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Does European Union law need an a priori method?¹

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Summary

Generally speaking, an a priori can be described as a presupposition underpinning our legal constructs, with the characteristic of being little discussed. This article aims to question this state of affairs in the context of European Union law. To do so, it reconsiders the path that law could take to address the a priori about situations in movement, which are at the heart of European construction.

Résumé

D'une manière générale, un a priori peut être décrit comme un présupposé qui sous-tend nos constructions juridiques avec cette caractéristique d'être faiblement discuté. Cet article vise à questionner cet état des choses dans le contexte du droit de l'Union européenne. Pour ce faire, il reconsidère le chemin que pourrait parcourir le droit pour aborder les a priori à propos des situations en mouvement, qui sont au cœur de la construction européenne.

Union européenne – Libertés de circulation – A priori

European Union - Freedom of movement - A priori

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One ambition of addressing the notion of “a priori” is to engage in critical thinking and deconstruct/reconstruct central notions from various disciplines, in this case law.

Generally speaking, an a priori approach can be described as a presupposition underpinning our disciplinary constructs and one of whose characteristics is that it is the subject of little if any deliberation.

To put this differently, a priori approaches are the ordinary, vernacular (non-scientific) representations of the things (in the broadest sense) to which we apply our constructs. Then, when focusing our analysis on these constructs, we pay little if any attention to that earlier

¹ This article is based on the analyses presented on December 8, 2023 in the series of meetings organized by my colleague Vincent Réveillère on the theme of "Controversies over methods in EU law".

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approach which involved making explicit our conception, perception and ordinary understanding of the things we claim to work on through different branches of knowledge, in this case legal knowledge.

There are many ways to reflect on the relationship between “a priori” and the law. Here, we will try to identify two approaches.

Adopting what could be referred to as the technician’s approach, law can be seen primarily as an applied discipline built on a specific technical apparatus, equipped with its own vocabulary and methods of reasoning. If one wishes to be heard in the legal domain, one must be technically irreproachable, i.e. rigorous and respectful of the discipline’s canons. This technical point of view is so important that most legal scholars make it the alpha and omega of their knowledge. From this perspective, a priori approaches are not generally considered to exist. Legal scholars begin their analysis with the rule of law, only rarely reflecting on the existence of any ordinary conception, perception or understanding of the objects to which they apply their constructs.

The second is a theoretical approach. As in any discipline, in law we need abstract constructs to model legal practices. Indeed, the primary function of researchers is to abstract models from the real world and, where applicable, propose super models. From this theoretical perspective, it may be that legal scholars construct an a priori approach that cannot be deliberated or verified by legal techniques or practices. If we were to draw a parallel with theory in the world of science, this approach would be described as Kantian. It is clearly metaphysical and transcendental.

These two approaches may result in legal scholars adopting very different attitudes from one another. They may try to build a link between the a priori approach and the law. Or they may keep them separate and perhaps agree to study them in parallel with other disciplines. Finally, they may challenge the very existence or utility of the a priori approach in European law.

If we stick to an essentially theoretical approach and take up an endeavour of reconstruction, the most interesting avenue is without a doubt the search for a link between an a priori approach and the European law.

Two successive paths can be followed: one on the antecedents of movement and the other on its different modalities.

First theoretical path: working on the antecedents of movement

As we have just seen, the term “a priori” has a Kantian dimension. Without wishing to exclude this dimension in relation to movement, we need to adopt a broader perspective. And so the term “antecedent”, albeit not in common usage, is to be preferred.

Without claiming to be exhaustive, to begin with let’s try to formulate a few working hypotheses by drawing on established works.³

First, like HANS KELSEN⁴, we can try to postulate that in law there are certain fundamental hypothetical norms (*Gundnorm*), which are essentially absent from discussions and which legitimise other norms. Here, an antecedent takes the form of a postulate or theoretical a priori approach that consolidates the normative edifice which, to put it simply, is built on the

³ While the works cited below by H. KELSEN, S. ROMANO, A. REINACH and F. CARNELUTTI have exerted an influence, sometimes considerable, on contemporary legal thought, there are few instances where they are considered together. Nevertheless, there is one remarkable exception: N. BOBBIO (*Old Age and other essays* (Polity, 2001), p. 45 et seq.), who mentions the importance of his early legal reading.

