when Bulgaria joined the European Union. It is interesting to note that the national currency at the time, the “lev”, had a fixed exchange rate tied to the euro since 1999, as the lev was initially fixed to the Deutsche Mark.²⁹ Hence, when the adoption of the euro took place in Germany, the Bulgarian lev was also affected.³⁰ Still, Bulgaria officially started to participate in the ERM II in July 2020 with the intention of adopting the euro on 1 January 2024.³¹ Practice revealed that achievement of this goal would be challenging due to many economic issues resulting from the COVID-19 pandemic, but also, more importantly, the unstable political situation. Multiple governments had been elected in the span of the previous 5 years in the country, each with

Protocol (No 13) on the Convergence Criteria [2016] OJ C 202/28 [Protocol 13], art 1.

²³ TFEU (n 6); Council of the European Union (n 4).

²⁴ Protocol 13 (n 8) art 4.

²⁵ *ibid* art 3.

²⁶ *Ibid*; Council of the European Union (n 4).

²⁷ *Ibid*.

²⁸ TFEU (n 6); Council of the European Union (n 4).

²⁹ European Commission, Germany and the euro (European Commission), <https://economy-finance.ec.europa.eu/euro/eu-countries-and-euro/germany-and-euro_en>

accessed 12 April 2026; Закон за деноминация на лева (*Lev Denomination Law*) Обн., ДВ, бр. 20 от 5.03.1999 г.,..., в сила от 1.01.2026 г. (1999) чл. 1.

³⁰ ЗАКОН ЗА БЪЛГАРСКАТА НАРОДНА БАНКА ОТ 1997 Г (LAW ON THE BULGARIAN NATIONAL BANK OF 1997). Обн. ДВ, бр. 46 от 10 Юни 1997 г.,..., доп. ДВ, бр. 64 от 5 Август 2025 г. (1991) чл. 28 European Commission, Germany and the euro (European Commission) <https://economy-finance.ec.europa.eu/euro/eu-countries-and-euro/germany-and-euro_en>

accessed 12 April 2026; Закон за деноминация на лева (*Lev Denomination Law*) Обн., ДВ, бр. 20 от 5.03.1999 г.,..., в сила от 1.01.2026 г. (1999) чл. 1.

³¹ Balazs Koranyi, ‘Bulgaria, Croatia take vital step to joining euro’ (*Reuters* 10 July 2020) <<https://www.reuters.com/article/us-eurozone-economy-croatia-bulgaria/bulgaria-croatia-take-vital-step-to-joining-euro-idUSKBN24B2JM/>> accessed 8 April 2026.

different views on the adoption of the euro. Nevertheless, after many delays and debates, Bulgaria adopted the euro on 1 January 2026.



4. Public perception of adoption

As was already mentioned, the process of adopting the euro was done during a time of political hardship for the country, said adoption being one of many reasons for political disagreements. The results of the national representative survey among citizens and businesses on public attitudes towards the introduction of the euro in Bulgaria from July 2025 show that approximately 49% of Bulgarians were in favour of the adoption, while around 45% were against it.³² This is a clear separation of the national opinion, which has

³² Алфа Рисърч, 'Резултати от национално представително проучване сред гражданите и бизнеса за обществените нагласи за въвеждането на еврото в България – юли 2025 г.' (13 August 2025) <https://evroto.bg/bg/news/303-rezultati-ot-natsionalno-predstavitelno-prouchvane-sred-grazhdanite-i-biznesa-za> accessed 8 April 2026.

led to major discourse in the population.³³ As there was such a critical separation of the nation's opinion on the matter, the President of Bulgaria, Rumen Radev, attempted to initiate a referendum in 2025. The referendum proposal was rejected by the National Assembly, Chair Nataliya Kiselova, who stated that the proposal was inadmissible, as the initiation by the President was anti-constitutional.³⁴ In response, President Radev filed a claim to the Constitutional Court arguing for the illegitimacy of Kiselova's actions.³⁵ The Constitutional Court concluded that "the National Assembly Chair does not have the authority to assess the requirements established by law under which a national referendum is permissible and to reject the proposal".³⁶ Then, the proposal was admitted into the parliament, following a rejection by vote in the National Assembly; hence, no referendum was conducted. In response, multiple protests took place until the government resigned as a consequence of public pressure. These events greatly captured the fact that public trust had been drastically damaged by the actions of the government at the time, which had created an environment of distrust and could be exploited for political purposes.

