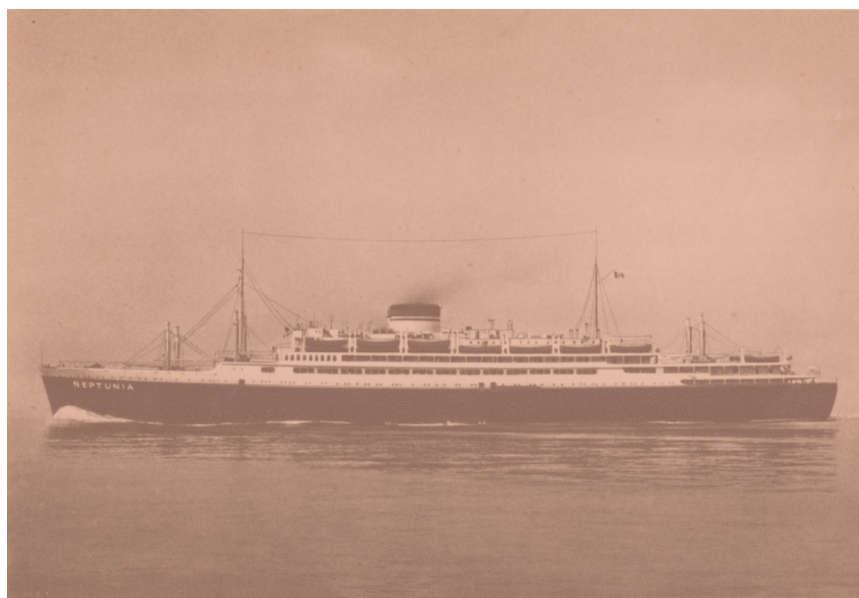


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IN MEMORIAM GIL CARLOS RODRÍGUEZ IGLESIAS, FORMER PRESIDENT OF THE EUROPEAN COURT OF JUSTICE. A BIOGRAPHICAL NOTE (1946-2019)

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The very sad death of Gil Carlos Rodríguez Iglesias on 17 January 2019 has prompted many tributes to his memory praising his unique and exceptional work as a jurist, celebrating his outstanding service as judge and President of the European Court of Justice, and saluting his European vocation².

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² See for example: “A tribute to Gil Carlos Rodríguez Iglesias”, Daniel SARMIENTO, in *Despite our Differences*, 17 January 2019; “Fallece el Profesor Gil Carlos Rodríguez Iglesias”, Federico GARAU, in *Conflictus Legum*, 17 January 2019; “Gil Carlos Rodríguez Iglesias: gran jurista, mejor persona”, José Ignacio PRENDES, in *Confitegal*, 19 January 2019; *Cambridge Centre for European Legal Studies*, 17 January 2019; “El jurista discreto”, Gustavo SUÁREZ PERTIERRA, in the *ABC*, 19 January 2019; “In Memoriam”, Francisco SOSA WAGNER, 19 January 2019, in the *Diario de León*; “La más alta y dilatada proyección de un español en el mundo”, Araceli MANGAS MARTIN, in *ElMundo*, 24 January 2019; “La virtud del jurista de Europa”, Pedro CRUZ VILLALÓN, in *El País* 29 January 2019; “Gil Carlos Rodríguez Iglesias. In Memoriam”, Diego J LIÑÁN NOGUERAS, in the *Diario La Ley*, No. 9358, European Union Section, 14 February 2019, and in *La Ley Unión Europea*, No. 67, 28 February 2019; “Un Maestro del Derecho Público europeo”, in *Agenda Pública*, 18 February 2019, and “En memoria de Gil Carlos Rodríguez Iglesias, un jurista eminente”, in *El Comercio*, 19 February 2019, both by Paz ANDRÉS SÁENZ DE SANTA MARÍA; “In Memoriam Gil Carlos Rodríguez Iglesias (1946-2019)”, Manuel LÓPEZ ESCUDERO, in the *Revista de Derecho Comunitario Europeo* No. 62 January-April 2019; “In Memoriam Gil Carlos

In this present memoriam, I shall remember both his career and the experiences I had the good fortune to benefit from while working first as his pupil and later as a *Référendaire* (Legal Adviser or Law Clerk) at the European Court of Justice alongside the man who was and always shall be my *Doktorvater*.

Oviedo-Freiburg-Madrid-Heidelberg-Granada – University

No sooner had Gil Carlos Rodríguez Iglesias finished his degree in Oviedo in 1968 than he evidenced his academic vocation. Appointed Assistant Professor of International Law at the University of Oviedo, he was rapidly recruited by his mentor, Joseph H. Kaiser, as *Wissenschaftlicher Assistent* [research assistant] at the Institute of Public Law at the University of Freiburg im Breisgau.

His two and a half years working as a university teacher in Germany had a lasting effect on his life, and in particular it forged his vocation for European law. As a child, he had studied in France and later attended a year of high school in Edinburgh, but his time in Germany, which began when he was 24, gave him an excellent knowledge of the language and a profound insight into German mentality and culture. He subsequently spent long periods of time at the Max Planck Institute for Public International Law and Comparative Law in Heidelberg, and later became a member of its *Curatorium* in 1990.