⁴ H. KELSEN, *Reine Rechtslehre* (1934-1960). For an English version of the second edition: *Pure Theory of Law* (Lawbook Exchange, 2009).

validation of each norm in reference to another. But this means that to validate the highest – constitutional – norm, one must refer to another norm. This is where the fundamental a priori approach imagined by the renowned Austrian theorist comes into play.

Next, we can borrow from SANTI ROMANO⁵ and see any social organization as an antecedent that gives rise to a legal order (*ordinamento giuridico*). This author's major contribution was to introduce in law the notion of social order generally seen as an "antecedent" (he uses the term *antecedente* several times) of the law. This could of course be the social order of the State, but, rejecting any form of legal exclusivity, he agreed to open up this perspective to other types of social organization: international society, church, business, family, mafia, etc.

Finally, and perhaps this is a more audacious choice, we can draw on work better known in Germany and Italy than in France and which endeavoured to theorise an a priori, like ADOLF REINARCH⁶ in civil law and FRANCESCO CARNELUTTI⁷ in commercial law. The concepts of "possession, promise, claim and obligation", so dear to the former, and the iconic concept of "circulation" studied by the latter offer avenues that can contribute to a renewed approach to the antecedents of the law. We will return to their work later on.

All of these antecedent-based approaches have potential appeal as part of efforts to reconstruct the legal discourse on movement, notably in the context of European law. Without needing to establish a hierarchy or systematise these different approaches, it is nonetheless essential to question the existence of different types of antecedents in relation to situations in movement.

Second theoretical path: working on the modalities of movement

What is a modal approach?

It is clearly an extension of the approaches based on antecedents we have just seen.

Generally speaking, the modal approach is the study of the different modalities of the law.

One can conduct an *a posteriori* analysis of these modalities based on the statements of positive law, studying the way a legal rule uses a particular process to govern a given issue. This is what most legal analysts do.

Or one can opt for a more restrictive analysis limited to an antecedent understanding of these modalities. Before the intervention of positive law, what are the modalities of the thing in question that are likely to play a role in developing its legal regime?

Only the second approach is considered here. Insofar as we are trying to reconstruct the legal discourse on movement, we must position ourselves as far upstream as possible of the constructs of positive European law.

Legal theory offers two major resources for the modal approach: logic and phenomenology.

Modal logic is a formal logic in the mathematical sense used to verify the accuracy of a proposition by varying its modalities. This can be used to distinguish between a hypothesis for which a proposition is considered necessary from one in which it is merely considered possible.⁸

⁵ S. ROMANO, *L'ordinamento giuridico* (1918-1945). For an English version of the second edition: *The legal order* (Routledge, 2017).

⁶ A. REINACH, *Die apriorischen Grundlagen des bürgerlichen Rechts* (1913). For an English version: *The Apriori Foundations of the Civil Law* (De Gruyter, 2012).

⁷ F. CARNELUTTI, *Teoria giuridica della circolazione* (Cedam, 1933).

⁸ See for an introduction to this method, B. F. CHELLAS, *Modal Logic - An introduction* (Cambridge University Press, 1980).

This type of approach is difficult to access for a legal scholar not accustomed to handling axioms. The task is made all the more arduous by the fact that there is a great variety of modal logics depending on the essence of the modality being considered.

But it is nonetheless an appealing approach. It can be used to account for the possibility of a legal statement, which can be particularly useful as part of our endeavour to reconstruct the legal discourse on movement.

Another option in the modal approach is to rely on phenomenology.

The phenomenological a priori approach was developed in particular by ADOLF REINACH (whose work is cited above⁹), who studied under the father of phenomenology, EDMUND HUSSERL.

In his work, this author developed an ontological vision of the a priori approach. He addressed the essence of the realities of civil law, which he re-sketched based on four a priori concepts (possession, promise, claim and obligation), which do not depend directly on the statements of positive law. In a word, ADOLF REINARCH sought to offer a theoretical and immanent characterisation of a model of facts or phenomena typical of the intervention of civil law.

Often criticized for its ontological dimension, the analysis of ADOLF REINARCH is very suited to an analysis of modalities upstream of the law's intervention.

In terms of movement, we must try to retain the method while avoiding the essentialist pitfall that all too easily exposes an analysis to criticism.