5. Cases T-654/25 and T-653/25

The claim of case T-653/25 was filed towards the CJEU on 15 September 2025 by twelve anonymised claimants.³⁷ On the following day, 16 September 2025, Stanislav Stoyanov filed his claim before the CJEU.³⁸ Both cases, which are still ongoing, are represented by lawyer Rumyana Chenalova. She and Stoyanov are both affiliated with the populist Bulgarian party Revival (*Vъзраждане*).³⁹ Revival has been described by analysts and media as a far-right, ultranationalist party with a pro-Russian and anti-EU orientation.⁴⁰ The political party was a leading organiser of protests against the adoption of the euro. The legal challenges align with positions that Revival has publicly taken regarding Bulgaria's adoption of the euro.⁴¹

³³ БНТ, 'Скептицизъм към еврото: 57,1% от българите са „против“ приемането на единната европейска валута, показва проучване на агенция „Мяра“' (БНТ Новините 1 February 2025) <<https://bntnews.bg/news/skepticizam-kam-evroto-571-ot-balgarite-sa-protiv-priemaneto-na-edinnata-evropeiska-valuta-pokazva-prouchvane-na-agenciya-1324993news.htm>> accessed 8 April 2026.

³⁴ Bulgarian News Agency, 'Constitutional Court Rules Parliament Chair Has No Competence to Determine Admissibility' (18 November 2025) <https://www.bta.bg/en/news/bulgaria/1010623-constitutional-court-rules-parliament-chair-has-no-competence-to-determine-admis> accessed 12 April 2026.

³⁵ Конституционен съд на Република България, Решение № 11 от 18 ноември 2025 г. по к.д. № 8/2025 г., *Държавен вестник*, бр. 102 от 28 ноември 2025 г. <https://www.constcourt.bg/bg/act-10189>.

³⁶ Ibid; Bulgarian News Agency (n 21).

³⁷ MS and Others v Council (n 1).

³⁸ Stoyanov v Council (n 1).

³⁹ 24 часа, 'Румяна Ченалова от Възраждане: Корупцията е отровата, която поглъщаме всеки ден като част от въздуха, който дишаме' (24 часа 8 July 2021) <https://www.24chasa.bg/bulgaria/article/9967009> accessed 12 April 2026.

⁴⁰ Svetlana Lakova 'Prospects for the development of political brands' (2023) Сборник доклади от Годишна университетска научна конференция 08-09 юни 2023 https://www.researchgate.net/profile/Svetlana-Petrova-16/publication/384360470_Perspektivi_za_razvitie_na_politiceskite_brandove/links/66f5af6c9e6e82486ff3452e/Perspektivi-za-razvitie-na-politiceskite-brandove.pdf accessed 12 April 2025.

⁴¹ Боян Тончев, Илиян Ружин, Симеон Миронов, "Да свалим "урсулите". Протест срещу еврото с руски знамена поиска оставка на правителството' (*Свободна Европа* 13 September 2025) <https://www.svobodnaevropa.bg/a/protest-evro-ostavka-pravitelstvo/33529653.html> accessed 8 April 2026.

In the case of *Stoyanov v Council*, Mr. Stoyanov sought the annulment of the following: Council Decision (EU) 2025/1407 of 8 July 2025, Council Regulation (EU) 2025/1408 of 8 July 2025, and Council Regulation (EU) 2025/1409 of 8 July 2025.⁴² Based on these three regulations, the euro was prescribed to take effect in Bulgaria on 1 January 2026 and for the conversion rates to be established. Annulment of these regulations would have led to the impossibility of the adoption of the euro in the Eastern European country. Three main claims are presented in the application of the claim. First, it is argued that the adoption of the aforementioned regulations was not done in accordance with the principles of legitimacy, “proportionality, sincere cooperation, democracy and transparency, good administration and subsidiarity”, resulting in a breach of the procedural requirements. Second, it is claimed that the Commission and the ECB had failed to observe presumable contradictions in the data presented to them by the Bulgarian authorities. Stoyanov pleads that these contradictions signal manipulation in the data. Finally, the claim contends that by allowing the adoption of the euro in Bulgaria, the Council had not fulfilled its obligations to fully examine if Bulgaria fulfils the criteria.

The claims in *MS and Others v Council* are of a similar nature striving to annul the same regulations as those stated above.⁴³ First, the case argues, once again, that the supposed manipulation in the submitted data “was ignored” by the EU institutions. Further, they plead that the substantiation procedure was not conducted properly, with a lack of “proportionality, sincere cooperation, democracy and transparency, good administration”. Finally, abuse of powers is claimed by stating that the Council had not fulfilled the obligation to inspect the data and determine if there was inaccurate information provided.

On 4 December 2025, it became known that the cases had been registered with the CJEU as part of the regular procedure.⁴⁴ A lot of discourse has arisen since information became public. Misinformation has spread quickly, resulting in many news reports stating that the adoption of the euro has been restricted.⁴⁵ An official announcement has been made by the CJEU that no verdicts have been given up to this point.

6. Opinion of the CJEU

One interim relief has been issued regarding the case of *MS and Others v Council*, and two for *Stoyanov v Council*. All three reliefs reject the application for any interim measures. Equivalent argumentation for the rejection is given in all three reliefs.