In Madrid, he worked first at the Autonomous University and then from 1974 at the Complutense University of Madrid with his mentor, Professor Díez de Velasco Vallejo, a committed pro-European with whom he founded the *Revista de Instituciones Europeas* [Journal of European Institutions] in 1974, the predecessor of the *Revista de Derecho Comunitario Europeo* [Journal of European Community Law].

After being appointed Professor of International Public Law at the University of Extremadura in 1982, he joined the University of Granada in 1983 where, together with my mentor, Professor Liñán Noguera, he established a school for jurists specialising in European law. In collaboration with the General Council of the Judiciary, they instituted the inimitable European Community Law Courses at Granada, and published the germinal

Rodríguez Iglesias”, Araceli MANGAS MARTIN, in the *Revista General de Derecho Europeo* No. 48 May 2019.

In addition, the Spanish Association of Professors of International Law and International Relations (Spanish initials: AEPDIRI) held a tribute *In Memoriam* at the Centre for Political and Constitutional Studies in Madrid, on the 30th of September, 2019.

collective text in Spain, *El Derecho comunitario europeo y su aplicación judicial* [European community law and its judicial application], examining the practical application of Community law by judges and lawyers³.

Luxembourg - the European Court of Justice

Gil Carlos Rodríguez Iglesias was appointed judge in 1985 and took up his duties in January 1986, an unquestionably historic moment in time for Spain, with its entry into the then European Communities (EC). It was also a very important —and extraordinary— time for Europe, as an astonishing period of rapid historical change kicked off at both international and European level. Coinciding roughly with his first term of office as judge, the period from 1985 until well into the 1990s witnessed a time of enormous progress and change in international relations and Europe, with the —then unforeseen— collapse of the USSR and the communist bloc, symbolised in 1989 by the fall of the Berlin wall.

Spain was no exception to these changes, as the country returned to its European identity under the banner “Spain in her rightful place”. Great mutual enthusiasm accompanied Spain’s entry into what was at the time the European Communities, with twelve Member States. This was a recognisable Europe undergoing a phase of expansion towards the achievement of the internal market governed by the Single European Act; a Europe where we all knew one another and everyone was glad to welcome the Spanish and see Spain regain her rightful place through membership of the European Communities. It was in this atmosphere and context —so different from that of today— that Professor Rodríguez Iglesias was appointed judge, representing a generation of Spanish lawyers who were giving their all at the time to modernise Spain, anchor the country firmly in Europe and turn the page on past events.

These were also important times for the EC and in particular for its Court, which so much smaller then that it could fit into the old *Palais de la Cour de Justice*. So it was that in 1986 our judge found himself surrounded by the best traditions in a world from another era⁴.

³ RODRÍGUEZ IGLESIAS G.C. – LIÑÁN NOGUERAS D. J. (Eds.) *El Derecho comunitario europeo y su aplicación judicial*, Consejo General del Poder Judicial, Civitas, Madrid, 1993.

⁴ It is worth mentioning here an anecdote recounted to me by Judge Rodríguez Iglesias: in a debate in 1986, Judge Giuseppe Bosco told him *I’ve held this position for a long time, since I published a book on the subject in 1932.*

In that first year I had the opportunity to visit Judge Rodríguez Iglesias and see first-hand the singular working model of the Judge's Office, with its *Référendaires* and Assistants. The truth is that his first Law Clerks were all heavyweights: a diplomat, Alfonso Dastis Quecedo (later Minister for Foreign Affairs); an academic, Ulrich Woelker, and a senior civil servant from the Spanish administration, Francisco Santaolalla Gadea (both later Directors in the Legal Service of the European Commission); and a magistrate, Dámaso Ruiz-Jarabo Colomer (later Advocate General at the Court of Justice). These formed a team of committed young lawyers, all specialising in European law—which was unusual at the time—in an excellent work atmosphere⁵.

In my case, I arrived in 1991 at another very important time—the Maastricht Treaty was being drafted—when the Court was presided over by Ole Due and the *Référendaires* in Rodríguez Iglesias's office were Miguel Bravo-Ferrer, Ángel Boixareu Carrera and Nieves Lacasta Muñoa, with Tania Hochstras-Sánchez as the principal Assistant. The Judge's Office always included professionals from a wide variety of backgrounds and nationalities, all of whom were jurists of exceptional intellectual calibre⁶.

In this select company, procedures for preparing cases and scrutinising deliberations and draft rulings involved working very closely with the judge and the other lawyers, including *référendaires* from other offices. This formed an invaluable professional legal experience; it was very competitive—papers or proposals from other offices were meticulously analysed—but healthily so and every day brought debate with brilliant minds and the heady feeling that every Legal Adviser has of participating to some extent in the ruling and learning about the work of some of the judges⁷.

⁵ The last two have already been the subject of books in homage; sadly, in the case of Dámaso Ruiz-Jarabo, after his death in Luxembourg in 2009.