1. The different antecedents of movement

What are the antecedent perceptions, understandings or conceptions of movement that can be developed here? Is it possible to establish a typology? To what extent do they borrow from disciplines other than the law? To what extent are they destined to be integrated into the constructs of the law?

Each of these questions potentially has many answers that can of course vary depending on the period or environment being considered. Without claiming to be exhaustive, five antecedents will be studied here with a reference to the European context.

The non-exhaustive choice of five different types

By definition, antecedents retain some of their secrecy. And so one cannot aim to unveil them completely, but it is worth trying to name them explicitly with a view to discussing them.

Here are the five we will be looking at:

- the magical antecedent of movement;
- the liberal antecedent of movement;
- the social antecedent of movement;
- the ontological antecedent of movement;
- and the fundamental antecedent of movement.

⁹ A. REINACH, *Die apriorischen Grundlagen des bürgerlichen Rechts*, op. cit.

These different antecedents are not necessarily compartmentalised. The examples chosen can sometimes fall under several different categories. Some examples are ever-present in the minds of legal scholars, while others are considered only of marginal importance.

The magical antecedent of movement

It is not unusual for the law to adopt a metaphorical discourse on movement.

The imaginary, in the broadest sense, i.e. everything that generally stems from the imagination (and not strictly speaking from images), holds an important place in the unconscious thinking of the law.¹⁰

This imagination can take the form of metaphors, used somewhat like magical thinking (in the non-pathological sense of the term!) to refer to exalted potentialities.

One encounters this type of metaphor in all areas of the law, including the law on movement.

Movement may be invoked in legal discourse in reference to salutary virtues, used to justify a particular orientation, sometimes deep-rooted, of legal analyses.

Metaphors can be used somewhat mechanically and repetitively by legal scholars without any real discussion. And when they are discussed, it is generally to identify their metaphorical – not strictly legal – nature.

In any case, metaphors are present and continue to occupy a position that could hardly be said to be marginal in legal constructs.

In the EU context, we can give the example of the emphatic discourse on “mobility” in different legal mechanisms to explain, for example, the creation of new spaces (internal market, freedom, security, justice) within the EU.

The liberal antecedent of movement

This antecedent plays an important part in the peripheral constructs outside the law. Movement, understood in its broadest sense, is presented as a truly liberal project with political, philosophical and economic dimensions.

This multifaceted liberal thinking has a very ancient dimension that has penetrated a considerable number of thought systems and has been passed down through very different epochs.

Understood in its economic – commercial – sense, movement is that which allows territories to link up and create new political and social spaces.

In legal terms, this extension beyond the territorial framework (national or local, for example) results in a kind of release from the public territorial order in place. It is a *laissez-faire* approach involving more or less free movement depending on the political, philosophical and economic inspiration underpinning the context in which the movement unfolds.

And so it would be difficult to argue that liberal thinking, as an antecedent, has not played a key role in the European legal constructs on movement.

¹⁰ See for example: S. STERN “The Legal Imagination in Historical Perspective”, in A. AMAYA, M. DEL MAR (eds.), *Virtue, Emotion, and Imagination in Law and Legal Reasoning* (Hart, 2020), 217; M. DOAT, G. DARCY (eds), *L’imaginaire en droit* (Bruylant, 2011).

Naturally, we may well question the ability of these approaches to endow circulation with real substance, real content, particularly in its legal dimension¹¹. But it is impossible to contest their existence as a priori.

The social antecedent of movement

Under this third example, the link is established between society in movement as an established fact and the law. This is the hypothesis that society in movement – meaning society as an agent of the movement it provokes and organizes – fabricates its own law.

There are several examples, but we will look at two key ones here.

The first is that of trading companies, of which it has been said that they could constitute their own legal order, producing legal rules (the term often used is *lex mercatoria*¹²). Of the different rules to have emerged from the practices of stakeholders, some are closely linked to movement. This is true for example of the modelling of contractual terms forged through the practice of the international sale of merchandise and international transport contracts. This modelling was codified in the 1930s by the International Chamber of Commerce (Paris) under the name “Incoterms”, and these have been regularly revised, with the latest change made in 2020.

The second case is that of the mafia. To engage in trafficking, different rules are put in place by organised crime networks, and these may lead to a specific legal order. These rules include the “road law”, which plays a key role in the smooth running of operations. It establishes the routes in the different territories, settling the question of any rights of way and resolving conflicts within a trafficking space where several routes coexist.¹³

In both of these very different situations, establishing a link between the social antecedent – the trading company or organised crime network, understood as agents of movement – and the normative constructs specific to the law is particularly relevant.