Three main articles are used by the Court to justify the rejection. From the Rules of Procedure of the General Court, Article 154(4) is used, where it is stated that an application should state the subject matter of the proceedings.⁴⁶ Article 154(5) refers to Article 76, where paragraph (d) is relevant, stating that an application should contain “the subject-matter of the proceedings, the pleas in law and arguments relied on and a summary of those pleas in law”.⁴⁷ Finally, paragraph 284 from the Practice Rules for the

⁴² *Stoyanov v Council* (n 1).

⁴³ *MS and Others v Council* (n 1).

⁴⁴ Bulgarian Telegraph Agency, ‘Служба „Преса и информация“ на Съда на Европейския съюз: Уточнение’ (БТА 5 December 2025) <<https://www.bta.bg/bg/news/1022477-sluzhba-pres-a-i-informatsiya-na-sada-na-evropeyskiya-sayuz-utochnenie>> accessed 8 April 2026.

⁴⁵ *Ibid.*

⁴⁶ Rules of procedure of the General [2015] OJ L 105/1.

⁴⁷ *Ibid*; Amendments to the Rules of Procedure of the General Court [2024] OJ L 2024/2095.

Implementation of the Rules of Procedure of the General Court is relevant, as it establishes, in consideration of Article 154, that “an application (...) must be intelligible in itself, without necessitating reference to the application lodged in the main proceedings...”.⁴⁸

Based on this legislation, the Court described that the applications were to be respected if it was concluded that there was a legal basis and an immediate need for the enforcement of interim measures.⁴⁹ In this context, the Court noted that an immediate need is understood as a decision that is to occur before the final decision, so there are no irreversible damages to the interests of the Member State. Further, the application must contain “the subject-matter of the proceedings.”⁵⁰ Thus, the Court emphasised that the application “must be intelligible in itself” and that “the judge hearing the application for interim measures must not examine the complaint in the main proceedings”.⁵¹ In conclusion, the Court found that the claimants had not set out any arguments in support of their claims, hence not fulfilling the requirement of *fumus boni juris*, meaning no probable basis for the ruling to be factually and legally justified; consequently, it was not possible to assess the application for interim measures outside of the main proceedings, and the application is not “intelligible in itself”. Accordingly, the applications were all rejected on this basis.⁵²

7. Conclusion

The cases of *MS and Others v Council* and *Stoyanov v Council* are precedents not only due to their legal complexity but also for how they represent the division of political opinion in Bulgaria. While the Court of Justice of the European Union has yet to deliver its judgment, at this moment, one thing is clear: the political instability, frequent shifts in governmental direction, and the lack of transparency have created an environment for these cases to continue to arise and be used for political purposes.

⁴⁸ Practice Rules for the implementation of the Rules of Procedure of the General Court [2024] OJ L [2024/2097].

⁴⁹ *MS and Others v Council* R (n 3), para. 7-9.

⁵⁰ *Ibid* para. 7.

⁵¹ *Schmitt v AER* (T-175/03 R) EU:T:2003:179, para 20

⁵² *MS and Others v Council* R (n 3) para 14.

Molossia: A Case Study on the Meaning of Statehood

Featuring the interview with Kevin Baugh, President of the Republic of Molossia, on what self-declared statehood shows about the assumptions of international law | Editorial by Dora Babić

Introduction

Around 4.5 hectares of land in Nevada and California are, according to their resident and head of government, not part of the United States. They have a flag, a currency, a postal system, a small body of laws and a permanent population. The territory is called the Republic of Molossia, and it has been declaring itself a sovereign state, in one form or another, since 1977. The United States, for its part, does not appear to mind.

Molossia is what international relations literature calls a *micronation*: a self-declared sovereign entity that adopts the apparatus and symbols of statehood without receiving recognition from any established state.⁵³ The category is quite flexible and covers projects ranging from elaborate online communities with no physical territory to small parcels of disputed land in the Balkans on which someone has planted a flag. What unites them is a deliberate claim to sovereignty alongside the near-total absence of legal acknowledgement. In the context of public international law, this raises an intriguing question about the meaning of recognition and the lack of it, particularly if the Montevideo Convention sets out the criteria for statehood and an entity arguably meets them.

This article approaches that question through an interview conducted with Kevin Baugh, who has governed Molossia since the late 1970s. The case is a window onto a broader phenomenon of a slowly growing community of

micronationalists, whose work points to potential gaps in the modern definitions of statehood and sovereignty.

Background

Molossia began as a childhood project. In May 1977, Baugh and a school friend, inspired by the 1959 film *The Mouse That Roared*, declared their own country into existence. It was originally called the Grand Republic of Vuldstein. The friend left the project, but Baugh continued engaging with the idea. In 1998, he acquired land in northern Nevada and proclaimed the Republic of Molossia.

Asked about the original motivation, Baugh explains that the project started as an impulse most children have at some point.⁵⁴

“It was essentially an extension of the idea of declaring one’s bedroom a sovereign nation, something many kids do.”