⁶ I had the exceptional good fortune to work with Pierre-Manuel Louis, Jean Paul Kepenne, Elizabeth Willocks, Rafael Pellicer Zamora and Fernando Castillo de la Torre; other lawyers working in the Office of the Judge and President included Julio Baquero Cruz, Ramón Falcón Tella, Eric Gippini Fournier and Kurt Riechenberg; while the lawyers José Manuel Sobrino and Manuel López Escudero were also close colleagues. Other staff in the office included Titsa Panagiotopoulou, Carmen Elorza Grobe, Enriqueta Panadero Vallejo, Pilar Huerta Calvo, Ramón Fernández Conde and José Sánchez Alonso.

⁷ In particular, I have vivid memories of the legal prowess and lucidity of judges such as René Joliet, Federico Mancini, David Edward, Paul Kapteyn and Antonio La Pergola, to name only a few.

When Gil Carlos Rodríguez Iglesias was elected president in 1994, there was widespread approval of his appointment and then of his subsequent re-election. I believe that he played a particularly important role in this post because of his own personality. He shunned publicity and had no desire to appear in the European media; his acuity in legal matters and his characteristic reserve served him very well in his role as president at a time of great change for European integration. In this respect, I would like to mention something that always struck me about him both as judge and as president: his extraordinary common sense applied to judicial matters and to the functioning of the Court, accompanied by an exceptional intelligence that always detected the real problems from the outset.

I would also very much like to stress his ability to consider legal matters from the perspective of others; he had the capacity to inhabit the minds of the other judges and advocates general, to locate himself in their legal traditions, cultures and mindsets in order to understand the reasoning behind the debates and the legal arguments underpinning the judges' positions. This greatly facilitated the preparation and progress of deliberations.

To summarise his work as president, it will suffice to refer to the prologue of the book in his honour, written by the editors and members of the Court, N. Colneric, D. Edward, J.-P. Puissochet and D. Ruiz-Jarabo Colomer⁸:

When presiding at hearings here, he always impressed those present with his serenity and command of events. Journalists described him as an impressive personality. For sure, the most difficult task he had to carry out was presiding at the deliberations of the full Court, which soon after he was elected president increased from 12 to 15 members. Combining natural authority, perfect preparation, psychological sensitivity and remarkable self-control, he performed this function in a most admirable way.

Spanish is curious for distinguishing between two forms of the verb 'to be'; *ser* [a permanent state] and *estar* [a temporary state]; our President commented with irony that when applied to the Court and his particular case, people said of him that "he is [*es*, from *ser*, permanent state] a university professor and is [*está*, from *estar*, temporary state] at the Court of Justice". However, the truth is that he undertook his duty as judge with a sharp legal mind and extraordinary

⁸ *Une communauté de droit. Festschrift für Gil Carlos Rodríguez Iglesias*, Berlin, BWVBerliner Wissenschafts-Verlag, 2003.

judicial restraint in many cases where the agents and parties —not to say the doctrine— invited the Court to pronounce far beyond what was customary, especially in preliminary rulings. He always said that this was a court, not a university, so we ought to stick to the question and give a useful answer rather than creating a doctrine, which would be of great interest to professors in Member States, but of little help to judges or their jurisdictional functions.

I do not wish to limit myself here to his jurisdictional functions, because other important aspects are necessary to complete his picture. For example, I would like to highlight some of his major initiatives and as well as circumstances that occurred during his presidency that obliged him to take the bull by the horns.

Of particular note was the 1996 initiative to prepare an *Information Note on references from national courts for a preliminary ruling*. This was the President's initiative; he always said that drafting and agreeing on this Note had been far harder than any other deliberation on any other matter, because it had been necessary to reconcile many legal sensitivities, cultures and traditions in order to produce a concise Note that was both clear and useful for all Member State courts. That this initiative was extremely helpful is attested to by the fact that it has endured, with subsequent adaptations and modifications, to this day. This initiative reflected his concern about the length of preliminary ruling proceedings before the Court, which prompted him to make a supreme effort to significantly reduce the time taken to resolve the matters brought before the ECJ by national judges.

In addition, it halted the problem that could sometimes arise in Court of openly questioning fundamental rights before a *judge predetermined by law*. Here, the President anticipated a possible problem of conflict with the European Court of Human Rights, and therefore organised a system of internal pre-assignment so that it could be established which judges would hear the cases.

I would also like to highlight some circumstances that obliged the presidency to deal with unexpected problems, such as the case of *asbestos* in the *Palais* on the Kirschberg plateau. I believe that this latter was the most difficult problem that the Court's governing body had to face. When it was discovered that two workers had died because they had handled asbestos manually in the *Palais*, a collective panic ensued in the Court. The *Greffier*, Roger Grass, and the President addressed the matter with total transparency and consummate

efficacy. There is no question that it was a very serious problem because very many people had worked in the court for years or even decades, and feared they might have been affected. A management plan was agreed that included screening, analysis and immediate medical care for each and every person concerned, which defused much of the worry, and the problem was resolved by removing the asbestos in 2001 and transferring the Court of Justice to adjoining premises, with the construction of new Court buildings designed during his presidency by the architect Dominique Perrault.

