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THE ENVIRONMENTAL ASSESSMENT

Constitutionalism And The Enlargement Of Europe

**Maria Grazia Rodomonte, Ludovica
Durst**



Constitutionalism And The Enlargement Of Europe:

Constitutionalism and the Enlargement of Europe Wojciech Sadurski, 2012-07-26 After the fall of Communism in Central and Eastern Europe CEE the newly democratized countries of this region joined two main pan European political and legal structures the Council of Europe and the European Union This book shows how the Eastward enlargement of these two structures fostered the constitutionalization both of the Council of Europe and of the EU Prompted by the enlargement of the Council of Europe and the admission of a number of countries which brought unique and often more substantial problems onto the Court s agenda the main judicial body of the Council of Europe the European Court of Human Rights became a quasi constitutional court of Europe This book demonstrates that this was primarily as a result of the widening of its agenda and the resulting need to make activist decisions about the compatibility of national laws with the European Convention In terms of the EU the book shows that the enlargement first prospective and then actual has been an important agenda setter for the constitutionalization of the EU in particular for openly placing the issue of fundamental rights on the EU agenda as a legitimate and indispensable matter of concern for the EU But the constitutional synergies were a two way street the accession to both pan European structures has also affected the development of democratic constitutionalism in CEE states It has raised difficult issues regarding the relationships between national sovereignty democracy and human rights that CEE policy makers have grappled with these issues and responses by CEE member states have had implications for the old EU member states as well These dynamics are explored through various case studies providing a new perspective on the development of legal norms and institutions within European supranational bodies

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policy makers have grappled with these issues and responses by CEE member states have had implications for the old EU member states as well. These dynamics are explored through various case studies providing a new perspective on the development of legal norms and institutions within European supranational bodies.

European Constitutional Imaginaries Jan Komárek, 2023. What does it mean to say that the European Union has a constitution theoretically but more importantly practically? What sort of possibilities such assertion opens for various actors: politicians, legal professionals or the general public? And what is the role of constitutional thinkers in establishing constitutional discourse as the dominant way in which European law is or was conceived after 1989? This volume seeks to answer such questions with a special emphasis on the last one. European Constitutional Imaginaries are the central focus of the book. These are sets of ideas and beliefs that help to motivate and at the same time justify the practice of government and collective self-rule established by the constitution, written or unwritten. Such imaginaries are as important as institutions and office holders. They provide political action with an overarching sense and purpose recognized by those governed as legitimate. The book brings together reflections by lawyers, philosophers, sociologists or political economists who shed light on various constitutional imaginaries of Europe. They provide critical intellectual histories of particular legal approaches to European integration and look behind the language of law to reach deeper insights into the contested history and political economy of Europe. They ask us to think about European law differently.

Constitutional Crisis in the European Constitutional Area Armin von Bogdandy, Pál Sonnevend, 2015-03-26. The concept of a European Constitutional Area has been used in legal scholarship to describe a common space of constitutionalism where national and international constitutional guarantees interact to maintain the common constitutional values of Europe. This concept has not yet been tested in a case where the constitutional order of a Member State of the European Union seems to develop systemic deficiencies. The present volume aims to assess recent constitutional developments in Hungary and Romania as well as the interplay of national, international and European constitutionalism which react to the loopholes in national constitutions. Accordingly, a core part of the volume is an in-depth analysis of the situation in Hungary and Romania. Based on that, the volume offers an account of the different reaction mechanisms of the European Union and of the Council of Europe. Beyond a detailed stock-taking of these mechanisms, their legal and political frameworks are explored as well as different ways to extend their reach. In this way, the volume contributes to a little-studied aspect of European constitutionalism.

Europe's Second Constitution Markus W. Gehring, 2020-09-24. European constitutionalisation has met with scepticism; this book analyses the steps necessary to move to the EU's Second Constitution.