He created a set of laws, designed a flag, issued currency and stamps. There were, he noted, no manuals to consult. The only references available at the time were encyclopaedias, and the rest was, in his words, “a product of my imagination.”

The result, decades later, is an entity that displays many visible features of a state. Molossia exists in three enclaves across Nevada and California, with a permanent population. It has a government, which Baugh runs himself. It conducts informal relations with other micronations. Baugh describes the place as

⁵³ Harry Hobbs and George Williams, *Micronations and the Search for Sovereignty* (Cambridge University Press 2022) 21.

⁵⁴ Interview with Kevin Baugh, President of the Republic of Molossia (conducted by the author, 2026). All

subsequent quotations from President Baugh are taken from this interview.

having “all the trappings that any nation should, a government, national symbols, currency, laws, postage stamps, the works”.

Baugh is also aware of Molossia’s unusual character. He acknowledges that public perception of Molossia is largely tongue-in-cheek, and he does not entirely disagree:

“While we take ourselves seriously as a nation, we do like to laugh and enjoy a bit of satire in much of what we do.”

The Montevideo Question

The legal definition most often invoked in discussions of statehood is the one set out in Article 1 of the 1933 Montevideo Convention on the Rights and Duties of States, which requires a permanent population, a defined territory, an effective government, and the capacity to enter into relations with other states.⁵⁵ Baugh is well aware of this. Asked whether Molossia meets these criteria, he answers without hesitation that it does:

“We have a permanent (and growing) population, most certainly a defined territory, an effective government (mostly me, and I govern very effectively) and certainly the capacity to enter into relations with other states. So far, no other established nation has entered into a diplomatic relationship with Molossia, but it’s not for lack of trying on our part.”

Whether Molossia and other micronations do indeed meet all four criteria is contestable in scholarship. The standard objection is that these

criteria are necessary but not sufficient in practice. A territory of 4.5 hectares physically surrounded by the United States raises immediate questions about the effectiveness of any government which is claiming jurisdiction over it, and so does the absence of any meaningful coercive capacity.

Baugh's government may govern very effectively in the sense that its citizens follow its rules, but those citizens also follow United States federal law, pay United States taxes, and would be subject to United States enforcement in any genuine conflict between the two legal orders. In the first book-length legal study of micronations, legal academics Harry Hobbs and George Williams argue that all micronations fail the government criterion precisely because of this issue. Statehood demands authority that excludes any rival jurisdiction over the same territory, and the recognised state surrounding a micronation continues to exercise that authority regardless of the micronation's declarations.⁵⁶ This argument is also supported by Crawford's view that effective and independent control is a precondition distinct from the formal criteria for statehood, meaning that an entity must be capable of excluding the governmental authority of other states over its claimed territory.⁵⁷

Another common objection is the issue of the absence of recognition by the international community. Nevertheless, Baugh is aware of that consideration and remains unbothered by it. Like most micro-nationalists, he subscribes to the declaratory theory of statehood, codified in Article 3 of the Convention: “The political existence of the state is independent of

⁵⁵ Convention on the Rights and Duties of States (signed 26 December 1933, entered into force 26 December 1934) 165 LNTS 19, art 1.

⁵⁶ Harry Hobbs and George Williams, *Micronations and the Search for Sovereignty* (Cambridge University Press 2022) 78–79.

⁵⁷ James Crawford, *The Creation of States in International Law* (2nd edn, OUP 2006) 62–88.

recognition by the other states.”⁵⁸ He explains how he views the issue:

“I think recognition would be nice, but lack of recognition is not affecting our nation nor our own view of our sovereignty. We are still a nation, even without recognition. We and most micronations subscribe to the declarative theory of statehood.”

The alternative position, the constitutive theory, holds that a state exists only when other states recognise it as such.⁵⁹ The two theories have been in unresolved tension in international legal scholarship for over a century. The practice of states tends to draw on whichever is more convenient in a given case, and usually recognition tends to be one of the most relevant factors.⁶⁰

Molossia’s claim is extending the declarative theory to its logical conclusion. If statehood is genuinely independent of recognition, then Molossia is a state. If statehood requires recognition in practice, then the Convention’s straightforward list of criteria comes into question, since it becomes considerably less useful as a definition.

Molossia’s existence is pointing to that weakness. Defining what a state actually is has proven surprisingly difficult. The International Law Commission attempted to create a definition in 1949 but ultimately concluded that “no useful purpose would be served by an effort to define the term ‘state.’”⁶¹ James Crawford, the leading modern authority on the question, similarly notes

that no unanimously accepted legal definition exists.⁶²

Coexistence with the United States

Asked whether Molossia has ever faced any legal challenge from the United States, Baugh’s answer is brief:

“No, the US ignores us. We don’t pose a threat to their authority, being as small as we are, and we don’t have any resources they might want.”

In fact, this arrangement is standard for a number of micronations which claim a certain territory. Their existence is tolerated because contesting it would give it unwanted importance.