Another issue that might appear absurd today, but which in its time was a major issue, was the arrival of the *Internet*. Strange as it may seem, the emergence and daily public use of the Internet constituted a serious difficulty: there were few experts and many obvious issues of security and transparency that had to be addressed in order to determine how it would affect the life and work of all involved, from the court judges and advocates general to the defendants and citizens in general. In this case, the President organised a series of working groups, interviews and reports that led to the decision to allow public access and create a new website in 1997; at the same time, it was decided that some of the Court's units and circuits should operate with *stand-alone* systems, as the lack of an Internet connection was considered the only way to safeguard against unwanted access to confidential dossiers and information on all cases before the Court.

I would also like to highlight the fear that the new members joining in 1995 —Austria, Finland and Sweden— would question *the use of French as the Court's sole internal working language*. In the end, it was not the new members who challenged this, but —ironically— a member of a State already in the EU. I recall that one of the issues that most concerned the President was how to ensure that the *acquis* and jurisprudence that had been in place for so many decades remained unaltered by this questioning. Furthermore, any alternative implied, among other things, that interpreters would have to attend deliberations and that all internal working notes would have to be translated into other languages. The President's position was that the use of a sole internal day-to-day working language —for historical reasons, French— was essential to ensure the Court's functionality and efficiency, irrespective of the fact that all the official languages of the EU were and remain languages of the

Court. In the end, French was maintained despite this express questioning by a member of the Institution.

As regards *External Relations*, it is worth noting his initiative of holding meetings with members of the United States Supreme Court, which began in 2000, and of the constitutional and high courts of Member States. I occasionally acted on behalf of the Court and the President, who was highly esteemed and whose position was welcomed by the other institutions. He also played an important role in driving the contributions made, for example, to the Reflection Group of the Intergovernmental Conference responsible for the Treaty of Amsterdam and subsequently the Treaty of Nice, and later to the Convention on the Future of Europe. These observations and reports were of particular importance because they comprised sage reflections and proposals for the better functioning of the Institution and its jurisdictional organs, and many of them were subsequently accepted and adopted.

His term as president has been described as especially difficult because of the increase in annual cases during those years⁹. His impressive capacity for work, with days that sometimes stretched from early morning until the lights in the corridors were switched off at night, was especially reflected in his intensive preparation for the deliberations, whether these were on judicial matters or any other type of question being aired, often in meetings with *référéndaires*. As an anecdote in this respect, I shall always remember his astounding ability, after discussing a matter in a meeting, to switch on the dictaphone—which he used a lot at the time—and dictate a *Projet de Motifs* in French without stopping, sometimes up to twelve pages in a row, because he already had the complete structure of the legal argument in his head. Such *projets* were usually then adopted by the chamber hearing the case.

He was re-elected twice more, serving three full terms, 1994-1997, 1997-2000 and 2000-2003, and throwing himself into the celebration of the Court's fiftieth anniversary in 2002¹⁰.

⁹ LENAERTS K., “La Unión Europea: Comunidad de derecho y actor internacional” *Revista de Derecho Comunitario Europeo* no. 53, January-April, 2016 pp. 11-18. Text of the opening speech at the Conference in Homage to Gil Carlos Rodríguez Iglesias, held on 8 April 2016 at the Centre for Political and Constitutional Studies in Madrid and published in the RDCE.

¹⁰ “The Court's 50th anniversary celebrations provided the opportunity to take stock of half a century of judicial activity, and to recognise how, by its judgments over the years, the Community judicature has brought to light the fundamental principles which were implicit

Return to Madrid – University and the Elcano Royal Institute

At the end of his third term as president in 2003, he considered that his work at the ECJ was done, and after almost eighteen years at the Court, nine of them as president, he decided to return to Spain and to teaching at university¹¹.

The Spanish University had been deeply transformed after the 1984 University Reform Law. Following a transfer application, Gil Carlos Rodríguez Iglesias returned in 2003 to the Complutense University in Madrid, and remained there until his retirement. While there, he occupied important academic posts, such as the *Jean Monnet* Chair in European Community Law obtained in 2004, or the directorship of the European Studies Department at the Ortega y Gasset University Research Institute. He also assumed the presidency of the Spanish Association for the Study of European Law (Spanish initials: AEDEUR), and of the *Fédération Internationale pour le Droit Européen* (FIDE).

In addition, he continued his work as editor of the *Revista de Derecho Comunitario Europeo* [Journal of European Community Law] together with Professor Araceli Mangas Martín. From 2004 until 2013 I assumed this position of Director of the Journal, and since that year the Director is Manuel López Escudero (Professor and Legal Adviser at the Court of Luxembourg with Dámaso Ruiz-Jarabo, and later with Manuel Campos Sánchez-Bordona).

Other important international functions he performed included participation on the Council of Europe: he was Chairman of the Expert Group set up by the Committee of Ministers of the Council of Europe to examine the question of the long-term effectiveness of the monitoring mechanism of the European Convention on Human Rights.

