



EUROPEAN AND NATIONAL CONSTITUTIONAL LAW SERIES

# Constitutional Review in Europe

A Comparative Analysis

MAARTJE DE VISSER

# Constitutional Review Europe Comparative Analysis

**Maartje de Visser**



## **Constitutional Review Europe Comparative Analysis:**

*Constitutional Review in Europe* Maartje de Visser, 2013-11-22 Constitutions serve to delineate state powers and enshrine basic rights. Such matters are hardly uncontroversial but perhaps even more controversial are the questions of who should uphold the Constitution and how constitutional review is organised. These two questions are the subject of this book by Maartje de Visser which offers a comprehensive comparative analysis of how 11 representative European countries answer these questions as well as a critical appraisal of the EU legal order in light of these national experiences. Where possible the book endeavours to identify Europe's common and diverse constitutional traditions of constitutional review. The *raison d'être* jurisdiction and composition of constitutional courts are explored and so too are core features of the constitutional adjudicatory process. Yet this book also deliberately draws attention to the role of non-judicial actors in upholding the Constitution as well as the complex interplay amongst constitutional courts and other actors at the national and European level. The Member States featured are Belgium, the Czech Republic, Finland, France, Germany, Italy, Hungary, the Netherlands, Spain, Poland and the United Kingdom. This book is intended for practitioners, academics and students with an interest in European constitutional law.

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Constitutional Review in Western Europe Kálmán Pócsa, 2024-04-16 Recent confrontations between constitutional courts and parliamentary majorities in several European countries have attracted international interest in the relationship between the judiciary and the legislature. Some political actors have argued that courts have assumed too much power and politics has been extremely judicialized. Yet the extent to which this aggregation of power may have constrained the dominant political actors' room for manoeuvre has never been examined accurately and systematically. This volume fills this gap in the literature. To explore the diversity and measure the strength of judicial decisions the authors have elaborated a new methodology that is intended to give a more nuanced picture.

of the practice of constitutional adjudication in Europe The work opens with an assessment of the existing literature on empirical analysis of judicial decisions with a special focus on Western Europe and a short summary of the methodology of the project This is followed by 11 country studies and a concluding chapter providing a comprehensive comparative analysis of the results A further ten countries are explored in the counterpart volume to this book *Constitutional Review in Central and Eastern Europe Judicial Legislative Relations in Comparative Perspective* The collection will be an invaluable resource for those working in the areas of empirical legal research and comparative constitutional law as well as political scientists interested in judicial politics *The Oxford Handbook of Public Choice, Volume 2* Roger D. Congleton, Bernard N.

Grofman, Stefan Voigt, 2018-12-14 The Oxford Handbook of Public Choice provides a comprehensive overview of the research in economics political science law and sociology that has generated considerable insight into the politics of democratic and authoritarian systems as well as the influence of different institutional frameworks on incentives and outcomes The result is an improved understanding of public policy public finance industrial organization and macroeconomics as the combination of political and economic analysis shed light on how various interests compete both within a given rules of the games and at times to change the rules These volumes include analytical surveys syntheses and general overviews of the many subfields of public choice focusing on interesting important and at times contentious issues Throughout the focus is on enhancing understanding how political and economic systems act and interact and how they might be improved Both volumes combine methodological analysis with substantive overviews of key topics This second volume examines constitutional political economy and also various applications including public policy international relations and the study of history as well as methodological and measurement issues Throughout both volumes important analytical concepts and tools are discussed including their application to substantive topics Readers will gain increased understanding of rational choice and its implications for collective action various explanations of voting including economic and expressive the role of taxation and finance in government dynamics how trust and persuasion influence political outcomes and how revolution coups and authoritarianism can be explained by the same set of analytical tools as enhance understanding of the various forms of democracy