Other micronations have not been so fortunate. The Republic of Rose Island, a platform built in international waters off the Italian coast in 1968, was demolished by the Italian Navy within a year of its declaration.⁶³ The Republic of Minerva, established on reclaimed reefs near Tonga in 1972, was annexed by Tongan forces shortly afterward.⁶⁴ The Principality of Hutt River in Western Australia maintained itself for half a century before being dissolved in 2020, partly because its founder was repeatedly unable to convince Australian courts that he did not have to pay tax.⁶⁵ As a general rule, it appears that a micronation survives precisely to the extent that it does not seriously threaten the interests of the state which is surrounding it.⁶⁶ Molossia’s three small enclaves and its president’s open

⁵⁸ Montevideo Convention (n 3) art 3.

⁵⁹ Jan Klabbbers, *International Law* (4th edn, Cambridge University Press 2024) 77.

⁶⁰ Ibid 77-81.

⁶¹ International Law Commission, *Yearbook of the International Law Commission* (1949) vol I, 289, para 49.

⁶² Crawford (n 5) 37.

⁶³ Imogen Saunders, ‘Artificial Islands and Territory in International Law’ (2019) 52 *Vanderbilt Journal of Transnational Law* 643, 667.

⁶⁴ Ibid 671.

⁶⁵ Vicente Bicudo de Castro and Ralph Kober, ‘The Principality of Hutt River in Australia: Accounting for Sovereignty, 1970–2020’ (2025) 30(3) *Accounting History* 430, 449.

⁶⁶ Hobbs and Williams (n 1) 199.

willingness to describe the project as partly satirical place it well within the range of acceptable activity.

Recognition

Another notable part of the interview concerns the question of what value Molossia would even derive from being formally recognised. Asked if there is a state or international body whose recognition he would find meaningful, Baugh answers:

“Honestly, not really. Of course, the textbook answer would probably be the UN, but I question the value of international bodies in general. What is their purpose? The UN, for example, is rather expensive to be a part of, and its accomplishments as a body are hit and miss and depend on the cooperation of whatever nation(s) they might be assisting. I think that international organizations tend to have lofty goals but sometimes lack in execution.”

Baugh treats recognition itself as a reasonable goal. However, he remains sceptical towards the institutions that would deliver it, and doubts whether their endorsement carries the weight one might assume.

This scepticism is not unique to Baugh. There is a broader current of suspicion towards multilateral institutions, and it is not confined to micro-nationalists. However, whether this current of opinion has anything to do with the modest growth of the micronational community remains difficult to establish.

Scale and Growth

Any honest answer to the question of how many micronations exist must begin with the acknowledgement that nobody knows. The category is, as previously established, loose and flexible, the entities are mostly self-defining, and many disappear within months of being declared. The most reliable academic figure comes from Hobbs and Williams, whose 2022 study estimates roughly 130 micronations worldwide, with around one third concentrated in Australia.⁶⁷ This should not be viewed as a precise count, but it is useful to establish an order of magnitude.

The clearer signal of growth comes from MicroCon, the biennial summit founded by Baugh himself in 2015, which is the closest thing the field has to a consistent time series. The inaugural event in Anaheim drew 36 participants representing 17 delegations.⁶⁸ The 2017 edition in Tucker, Georgia, reportedly attracted over 70 delegates from 26 micronations. The 2019 event in Hamilton, Ontario, brought 113 attendees from more than 40 nations. The 2023 summit in Joliet, Illinois, drew 110 delegates from 42 micronations, alongside a parallel European event in Ypres with 68 attendees from 25 micronations. The most recent edition, held in Montreal in June 2025, reportedly hosted 125 delegates representing 47 micronations.⁶⁹ Across a decade, the number of micronations represented at MicroCon has nearly tripled. Importantly, it is worth noting that these numbers are self-reported by the micronational community.

Additionally, it is crucial to acknowledge two caveats. First, growth in event attendance is not the same as growth in the global count of serious territorial micronations. The International

⁶⁷ Hobbs and Williams (n 1) 173, 220.

⁶⁸ Republic of Molossia, 'MicroCon 2015 - The Biennial Micronation Meeting' (molossia.org, 11 April 2015) <<https://www.molossia.org/microcon/microcon2015.html>> accessed 16th May 2026.

⁶⁹ MicroCon' (*Encyclopedia Westarctica*, last edited 26 November 2025) <https://www.westarctica.wiki/index.php?title=MicroCon> accessed 16th May 2026.

Micropatrological Society documented 128 micronations by 1976, which is essentially the same order of magnitude as the Hobbs and Williams figure half a century later.⁷⁰ Second, much of the visible expansion since the late 1990s has been driven by the internet, which has made it possible for anyone to build a website and call themselves a country without much difficulty. A large amount of what is counted today is hobbyist activity that did not have a clear analogue in earlier decades. The growth is real, but it is a growth in participation more than in serious sovereignty projects. Most of the expansion has come at the lower-effort end, where building a presence online or on paper is easy. As Baugh himself observed in the interview, territory is the one criterion that remains genuinely difficult to acquire.