From 2005 to 2012, he was also director of the Elcano Royal Institute for International and Strategic Studies in Madrid, and he made a decisive

in the wording and the structure of the founding treaties and, by giving judicial expression to those principles, has defined the characteristic features of the Community legal order”, RODRIGUEZ IGLESIAS, G. C., Foreword to the *Annual Report 2002 of the Court of Justice of the European Union*, p. 3.

¹¹ “...giving a new lesson in how to turn the page on his brilliant personal career and without any hint of vanity, in 2003 he returned to Spain and to teaching, now at the Complutense University of Madrid”, LINÁN NOGUERAS D. J. , loc. cit.

contribution to consolidating its reputation as the best think-tank in Spain as regards analysis of international relations and Spanish foreign policy.

Despite the numerous posts of high responsibility and importance that he held during this period, there is, nevertheless, a general feeling—which I share—that Spain failed to make full use of Gil Carlos Rodríguez Iglesias’s exceptional talents, whether academically or in other prominent State, European or international functions, positions or institutions¹².

The Profile of a ‘European Jurist’

Gil Carlos Rodríguez Iglesias possessed enormous theoretical knowledge of core issues, which I believe influenced and was reflected in the case law. Of particular note in this regard was his knowledge of the relationship between high courts, constitutional courts and other international courts. I believe that defending the ‘constitutional’ position of the Court of Justice was crucial, and that here, his theoretical knowledge of the primacy, limits and counter-limits of Constitutions before European law helped to forge this approach, as did his vision of European legal integration, which was reflected in the case law of the Court of Justice. Suffice it to mention the jurisprudence on State responsibility, on internal procedural limits in the application of European law and on interim measures; this was also the era of cases before the ECJ on European citizenship, a case law which began and was developed during his presidency, in addition to matters such as the direct vertical and horizontal effect of directives.

These were questions that the Court discussed in great depth. The importance has also been stressed of his experience in international law for the case law of the Court of Justice¹³.

¹² “...there remains the well-founded suspicion that on his return from Luxembourg at the age of just 57, his country could have made more intelligent use of his exceptional abilities. Occasions were not lacking”, CRUZ VILLALON, P. *loc cit.*; “When President Rodríguez Iglesias returned to Spain in 2003, no Spanish political institution managed to put his legal experience and international reputation at the service of our country”, MANGAS MARTÍN A. in *In Memoriam cit.*

¹³ “Professor Rodríguez Iglesias has always maintained that Union law should not be closed in on itself, but should remain open to international public law. Its President’s internationalist vision was reflected in the Court of Justice’s case law”. LENAERTS K. “La Unión europea: comunidad de derecho y actor internacional”, *Revista de Derecho Comunitario Europeo cit.*, p. 15.

At the homage to Gil Carlos Rodríguez Iglesias held in Madrid in 2016, I believe that President Koen LENAERTS's speech accurately reflected his decisive influence on the Court's jurisprudence and his exemplary work as its President¹⁴, and in particular his work as Judge-Rapporteur in the cases *Francoovich*, *Brasserie du pêcheur*, *Factortame*, *Fedesa*, *Hoechst* and *TWD*¹⁵, in a career at the Court of Justice deemed 'spectacular'¹⁶. Another important achievement during his time as president was to ensure that the Court's case law was respected and consistent when ruling on new cases¹⁷.

In the field of research and academic contributions, I would also like to highlight briefly his main contributions to law and jurisprudence.

Dr. Rodríguez Iglesias authored several important works on international law concerning core subjects such as international responsibility of States or aliens and immigration law, and contributed to the prestigious *Max Planck Encyclopedia of Public International Law*. However, his research was largely focused on Community and European law, and much of his published work was devoted to the function of European law and its relationship with the national systems and constitutional and high courts of the Member States, in particular as regards judicial interpretation and application and the protection of human rights.

¹⁴ Published in the *Revista de Derecho Comunitario Europeo*, "La Unión europea: comunidad de derecho y actor internacional". *Ibidem*.

¹⁵ Judgment *Francoovich* and others, C6/90 and C9/90, EU:C:1991:428; Judgment *Brasserie du pêcheur* and *Factortame*, C46/93 and C48/93, EU:C:1996:79; Judgment *Fedesa* and others, C331/88, EU:C:1990:391; Judgment *Hoechst/Commission*, 46/87 and 227/88, EU:C:1989:337; Judgment *TWD Textilwerke Deggendorf*, C188/92, EU:C:1994:90.

¹⁶ "Professor Rodríguez Iglesias's career at the Court of Justice was spectacular. He served as Judge-Rapporteur on more than one hundred and fifty cases. Besides his outstanding contribution in quantitative terms, his towering intellectual and analytical capacity meant that he was entrusted with highly important and complex matters", LENAERTS K., *Revista de Derecho Comunitario Europeo cit.* p. 12.