It's the same kind of work called for by the EU, which has forged, notably around European citizenship, an a priori, eminently social approach to a European society in motion.

The ontological antecedent of movement

Under this fourth approach, movement is considered as the legal essence of a certain number of objects of the law.

To appreciate this legal essence of movement, it is worth drawing on the theory developed by the Italian legal scholar FRANCESCO CARNELUTTI whose work is cited above.¹⁴

FRANCESCO CARNELUTTI was a prolific and renowned author (it is still common in Italy to say “not everyone can be a Carnelutti!”) who looked at questions of both legal theory and practice.

His *Teoria giuridica della circolazione* looked at debt securities, and in particular at the bearer instruments in circulation by endorsement back then. The point of departure for his analysis is none other than movement, or circulation, which the author describes as an economic notion that raises a certain number of legal questions. This implies it is an antecedent, although the

¹¹ For a critical questioning of the non-contribution of liberal thought to the construction of content on the freedom of movement: H. KOTEF, *Movement and the Ordering of Freedom - On Liberal Governances of Mobility* (Duke U. Press, 2015).

¹² For a recent overview, see O. TOTH, *Lex Mercatoria in Theory and Practice* (Oxford University Press, 2017).

¹³ On the road law defined by mafia orders, see D. VILLEGAS, *L'ordre juridique mafieux - Etude à partir du cas de l'organisation criminelle colombienne des années 1980 et 1990* (Daloz, 2018).

¹⁴ F. CARNELUTTI, *Teoria giuridica della circolazione*, op. cit.

author himself preferred the term presupposition (*presupposto*). Carnelutti goes on to offer a legal analysis of circulation in reference to three major subjects: contracts (section 1), appearance (section 2) and legal security (section 3). The core of his analysis is to be found in the section on appearance. He explains that there are different indices of circulation: the material handover of a security, its materialisation in document format, its communication and its publication. Considering the legal relevance (*rilevanza giuridica*) of these indices, the primary – and totally original – point of his analysis is the view that, for debt securities, the appearance of circulation is a way to circumvent the traditional split between consensual, literal and real contracts. It is the appearance of circulation that creates rights over the security, especially in cases where such rights cannot be established using other means (essentially consent or the legal tradition of materially handing over the security). In other words, a security's potentiality of circulation is the primary and essential presupposition for any transfer of ownership, in whatever form.

CARNELUTTI'S analysis is clearly antecedent and ontological. By identifying circulation as the primary legal hold over securities, he establishes an essential legal link between this antecedent of movement and the multiple legal processes for claiming such securities.

This type of analysis can be very useful in approaching EU law, which was originally built on the circulation of goods, persons, services and capital, a circulation that was very quickly extended by various mechanisms for recognizing typically legal objects, especially public acts (administrative decisions, judgments).

The fundamental antecedent of movement

The fifth approach adopts a perspective of movement as the foundation of a legal system.

The right to come and go as one pleases, free trade and the freedom to conduct business can be approached as antecedents with a fundamental dimension that contribute to the birth of liberal legal systems, State systems in particular. The presupposition of a national legal system can be built on the assertion of a certain number of fundamental freedoms, which may reflect a logic of free movement (including the dissemination of ideas, expressions and information, as well as the movement of persons and goods, etc.).

To illustrate how movement can be the foundation of the legal system, let's look at an example other than that of the liberal State: the quite remarkable experience of the European communities that went on to form the European Union. Looking at what used to be the EEC (European Economic Community) or the ECSC (European Coal and Steel Community), one notes that these new legal spaces were almost exclusively built on the freedom of movement. The arsenal of fundamental freedoms (such as that proclaimed in France in 1789) did not herald the construction of these different European communities; for that we had to wait until the 1970s, when the market-based Europe began to acquire the legal tools guaranteeing fundamental rights, which were only completed in 2000 with the European Union Charter of Fundamental Rights. And so it is essentially the economic freedom of movement that lies at the origin of the European communities.

This freedom constituted a fundamental antecedent of the construction of this new European legal system and has been extensively studied by European law specialists.