What the Phenomenon Suggests, If Anything

David Furnues, in his work for the United Nations University on non-territorial sovereignties, situates the rise of micronations within a wider transformation of the post-Westphalian order. The classical model, which took shape after the Treaty of Westphalia in 1648, encompassed three components: a population, a territory, and a sovereign authority that exclusively exercised power over that territory and that population. Globalisation, Furnues argues, has gradually pulled these three apart. Multinational corporations now exercise real power over economic life across borders. International bodies like the European Union take over policy areas that used to belong to

national governments. At the same time, authority moves downward, with regions and local governments gaining powers that used to sit in capital cities.⁷¹

This notion is supported by the work of other scholars, who also engaged with similar ideas. John Ruggie described a slow “unbundling” of the bond between sovereignty, territoriality and the power of the state as one of the defining shifts of late modernity.⁷² His claim is that the way states are currently organised is only one historical arrangement among other possible ones, and it should not be assumed that it is permanent, or the only available option. Wendy Brown, in *Walled States, Waning Sovereignty*, frames the same shift as a “coming apart” of the nation-state-sovereignty triad, and reads the spread of border walls and fortified enclaves as a symptom of erosion rather than a sign of intact sovereignty.⁷³

Micronations, on this reading, are one small expression of a much wider phenomenon. Alongside autonomous regions, online communities and corporate enclaves, they can be seen as examples of authority breaking away from the territorial state of which they used to be part. If this account is right, they are a small and largely playful expression of the same underlying shift.

Aviezer Tucker and Gian Piero de Bellis have proposed a related concept, “panarchy,” which describes a political arrangement in which citizenship is voluntary and not based on geography. It is, as they put it, chosen “like a

⁷⁰Roy Bongartz, 'A World of Tiny Nations' New York Times (New York, 28 March 1976) <<https://www.nytimes.com/1976/03/28/archives/nations-off-the-beaten-track-a-world-of-tiny-nations.html>> accessed 17 May 2026.

⁷¹David Furnues, 'The Rise of Non-territorial Sovereignties and Micronations' (UNU-CRIS Working Paper W-2018/10, 2018) <<https://cris.unu.edu/rise->

[non-territorial-sovereignties-and-micronations](#)> accessed 10th May 2026, 3-9, 14-16.

⁷²John Gerard Ruggie, 'Territoriality and Beyond: Problematizing Modernity in International Relations' (1993) 47 *International Organization* 139, 148, 165.

⁷³Wendy Brown, *Walled States, Waning Sovereignty* (Zone Books 2010) 78-83.

religion.”⁷⁴ Whether or not panarchy ever becomes a serious political order, the same way of thinking about statehood and citizenship is already present. People who join Asgardia, a self-declared “space nation” with hundreds of thousands of registered citizens, or who pay for a Sealand title online, or who attend MicroCon, are participating in projects that do not align with the Westphalian idea of statehood. They are choosing their national or at least political identity the same way as any other voluntary affiliations.

However, these ideas are not sufficient to predict that the current conception of statehood is facing a crisis. On any sensible measure, the state system remains overwhelmingly dominant. However, this current of thought provides an intriguing explanation for why micronations, despite their marginal position, are less easy to dismiss than their public image suggests.

Conclusion - What This Says About Statehood

Asked what micronations as a phenomenon reveal about the nature of statehood, Baugh explained:

“I think micronations are a combination of personal sovereignty, imagination and creativity. Who hasn’t thought at one time or another, I wish I was a king or a president. Having a micronation can make that happen on a tiny scale.”

He notes that many micro-nationalists eventually move on to participate in the established political systems around them, sometimes as elected

officials, treating the micronation as a kind of training ground.

There is another important insight to draw from the issue. The Montevideo Convention is now over ninety years old. It was drafted at a moment when the principal concern of international lawyers in the Americas was the protection of small states against intervention by larger ones, and the four criteria were designed to function in that context specifically.⁷⁵ The focus was not on prevention of determined individuals to proclaim their own states, and the fact that the criteria in theory allow for it points to their own limitation, not necessarily to Molossia’s extraordinary ability to become a state in the full meaning of the word. The criteria does not identify what actually makes the international community treat an entity as a state, which turns out to be a more political question, and therefore a lot less straightforward.

Baugh’s use of international law frameworks works in the same manner. When he invokes the Montevideo Convention, he does it to point at a gap, not because he expects it will deliver Molossia recognition. In Furnues’s account, drawing on the wider literature, the rise of micronations is best understood as part of a broader transformation.⁷⁶ That way, Molossia and other micronations can be seen as a reminder that the categories used to describe statehood are not as stable or unambiguous as they would appear at first glance.