The European Neighbourhood Policy and the Democratic Values of the EU Nariné Ghazaryan, 2014-10-01. This book offers a legal analysis of the European Neighbourhood Policy (the ENP) as it applies to developing relations with the EU's neighbours. It explores the legal aspects of this policy, including ENP competence matters, institutional arrangements and substantive policy issues, using international relations theory as the starting point in defining

the EU's role as a political actor. The book focuses on the adequacy of the ENP legal framework for transposing the EU's democratic values and upholding its political image. In this connection, the book also features an analysis of EU democratic values as they are intended to be understood by its neighbours. The relevant legal framework of this policy and its implementation in the states of the South Caucasus (Georgia, Armenia, and Azerbaijan) is evaluated, revealing the effects of the ENP in their democratic processes and the shortfalls of the ENP conditionality.

Post-Soviet Constitutions and Challenges of Regional Integration Roman Petrov, Peter Van Elsuwege, 2017-11-22. This book explores the implications of European and Eurasian integration projects for the constitutional orders of post-Soviet countries. On the one hand, the process of Eurasian integration culminating in the establishment of the Eurasian Economic Union (EAEU) led to the creation of new institutions and mechanisms influencing the domestic legal order of the participating countries. On the other hand, the process of European integration epitomised through the European Union (EU) constitutes an important source of reference for domestic constitutional developments in the countries which recently concluded a new generation of Association Agreements with the EU. This book analyses the implications of both processes. The book addresses the relevant experience of the countries from Central and Eastern Europe with transitional constitutionalism, mapping out the significance of European and Eurasian integration for protecting the rule of law in the post-Soviet space and identifying the constitutional implications and challenges of the EAEU and the new generation of Association Agreements. It also provides detailed country reports on national constitutional orders in the post-Soviet space and their adaptability to regional integration projects, authored by leading academics from the countries concerned, providing a number of general reflections about the evolution of post-Soviet constitutions in light of European and Eurasian integration projects.

Law and Governance in an Enlarged European Union George A. Bermann, Katharina Pistor, 2004-11. This book's principal aim is to critically address the institutional and substantive legal issues resulting from European enlargement, chiefly those relating to the legal foundations on which the enlarged Union is being built. The accession of new Member States creates the potential for a stronger and more powerful Europe. Realising this potential, however, will depend on the ability of the EU to develop functional and effective governance structures both at the European level and at the level of the individual Member States. While the *acquis communautaire* will ensure that formal laws in the new Member States will be aligned with those of existing members, the question remains as to how effective institutions will be in implementing changes and what effects the imposed changes will have on the legitimacy of the new legal framework. This book, containing the work of leading scholars in law and social sciences, examines the current and future legal framework for EU governance and the role that new members will or will not play in the creation of that framework, paying particular attention to the specific challenges membership in the EU poses to the acceding states of Central and Eastern Europe. It is a book which will contribute to and influence debates over constitutionalism and legal harmonisation in the EU.

Central European Judges Under the European Influence Michal Bobek, 2015-11-19. The

onset of the 2004 EU enlargement witnessed a number of predictions being made about the approaches capacity and ability of Central European judges who were soon to join the Union Optimistic voices foreshadowing the deep transformative power that Europe was bound to exercise with respect to the judicial mentality and practice in the new Member States were intertwined with gloomy pictures of post Communist limited formalism and mechanical jurisprudence that could not be reformed which were likely to undermine the very foundations of mutual trust and recognition the judicial system of the Union is built upon Ten years later this volume revisits these predictions and critically assesses the evolution of Central European judicial mentality institutions and constitutionality under the influence of the EU membership Comparatively evaluating the situation in a number of Central European Member States in their socio legal contexts notably Poland the Czech Republic Slovakia Hungary Slovenia Bulgaria and Romania the volume offers unique insights into the process of non Europeanisation of national legal systems and cultures

Spreading Democracy and the Rule of Law? Wojciech Sadurski, Adam Czarnota, Martin Krygier, 2006-07-30 The accession of eight post communist countries of Central and Eastern Europe and also of Malta and Cyprus to the European Union in 2004 has been heralded as perhaps the most important development in the history of European integration so far While the impact of the enlargement on the constitutional structures and practices of the EU has already generated a rich scholarly literature the influence of the accession on constitutionalism democracy human rights and the rule of law among the new member states has been largely ignored This book fills this gap and addresses the question of the consequences of the external force of European enlargement upon the understanding and practice of democracy and the rule of law and among both the main legal political actors and the general public in the new member states A number of leading legal scholars sociologists and political scientists both from Central and Eastern Europe and from outside address these issues in a systematic and critical way Taken together these essays help answer a fundamental question does the European Union have the potential of promoting and consolidate democracy and human rights