According to the neofunctionalist theories in force at the time, it was essential to open up economic borders between founding States to create forms of solidarity between them that

would feed a shared political project of ascending and descending integration: from member States towards the common structure and vice versa.¹⁵

The four freedoms of movement – persons, goods, services and capital – are clearly of fundamental value. This fundamental dimension of movement has been extensively studied by specialists of European law. And it has rattled quite a few non-specialists. One of the reasons for their incomprehension is clearly that the reach of the fundamental antecedent of movement has not always been understood. Too polarized and too different to the other models at work in domestic and international law, it was often underestimated in terms of its potential to transform the existing rules. Things have moved on, although at times there has been debatable over-emphasis on European movement, portrayed as a blessing.

At any rate, it is important to understand the fundamental antecedent of movement in all of its complexity and try to appreciate its full ontological reach.

2. The different modalities of movement

What are the modalities of movement that can drive legal constructs? Is it possible to establish a typology of these modalities? To what extent can we try to refresh the existing analyses?

Extending what we have already seen on the subject of antecedents, each of the questions addressed above potentially has multiple answers, which will of course vary depending on the period or environment concerned. Once again without wishing to be exhaustive, we will look at three main modalities which can be broken down into the movement of persons, data, capital, and waste in the context of EU law.

There are three antecedent modalities that merit our attention as we try to reconstruct the European law on movement:

- modality of movement in and of itself;
- transformative modality of movement;
- modality of movement as a space of flows.

Movement in and of itself

The first modal approach to movement is to distinguish between cases in which the law tackles situations in movement from a consequential perspective, i.e. looking at its causes and effects, or in and of itself, i.e. from end to end.

When the law adopts a consequential perspective of movement, it focuses on managing its causes and effects. This is what the vast majority of legal rules do, focusing solely on the cause (origin) of movement or its consequences (usually when it has already taken place). Under this approach, movement as a phenomenon includes a series of successive events which the law tackles partially or separately.

In terms of causes, the law looks at everything prior to the movement of the person or goods (*lato sensu*): securing an identity document granting the right to travel or the authorisation to leave one territory or enter another. The internal, international or European dimension of the travel, as well as the reason for it (professional, personal, involuntary or forced, etc.), play a very important role in identifying the rules that are applicable and those that apply in a fragmented manner to the movement in question, depending on the person or thing concerned.

¹⁵ For a presentation of the political and economic presuppositions of European integration, see in particular E. HAAS, *The Uniting of Europe: Political, Social and Economic Forces, 1950-1957* (Stanford University Press, 1958).

As for the effects, the law traditionally looks at whether or not the crossing of a border (*lato sensu*) between two territories by a person or thing (*idem*) changes the way it is to be dealt with legally, with all of the advantages and disadvantages that implies in terms of movement. The goal behind the movement may be to establish a legal scenario in the long term or, on the contrary, change it profoundly.

Under a whole other approach – seeing movement in and of itself –, the law endeavours to consider movement from end to end. In situations involving several territories and/or spaces, this means developing a truly comprehensive approach. Such a scenario is more demanding than the previous one. To understand a situation in movement in its entirety, one needs a legal construct of a level generally more elaborate than if addressing it from a consequential perspective.

Think of all the legal mechanisms that enable the end-to-end organization of the movement of a person or thing (in the broad sense) from one territory to another or within a shared space of movement. Such mechanisms can exist on all levels (local, national, international, regional or global). And as soon as they relate to situations across several different territories and/or areas, they are necessarily based on rules that have been coordinated and harmonised, perhaps even unified.

There is no shortage of illustrations of these two major categories of rules.

What counts is to be able to determine precisely whether the law is endeavouring to adopt an approach based on a consequential perspective or dealing with a situation in movement in and of itself.

This approach is particularly useful in the EU context.

The transformative effect of movement

This modality, generally speaking, is about the potential of movement to have a transformative effect on the legal nature of the thing moving.

When an object of the law – broadly speaking (person or thing) – is in a state of movement, is it possible to distinguish between two of the main modalities of movement, that which does not affect its legal nature and that which, on the contrary, transforms it?

The first approach is to consider that the object in question remains intangible in terms of its principal legal characteristics, whether or not it is in a state of movement.

The second is to advocate for the recognition of a transformative effect on the legal nature of the object in movement.

Both can of course be adopted depending on the object in question.