There is a broader political background worth acknowledging here, even if its exact effect is difficult to measure. Multilateral institutions have been under sustained public criticism in recent years, and trust in them varies across populations and regions. The same period has seen renewed interest in self-determination, regional autonomy, and various experiments in alternative

⁷⁴ Aviezer Tucker and Gian Piero de Bellis (eds), *Panarchy: Political Theories of Non-Territorial States* (Routledge 2015) 1.

⁷⁵ Mohamed S Helal, 'Intervention, Force & Coercion: A Historical Inquiry on the Evolution of the Prohibition on Intervention' (2025) 106 International Law Studies 1, 240.

⁷⁶ Furnues (n 16) 3, 22.

forms of political belonging. Whether the modest growth of the micronational community is a cause, a symptom, or simply running in parallel with these wider currents is not a question that is easily settled. What can be said is that the conversation about non-territorial and unconventional sovereignty has a noticeably larger audience than it did a decade ago, and that the people proclaiming their own nations and designing flags for small plots of land are also participating in it.

This does not imply that micro-nationalists are correctly diagnosing any particular issue. However, it does point to the conclusion that the phenomenon is worth taking somewhat more seriously than its public image suggests. A growing number of people are choosing, at varying levels of seriousness, to construct their own political reality. Towards the end of the interview, asked why anyone bothers to do this in the first place, Baugh put it as:

“The desire to be king of a small hill, but a king nevertheless.”

The ELSA Tilburg Legal Journal thanks Mr. Kevin Baugh for his time. This interview has been edited for length and clarity.

The Perplexity of Prisons

Opinion piece by Kahlila Mudarri-Spencer, winner of the 2026 Essay Competition with the prompt: “Punishment in modern criminal justice systems should prioritise rehabilitation over retribution.”

Abstract

In the discussion of prioritizing rehabilitation over retribution, the following essay outlines the current state of prison systems, doing a comparison of the United States and Norway’s approaches. Then, the paper discusses the merits of the Nordic model, pushing for rehabilitative prisons over punitive ones.

Introduction

Growing up, my parents always taught me that violence was never the answer. They showed me peaceful role models, and taught me never to fight with my sisters. Sometimes as a kid, I didn’t listen to them, thwacking my sister on the arm when I was annoyed by something she was doing. Over time however, I learned that the ‘thwack’ didn’t convince her to stop the behavior, it just caused her to resent me. There was always a reason why she was participating in her behavior, and my response taught her to try and avoid me, rather than change what she was doing. This idea should be observed by modern governments, showing that punishment for the purpose of retribution is not a viable prevention method.

In one sense, states have learned that payback is not the answer. Following WWII, states made the transition from war to judicial action, fostering a global understanding that violence is no longer a reasonable option when it comes to dispute settlement.⁷⁷ Although this idea is not always followed, violent militaristic behavior is globally frowned upon. Most states however, have failed to implement this doctrine of repair when it comes to the domestic level: more specifically, when it comes to prisons. In many countries, prisons aimed at retribution are a primary consequence for a criminal offense. This reliance on retributive imprisonment demonstrates a lack of civility in the criminal law sector. Imprisonment has become a very normalized consequence if someone is found liable for a criminal act.

Retributive prisons are primarily intended to punish criminal actors so that they will not reoffend. However, this type of prison has been proven to be ineffective in preventing crime. In fact, punitive imprisonment makes formerly incarcerated people more likely to reoffend than people who had never been to prison. To further explore this issue, it is important to discuss the current state of prison and its consequences, the reasons why prisons developed the way they did, and what actually works to prevent crime.

Prison and Its Consequences

What prisons look like depends heavily on which country is being discussed. The United States is a good starting point for the discussion, since it has consistently had one of the highest incarceration rates in the world since the 1970s/80s following President Nixon’s War On Drugs campaign.⁷⁸ Today, there are 335

⁷⁷ Ville Kari, ‘The Abolition of War’ (Lecture as a part of the History of International Law course, Tilburg University 2026)

⁷⁸ US Bureau of Justice Statistics, Reports on Correctional Populations in the United States (NCJ249513 2014) <https://bjs.ojp.gov/content/pub/pdf/cpus14.pdf>; US Bureau of Justice Statistics, Historical Corrections Statistics in the United States 1850-1984 (NCJ102529 1986) <https://bjs.ojp.gov/content/pub/pdf/hcsus5084.pdf>

people in prison for every 100,000 residents.⁷⁹ Rehabilitation and retribution are often cited as the primary motivations for sending people to prison. Despite these insanely high numbers, there is no evidence that going to prison in the US reduces recidivism. In fact, former inmates are more likely to reoffend after release.⁸⁰ Alternatively, Nordic countries like Norway and Finland, have a much different approach. In the Nordic region, people are much less likely to go to prison for traditionally criminal acts.⁸¹ Norwegian prisons are intended to rehabilitate those who have been found guilty of criminal acts. The practices are much more sympathetic to the circumstances of inmates, and they try to help inmates reform themselves to return to normal society. The understanding is that the punishment is the revocation of freedom, and does not need to include any additional consequences. This approach has had a much different effect, with a recidivism rate of 18% (2018), much lower than other regions.⁸² The difference between the Nordic and the American approaches lead to huge differences in crime reduction, a trend often seen in criminal data.