Democracy, Federalism, the European Revolution, and Global Governance Andrea Bosco, 2020-06-10 The European Union is facing today the greatest crisis since its creation Brexit could mean not only the reversal of its steady enlargement from 6 to 28 member states but also the beginning of an inexorable decline leading to its disintegration However few today seem to recollect that it was precisely the British who were the first to promulgate the political culture which inspired the European Union s construction democracy and federalism and the first who tried to realise in June 1940 a European federation on the basis of an Anglo French union This volume traces the fundamental stages of the European unification process placing it in relation to the wider process of world economic and political integration In particular it analyses the historical significance of the European Revolution which is identified in the overcoming of the nation state namely the modern political formula which institutionalised the political division of mankind and the birth of the first truly international state The universal historical significance of the European Revolution lies in its exportability as for the other

great European revolutions and therefore its potential as progressively extensible to all the states of the planet Europe was indeed the first region of the world where the barriers between national states fell and a post national political identity emerged complementary to national political identities It is in fact in the context of the European Union that democracy beyond the borders of the nation state has first been realized constituting a guiding principle for global governance The Constitutional Theory of the Federation and the European Union Signe Rehling Larsen,2021 This book departs from the statist imagination by suggesting the EU is a federal union of states or a federation Dedicated to the constitutional theory of federalism this book gives the strengths and weaknesses of a federation as a political form its histories and current perils for the EU The Architecture of Fundamental Rights in the European Union Šejla Imamovic,2022-02-10 This book analyses the new architecture for the protection of fundamental rights in Europe after the entry into force of the Lisbon Treaty As a starting point it identifies how the EU has gained a prominent role in promoting and protecting fundamental rights at European level despite the absence of an unlimited mandate to address fundamental rights violations This new setting affects the traditional relationship between the EU the ECHR system and the Member States and in the absence of EU accession to the ECHR enhances the risk of tensions and conflicts between the case law of the two European Courts Examples of these tensions and conflicts are explored in the Area of Freedom Security and Justice which is one of the most fundamental rights sensitive areas of EU law and one of the busiest areas of activity for the CJEU The book offers new insights into existing rules on the resolution of conflicts between EU and ECHR law before mapping out techniques actually used by domestic courts to avoid or address such conflicts *Authoritarian Liberalism and the Transformation of Modern Europe* Michael A. Wilkinson,2021 Oxford Constitutional Theory has rapidly established itself as the primary point of reference for theoretical reflections on the growing interest in constitutions and constitutional law in domestic regional and global contexts The majority of the works published in the series are monographs that advance new understandings of their subject But the series aims to provide a forum for further innovation in the field by also including well conceived edited collections that bring a variety of perspectives and disciplinary approaches to bear on specific themes in constitutional thought and by publishing English translations of leading monographs in constitutional theory that have originally been written in languages other than English Book jacket **Reinforcing Rule of Law Oversight in the European Union** Carlos Closa,Dimitry Kochenov,2016-10-13 This book provides the definitive reference point on all the issues pertaining to dealing with the crisis of the rule of law in the European Union Both Member State and EU levels are considered Particular attention is paid to the analysis of the concrete legal bases and instruments that the EU may avail itself of for enforcing rule of law and the volume clearly demonstrates that a number of legally sound ways of rule of law oversight are available Contributors are leading scholars who assess the potential role to be played by the various bodies in the context of dealing with the EU s rule of law imperfections **International Approaches to Governing Ethnic Diversity** Jane Boulden,Will Kymlicka,2015 This book

charts new territory by mapping the range of international actors who affect the governance of ethnic diversity and exploring their often contradictory roles and impacts