¹⁷ "But above all, Professor Rodríguez Iglesias always bore in mind that the President's primary responsibility is to safeguard the case law of the Court of Justice. The case law of the Court of Justice is a living treasure, which must expand harmoniously and coherently so as not to fall into confusion; which must always be rooted in the deepest values shared by all Europeans; and which must, from time to time, be corrected so as to grow stronger", *Ibidem*, p. 17.

As noted by Professor Torsten STEIN¹⁸, Gil Carlos Rodríguez Iglesias possessed a holistic perspective or vision of European constitutional issues and the European legal system, endowed by his threefold expertise as an International, European and Constitutional Jurist.

I believe his principle contributions can be summed up as follows.

First, he contributed to systematising, understanding and categorising the European legal system as a Community based on the rule of law. Over the course of forty years, Dr. Rodríguez Iglesias authored works on the development of Community and European Union law, endowing his analyses with a unique perspective in Spanish doctrine. A true pioneer among scholars of European law in Spain, in the early 1970s he began to publish studies that constituted the first introduction to Community law in Spanish doctrine. Of particular note were his studies on the general characteristics and constituent elements of Community law and his chapters in the handbook of international organisations (*Las Organizaciones Internacionales*) published by his mentor, Professor Don Manuel Díez de Velasco Vallejo, which provided the first overview of the institutions, functions and characteristics of the law of the then European Communities. This book highlighted the unique nature of a differentiated system of international and national law. In a similar vein, he published studies on European Community sources for regulations, in particular the directives and the general principles of Community law; his contributions continually stressed the important role played in European law by the general principles of European law, which do not necessarily coincide with the general principles of all Member States or of international law.

His work formed an essential contribution to the gradual coalescence of a new legal system in which case law and doctrine played a major and necessary role for its consistency and coherence. In this respect, mention should be made of his doctrinal approach to categorisation of the Community's international treaties as the supreme and common rule of European integration, with a constitutional dimension specific to European

¹⁸ This was highlighted by Professor Torsten STEIN in his *Laudatio* for the *Honoris Causa* Doctorate awarded to Gil Carlos Rodríguez Iglesias by Saarland University in 1997: "Dem Völkerrechtler, Europarechtler und Verfassungsrechtler Rodriguez Iglesias ist hier eine ganzheitliche Betrachtung der europäischen Verfassungsfrage" gelungen, die sich wohltuend abhebt von literarischen Äußerungen, die nur einen oder allenfalls zwei dieser Aspekte zur Grundlage haben."

Community law. This categorisation was linked to his contributions on the gradual constitutionalisation of the European Union and the legal validity of considering the treaties establishing the Communities as a constitution for European Community law, progressively formed and legally perceived as a Community of law with rules intended for the Member States but also and at the same time for European citizens.

Second, he contributed to developing the relationship between European Community law and national laws, in particular Spanish law. Dr Rodríguez Iglesias stressed the importance of Community law as a common European law which, in order to achieve distinctive status through uniform legal application and practical day-to-day effectiveness in all Member States, needed to be articulated in a manner consistent with national legal systems. His contributions helped characterise the Community's legal system as separate to national laws but legally connected through a clause at constitutional level enabling participation and the transfer of powers to the European Community/European Union. This unique relationship between legal systems is based on the case law principles of primacy, direct effectiveness and State responsibility for non-compliance.

In particular, one of his main contributions to doctrine and case law was the construction of the principle of State liability for harm caused to individuals as a result of a breach of Community law, which forms a fundamental guiding principle for ensuring the effectiveness of the legal system for individuals in the face of a lack of protection caused by their own State's non-compliance. Dr Rodríguez Iglesias highlighted the similarities and differences of this principle with the nationally categorised responsibility of public powers; this principle is established as the ultimate guarantor of the rights recognised by Community law and a basic element of administrative structures in accordance with the requirements of the rule of law.

Also of note were his contributions on the legal contours of the principle of the primacy of Community law, in particular over national constitutional law, and the special nature of the determination by Community law—unlike international law—of the concrete effects on national law, principally the practical consequence of the non-application or displacement of national law contrary to European law, effected by a national judge. With regard to

Spanish law, he conducted an enlightening analysis of the problems of Spain's accession before it took place.

Third, he contributed to the European judicial system, the role of the European Court of Justice and its status as a European constitutional jurisdiction in dialogue with national high and constitutional courts. In his work, Dr Rodríguez Iglesias examined the original characteristics of European judicial power and the institutional position of the Court of Justice in Luxembourg, highlighting the originality and development of the European Community's judicial system, conceived of as a system supported both by a centralised judicial body in Luxembourg and by each and every one of the national judges and the national courts. He also stressed the validity of this 1950s design, which has not only withstood the test of time, but has also proved to be an essential factor in the progress of a legal system that needed judges to ensure its effective application. It is this special relationship with national judges that has enabled the Court to develop a practical interpretation of the treaties and the rules of secondary legislation and to shed light on principles that are essential to the coherence of a nascent and expanding legal system.