Knowing the statistics begs the question: if retributive prisons don't work, why do they still exist? Primarily, the answer lies in racism, and profit. To begin, prisons disproportionately affect people of color.⁸³ As previously mentioned, the "War on Drugs" movement that was started by US President Nixon in the 1970s had a huge impact on US and global drug policy, pushing criminalization and higher penalties for drug offences. These policies, famously rooted in racist ideas, were aimed at imprisoning people of color.

Over-criminalization remains as a tool of oppression, perpetuated by prejudice, as seen in the historical roots of crimes like loitering and jaywalking.

To make matters worse, in the United States, prisons remain a large component of private industry, raking in four billion dollars per year.⁸⁴ Not only are prisons an industry by themselves, but in the US slave labor is legal if someone has been convicted of a crime.⁸⁵ Incarcerated people are then used when the prison contracts with outside corporations, such as Victoria's Secret or McDonalds.⁸⁶ This motivates policy makers and prison owners to keep business booming, regardless of the humanitarian consequences.

What Works?

The success of Nordic prisons was briefly discussed, but what specifically makes them successful? I will continue to use the example of Norway, but of course there are other countries who take similar stances.

⁷⁹ US Bureau of Justice Statistics, Prisoners in 2022 Statistical Tables (NCJ 307149 2023) <https://bjs.ojp.gov/document/p22st.pdf>

⁸⁰ National Academies of Sciences, Engineering, and Medicine et al. 'Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety' Appendix A <https://www.ncbi.nlm.nih.gov/books/NBK566325/>. Provides important insights on the uncertain definition of recidivism within statistics

⁸¹ Norwegian Human Rights Institution (2022) <https://www.nhri.no/en/2023/drug-use-and-human-rights/>

⁸² Hoidal, A., & Hanssen, N. (2022). *The Norwegian Prison System: Halden Prison and Beyond* (1st ed Routledge) <https://doi-org.tilburguniversity.idm.oclc.org/10.4324/9781003195887>

⁸³ Ava DuVernay, '13th' <https://www.youtube.com/watch?v=krfcq5pF8u8>

⁸⁴ Clyde Haberman, 'For Private Prisons, Detaining Immigrants Is Big Business' *New York Times*, (1 October 2018) <https://web.archive.org/web/2021111204618/https://www.nytimes.com/2018/10/01/us/prisons-immigration-detention.html>

⁸⁵ 13th Amendment of the US Constitution.

⁸⁶ Emily Yahr, 'Yes, prisoners used to sew lingerie for Victoria's Secret — just like in "Orange is the New Black" Season 3' <https://www.washingtonpost.com/news/arts-and-entertainment/wp/2015/06/17/yes-prisoners-used-to-sew-lingerie-for-victorias-secret-just-like-in-orange-is-the-new-black-season-3/>; Mark Maxey, 'Corporations and governments collude in prison slavery racket' (7 February 2018) <https://www.peoplesworld.org/article/corporations-and-governments-collude-in-prison-slavery-racket/>

In recent years there has been a push for the decriminalization of recreational drug use, treating addiction as a healthcare issue rather than a criminal issue. This reduces the number of people who are going to prison over smaller offences, pushing them instead to seek medical help; which, actively solves the problem of addiction. Pushes towards decriminalization for issues better solved in other sectors of course leads to lower imprisonment rates, lessening the burden on the criminal justice infrastructure. In addition to decriminalization, the addition of social assistance programs heavily reduces crime.

Numerous studies have established the correlation between criminal activity and poverty, making it a huge contributing factor.⁸⁷

Conclusion

A book could be written about the different levels of ineffectiveness for punitive prisons around the world. Each country handles crime differently, and no solution is perfect. What we do know though, is that punitive prisons *are* ineffective. The happiest and safest nations have proven to the world what works: rehabilitation. Regardless, many countries lag behind, fueled by greed and centuries-old racist ideas. Today's punitive carceral systems are motivated by racism and profit. These systems neglect the supposed purpose of criminal consequences: the betterment of society and crime prevention. The ineffectiveness of these systems is something that researchers have proven over and over again for decades. Just because these ideas are veiled in the facade of "making the world safer" does not mean that they should be believed.

⁸⁷ Luke Fleming, 'The Relationship Between Poverty and Crime: A Cross Section Analysis' (EEB vol 2011) <https://digitalcommons.bryant.edu/cgi/viewcontent.cgi?article=1052&context=ceb#:~:text=Poverty%20and%20population%20density%20were,correlation%20between%20unemployment%20and%20crime>.