Protection of Fundamental Rights in Europe Sonia Morano-Foadi, Stelios Andreadakis, 2020-05-14 This monograph offers a longitudinal analysis of the developments in the European fundamental rights arena during the last decade. Decisions of critical importance on the future of the EU need to be taken by the EU institutions and the Member States governments. The existential crisis affecting Europe is essentially a crisis of values revealing a lack of shared vision. Based on this premise, this monograph contributes to the debate on how to overcome the current impasse. By situating the analysis of the EU in the context of a wider Europe which includes the ECHR and its interpretation by the ECtHR, this work challenges the idea that the project of European integration should be abandoned. Instead, it proposes a re-orientation of this process conceptualised as a dynamic interaction of different actors, sources and laws on fundamental rights within the wider Europe. Following an evaluation of the current fundamental rights regimes, the monograph proposes a model of effective governance of fundamental rights in Europe based on the doctrines of dialogical constitutionalism and agency. This original and innovative contribution is enriched by findings from British Academy funded research on the European architecture of fundamental rights post Lisbon Treaty.

Judicial Review, Fundamental Rights and Rule of Law Maria Grazia Rodomonte, Ludovica Durst, 2025-02-21 This book explores the complex issue of building a common European identity and the factors that contribute to it, with special regard to the role played by the interaction between national Constitutional Courts and European Courts. There is no doubt that the Courts have been key actors in the progressive establishment of this identity over the years by defining elements of homogeneity and affirming or reaffirming essential values such as human dignity in respect of that pluralism which represents a distinctive feature of Europe. Nevertheless, this circular movement has not failed to reveal contradictions and concerns that are still unresolved over time. With contributions from authors from a range of backgrounds, this work delves into the theme with a variety of approaches and perspectives. It is structured in three main parts: the first exploring the historical roots of a common European heritage, emphasizing its role in shaping what is currently called the European way of life; the second part examines the lights and shadows of constructing the European identity through the instruments of multilevel and inter-court relationships by critically analysing the propulsive and homogenising tendencies coming in particular from the Court of Justice of the European Union; the third part considers the so-called dialogue between Courts by addressing some significant jurisprudential trends of supranational and national Courts and relevant cases in recent years, offering new insights into the model of multilevel protection of rights. Presenting a wide and comprehensive view of these topics, the book will be of interest to those working in the fields of Constitutional European and Comparative Public Law as well as Legal History and Sociology.

Rights Before Courts Wojciech Sadurski, 2014-05-26 This is a completely revised and updated second edition of *Rights Before Courts* 2005 paper edition 2008. This book carefully examines the most recent wave of the emergence and case law of

activist constitutional courts those that were set up after the fall of communism in Central and Eastern Europe In contrast to most other analysts and scholars the study does not take for granted that they are a force for good but rather subjects them to critical scrutiny against a background of wide ranging comparative and theoretical analysis of constitutional judicial review in the modern world The new edition takes in new case law and constitutional developments in the decade since the first edition including considering the recent disturbing disempowerment of the Hungarian Constitutional Court which previously was probably the most powerful constitutional court in the world resulting from the fundamental constitutional changes brought about by the Fidesz government

New Democracies in Crisis? Paul Blokker, 2013-09-05 This book considers whether the potential of democracy following the end of the Cold War was diminished by technocratic judicial control of politics in the new democracies of Central and Eastern Europe It explores the complexities and drawbacks of modern constitutionalism by offering a comprehensive theoretical and comparative empirical assessment of the status and role of constitutionalism in five new EU Member States The democratization of countries in Central and Eastern Europe has been guarded by constitutions and constitutional courts This book examines the implications of powerful courts and rigid constitutions for the democratic engagement of citizens and the political authority of politicians Using an interdisciplinary and comparative approach the book analyses the historical emergence of powerful constitutional institutions in the Czech Republic Hungary Poland Romania and Slovakia The author argues that the democratic promise of 1989 largely lost out to a technocratic and top down view of judicial control of politics a state of affairs reinforced by EU accession The current backlash in countries such as Hungary and Romania indicates that the realization of democratization to the extent initially expected might be ever more remote in some new democracies New Democracies in Crisis will be of interest to students and scholars of European Union politics democratization studies European constitutionalism socio legal studies governance and comparative politics

The book delves into Constitutionalism And The Enlargement Of Europe. Constitutionalism And The Enlargement Of Europe is an essential topic that needs to be grasped by everyone, ranging from students and scholars to the general public. The book will furnish comprehensive and in-depth insights into Constitutionalism And The Enlargement Of Europe, encompassing both the fundamentals and more intricate discussions.

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