His extraordinary European experience in judicial application of the law and practical knowledge of the European Court of Justice led him to conduct research that interconnected the judicial function of the European Court of Justice, the fundamental features of Community law and the role of national judges confronted with the daily challenge of applying European law. Thus, he authored studies on procedure and remedies, and on subjects such as interim judicial protection in European law, the limits of the procedural autonomy of Member States in application of European law, and the original interpretation of the rules in Community law.

Of particular importance were his theoretical contributions on the role of the Court of Justice in Luxembourg as a constitutional court; by analogy to the remedies and competences of the Court provided for in the treaties, he identified the correspondence with material areas usually subject to constitutional jurisdictions from a comparative perspective (preservation of the basic principles of the law, protection of fundamental rights, resolution of positive and negative conflicts of competences, constitutionality of laws). Gil Carlos Rodríguez Iglesias devoted many publications in Spanish, English

and above all German to this line of work, demonstrating the supreme and constitutional nature of Court of Luxembourg jurisdiction as regards Community law.

Equally important were his contributions on the role of national constitutional and high courts in the application and interpretation of Community law, the subject of his constant intellectual and theoretical inquiry. Thus, Gil Carlos Rodríguez Iglesias conducted exhaustive comparisons of constitutional jurisprudence—in particular of Germany, Italy, France and Spain—to demonstrate that although conflict inevitably arose in relations between the Court of Justice and constitutional courts, since each was responsible for ensuring the supremacy of its legal system, these latter had demonstrated flexibility and responsiveness in their rulings to the legal positions of the others, in a dialogue between the jurisdictions participating in a common constitutional space.

Fourth, he conducted work on the protection of human rights in Europe, and the rights of European citizens in a Community based on the rule of law. These contributions highlighted how, in the absence until recently of a charter of fundamental rights in the European Community Treaty, the Luxembourg Court had articulated a praetorian construction establishing satisfactory parameters for the protection of fundamental rights. In particular, he analysed the essential interpretation of the general principles of Community law, which transferred the protection guaranteed by the European Convention on Human Rights to the EC/EU, with the interpretation of its court, the European Court of Human Rights. This is an area in which the national constitutional courts have experienced obstacles to the full deployment of the effectiveness of Community law, but where the interpretation of the Court of Justice has placated jurisdictional confrontation, thereby guaranteeing the protection of fundamental rights within the EC/EU in accordance with the supreme value recognised in the constitutions and international protection instruments. In his work, Gil Carlos Rodríguez Iglesias developed a solid theory on the protection of fundamental rights in Community law, thanks to his sustained and exhaustive examination of the parallel and related jurisprudence of the Court of Luxembourg, the constitutional courts and the European Court of Human Rights.

In sum, his contributions always paid particular attention to the judicial protection of the rights of European citizens, regardless of their nationality, which is the ultimate aim of the common rules of Community law.

Fifth and lastly, he contributed to European economic law, in particular through his studies on State monopolies in the European Economic Community and the process of adaptation that Spanish State monopolies and public enterprises were required to undergo following Spain's accession to the Communities. He also examined the practical application of the freedom of establishment and the provision of services and the essential role of the internal market in the construction of Europe. Through his contributions, he highlighted the role of the economy and the law, including through the courts, in European economic and monetary integration.

* * * * *

Professor Rodríguez Iglesias has been recognised as one of the most knowledgeable jurists in Europe as regards its legal and jurisdictional architecture and the legislative reality that interrelates the various legal systems and higher courts existing in European territory, each based on different legal foundations (treaties, constitutions, conventions). In short, he is acknowledged to have made a major contribution to the essential role of the law in the process of European integration, a rational construction that has required the driving force of legislation to gradually bring about unity among European citizens through a Community based on the rule of law and respect for fundamental rights. The book in homage compiled by his colleagues and friends summarises his unique profile and contribution in its title, “Una Comunidad de Derecho”¹⁹, highlights his legacy in the Court and compares him to the historic Judge Marshall of the United States²⁰.

¹⁹ *Une communauté de droit. Festschrift für Gil Carlos Rodríguez Iglesias, op.cit.*, written in the languages he spoke, Spanish, English, French and German.

²⁰ “The legacy is similar in many ways to that of Chief Justice Marshall, who served from 1801 to 1835 on the United States Supreme Court, during a pivotal time in American history. Both jurists contributed significantly to integration through the common rule of law”, O’CONNOR, Sandra D. “Towards a Common Rule of Law: A Legacy of Integration”, in *Une communauté de droit. Festschrift für Gil Carlos Rodríguez Iglesias op. cit.*, p. 17.

Gil Carlos Rodríguez Iglesias received numerous awards during his lifetime, including honorary doctorates in five countries (University of Turin, Italy; Babeş-Bolyai University, Romania; University of Saarland, Germany; St. Kliment Ohridski University of Sofia, Bulgaria; and the universities of Cádiz, Granada and Oviedo, Spain). Tributes were also held, in particular the one organised by the Centre for Political and Constitutional Studies and the Spanish Association for the Study of European Law (AEDEUR) in 2016²¹. In addition, he received numerous Spanish²² and foreign²³ honours and awards, including the prestigious *Walter Hallstein Prize* in 2003 for exceptional services to European integration.