Although this transformative modality is not a criterion of distinction commonly used by legal scholars, it is worth exploring through three different avenues.

The first is to point out that certain legal regimes have been established specifically in relation to objects in a state of movement. This is true of transport regulations found at all levels (local, national, international, regional and global). It is also true of the rules governing the movement of persons (refugees or nomads), which are also underpinned by specific schemas. In these situations, we need to ask whether, in relation to the movement, there is a veritable antecedent that can justify approaches that potentially derogate from the generally applicable rules.

If such a modal antecedent does exist, then the analysis must be extended further to explore a second avenue. One can ask whether movement might be a factor of unification between legal rules. For example, the law has distinguished between different modes of transport (road,

maritime, railways, air, waterways) to develop several distinct legal regimes. If the modal antecedent of movement is placed at a very high level of legal construction, then one can test the hypothesis that there are rules common to all forms of movement.

The third avenue is to question the ways in which movement can have a transformative legal effect. If an object of the law sees its legal nature modified under the effect of movement, it implies that movement is an essential characteristic of that object. Let's return to the distinction, referred to several times already, between individual and mass movement. One can ask whether there is a different legal regime for these two types of movement. If so, that raises the question of whether movement has a transformative effect on an individual object which, while moving, combines with others thereby forming a new – mass – object.

This approach is particularly useful in the EU context.

Movement as a space of flows

To say that one modality of movement is to form a space of flows is to try and reunite space and time under a single antecedent approach.

Movement has an undeniable spatio-temporal dimension. In essence, persons and goods (*lato sensu*) move through time in territories and spaces.

And so it is interesting to try to reunite space and time as part of a single antecedent notion. This brings us to the term “space of flows”¹⁶.

Under this type of theoretical approach, movement is seen in unit terms rather than, as is traditionally the case, in the plural, by distinguishing between the different times and places of movement.

But this is not always possible. There are certain prerequisites for such a unit-based approach.

These may be of a phenomenological nature. The phenomenon of movement, its homogeneity and stability can allow us to observe the advent of new spaces of movement which the law can try to address as such. In this first scenario, it is fact, or reality, that creates the abstract model from which we will try to imagine the law's constructs. For example, it may be interesting to develop the notion of a border zone in order to think in legal terms what life might be like around the border in terms of units.

These prerequisites may also have an essentially logical dimension. Movement can be the product of a legal rule which, pushed to a certain degree of perfection, can create conditions of homogeneity and stability that are conducive to the advent of a new normative space. In this second scenario, it is the law that creates the model of realities to which it is intended to apply.

For example, Europe gave rise to spaces of movement: the internal market and its area of freedom, security and justice. Within these spaces, through a number of highly diversified rules, the law postulates the emergence of a legal space of movement. This is because there is no such thing as "a territory" of the EU, but rather "the territories of the Member States" of the EU (in particular, art. 343 TFEU), despite the Court of Justice's occasional slips of the tongue when referring to the "territory of the Union"¹⁷. There are several European areas "without internal borders" (in particular, art. 26.2 and protocol 19 of the TFEU).

¹⁶ For a conceptualization of the “space of flows” as opposed to the “space of places”, see the work of sociologist Z. BAUMAN, *Liquid Modernity* (Polity, 2000).

¹⁷ On this point, see the analysis of V. REVEILLERE, *Le juge et le travail des concepts juridiques - Le cas de la citoyenneté de l'Union européenne*, IUV, 2018, p. 445 et s.

These two approaches run up against a multitude of potential obstacles. The unit for a space of flows is not always a given.

Reality on the ground experiences upheavals, crises and fissures that can cause one to doubt the existence of a sufficiently homogenous and stable space.

The law also faces situations of crisis, extreme cases that can cause one to doubt its capacity to prescribe the emergence of a legal space.

A space of flows must not therefore be seen as a purely postulated and disembodied model. It is a modality that can serve as a matrix for legal constructs. And if these constructs become tangible in ordinary or more extraordinary situations, the space of flows can become a truly normative space.

As mentioned above, this approach is particularly useful in the EU context.

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In conclusion, it's important to understand that the a priori approach is not deliberately prescriptive: it doesn't prescribe one solution over another.

Rather, the a priori approach is reflexive: it allows us to distance ourselves from our object of study, in this case EU law, in an attempt to better understand how it works.