As observed by Pedro CRUZ VILLALÓN, former President of the Spanish Constitutional Court and Advocate General at the Court of Justice of Luxembourg, “if there were such a thing as the title “European Jurist”, Gil Carlos Rodríguez Iglesias could lay better claim to it than most”.

Final Words

Gil Carlos Rodríguez Iglesias is recognised for his contributions to the advancement of law and jurisprudence in Spain and Europe²⁴, which defined the splendour of his personal and professional career, marked by the fact that he is the only Spaniard to have been president of the highest and most influential and decisive court in Europe.

²¹ Tribute to Gil Carlos Rodríguez Iglesias at the Centre for Political and Constitutional Studies in Madrid, held on 8 April 2016; <http://www.cepc.gob.es/actividades/agenda/2016/03/22/homenaje-a-gil-carlos-rodr%C3%ADguez-iglesias>. AEDEUR even has a section in memory of its former founder and President, see: <http://www.aedeur.es/index.php/actividades/gil-carlos-rodriguez-iglesias-in-memoriam>.

²² Commander of the Order of Isabel the Catholic, the Cross of the Order of St. Raymond of Peñafort, the Grand Cross of the Order of Civil Merit, the Grand Cross of the Order of Isabel the Catholic, the Grand Cross of the Civil Order of Alfonso X the Wise and the Grand Cross of the Order of St. Raymond of Peñafort.

²³ The Grand Cross of the Order of the Phoenix (Greece), the Grand Cross of the Order of the Star of Romania, Grand Officer of the Order of Merit of the Italian Republic, the Grand Cross of the Order of Merit of the Grand Duchy of Luxembourg, and Grand Officer of the National Order of Merit of the French Republic.

²⁴ “Nous lui serons à tout jamais reconnaissants pour sa contribution à la construction européenne”. Éloge *funèbre* à la *mémoire de M. Gil Carlos Rodríguez Iglesias*, speech given by Mr. Koen LENAERTS, President of the European Court of Justice, Luxembourg, 29 April 2019.

In saying goodbye to Gil Carlos Rodríguez Iglesias, I think we should remember two things.

The first of these is that Gil Carlos Rodríguez Iglesias's personal career developed in the context of Spain's European vocation. He belonged to a generation of Spanish lawyers who were deeply committed to democracy, change and modernisation in Spain. In honouring Gil Carlos Rodríguez Iglesias, we also pay homage to a European Spain and to the jurists who showed extraordinary dedication and personal and professional commitment as they strove with all their might to facilitate the legal aspect of our ties to Europe and our return and secure mooring to our clearest identity as a nation. With his dedication to the analysis of Community and European law and its relationship to Spanish law, Gil Carlos Rodríguez Iglesias represented like few others Spain's pro-European and jurists committed to the values of democracy, citizenship and fundamental rights, and made a formidable personal contribution to the present generation of jurists.

Second, on a personal level, Gil Carlos was appreciated, respected and loved by those who had the opportunity to know or work with him. He was always well-known for his humility and approachability; I would particularly like to highlight his warm and friendly manner towards his students, which he attributed to the example of his own mentor, Professor Manuel Díez de Velasco, and which I personally experienced with Professor Liñán Nogueras, as a characteristic of the 'Granada school'.

These features of his personality —gentlemanly manners, the ability to listen, polite and affable treatment, humility and lack of vanity— coexisted with his exceptional acuity, penetrating intelligence and impressive common sense.

He also showed immense professionalism, being extremely self-demanding and a perfectionist in everything he did. A man of staunch integrity, he was rigorous and honest with himself and radiated security and command of the situation.

It was precisely his straightforwardness, together with his conscientiousness and brilliance, that earned him profound respect from everyone, regardless of their legal culture or nationality²⁵. His ability to communicate in French,

²⁵ This has also been remarked upon by Manuel LÓPEZ ESCUDERO, "He was an educated, measured and discreet man who at the same time showed a commendable will and determination and who effortlessly commanded respect due to the seriousness of his work

Spanish, English and German, and his cultural knowledge of the mentalities of the European peoples, served to enhance the esteem in which people held this genuine and dignified man²⁶.

His integrity was echoed in his wife, Teresa Díez Gutiérrez, and his daughters Bárbara and Elena, especially in the last years of the illness that mercilessly consumed him so prematurely.

In the end, his life is an example to us all of moral authority, coherence as a jurist and dignity in a pro-European vocation that he executed with distinction throughout his life.

As for me, having been fortunate enough to experience some of his greatness at first-hand, I wish to honour his memory with this tribute.

and his convictions. His relationship with his pupils and colleagues was cordial, but his authority was unquestionable”; and by Daniel SARMIENTO: “His style was modest and gentle, but he led the Court’s works with an iron fist still remembered to this day by many who shared their time at the Court with Gil Carlos”, both in *loc. cit.* Note 2.

²⁶ “A giant of European law, a force for good and reason so badly needed in these turbulent times. We will miss the man, the judge, the professor and the dignity that he exemplified”, Daniel SARMIENTO, in *loc. cit.*

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