**The Constitution of Italy** Marta Cartabia, Nicola Lupo, 2022-02-10 This book introduces the reader to the Italian Constitution which entered into force on 1 January 1948 and examines whether it has successfully managed the political and legal challenges that have occurred since its inception and fulfilled the three main functions of a Constitution maintaining a community protecting the fundamental rights of citizens and ensuring the separation of powers *National Courts and the Application of EU Law* Monika Domańska, Dawid Miąsik, Monika Szwarc, 2023-09-01 This book presents the case law of Polish courts namely the Supreme Court administrative courts and the Constitutional Tribunal in which the principles of EU law have been successfully applied It discusses how Polish courts apply principles of consistent interpretation primacy and direct effect of EU law in their daily adjudicating practice in order to ensure effet utile of EU law

resulting in effective protection of individuals rights derived from the EU legal order The book explores the legal nature of these principles and in particular the requirement that national rules that are found to be incompatible with legally binding and enforceable EU law should be disapplied by the domestic courts It explains Polish courts reasoning concerning the inseparable relationship between the principle of primacy of EU law and the remedy of disapplication of national law As the guidelines provided for the national courts by the Court of Justice of the European Union are often quite vague the work will be important and useful for academics and practitioners from different European jurisdictions to observe the manner in which these principles of EU law are applied in jurisdictions other than their own The Open Access version of this book available at <http://www.taylorfrancis.com> has been made available under a Creative Commons Attribution CC BY 4.0 license

**Peace, Discontent and Constitutional Law** Martin Belov, 2021-05-24 This book offers a multi discursive analysis of the constitutional foundations for peaceful coexistence the constitutional background for discontent and the impact of discontent and the consequences of conflict and revolution on the constitutional order of a democratic society which may lead to its implosion It explores the capacity of the constitutional order to serve as a reliable framework for peaceful co existence while allowing for reasonable and legitimate discontent It outlines the main factors contributing to rising pressure on constitutional order which may produce an implosion of constitutionalism and constitutional democracy as we have come to know it The collection presents a wide range of views on the ongoing implosion of the liberal democratic constitutional consensus which predetermined the constitutional axiology the institutional design the constitutional mythology and the functioning of the constitutional orders since the last decades of the 20th century The constitutional perspective is supplemented with perspectives from financial EU labour and social security law administrative law migration and religious law Liberal viewpoints encounter radical democratic and critical legal viewpoints The work thus allows for a plurality of viewpoints theoretical preferences and thematic discourses offering a pluralist scientific account of the key challenges to peaceful coexistence within the current constitutional framework The book provides a valuable resource for academics researchers and policymakers working in the areas of constitutional law and politics

**Three Generations of European Constitutional Courts in Transition to Democracy** Francesco Biagi, 2020-01-02 A comparative perspective of role played by three generations of European Constitutional Courts in the process of transition to democracy

**Proportionality in EU Digital Law** Jan Czarnocki, Przemyslaw Palka, 2024-10-03 This book addresses the interplay between the proportionality principle and EU digital law Does EU digital law provide a fair balance of rights and interests How does proportionality limit legislation in the digital economy How can it be used to balance competing rights and interests Diving into the dialectics of law and technology the book analyses the relevance of the proportionality principle in regulating the digital world and as a vital tool for balancing competing rights and interests The chapters analyse how conflicting rights and interests are resolved in EU digital law through the proportionality principle and critically reflect on its application They scrutinise recent EU

regulatory initiatives such as the GDPR AI Act Copyright Directive DSA and more They reflect on the unique context of AI systems regulation digital marketing and data protection illuminating the application and impact of proportionality in these arenas Providing an in depth examination of legal actors and real life conflicts resolved by applying EU digital law the book explains the pivotal role of the principle of proportionality in achieving an optimal balance of rights in our digital era

**Law's Rule** Gerald J. Postema, 2022 The rule of law once widely embraced and emulated now faces serious threats to its viability To answer these fundamental threats we first must return to its foundational principles This book articulates a coherent framework and foundation for thinking about the rule of law and planning strategies for building and defending it against serious challenges to its intelligibility relevance and normative force Direct Effect in EU Law Daniele Gallo, 2024-12-23 Direct Effect in EU Law is the first book in English to thoroughly examine this revolutionary legal principle tracing direct effect s evolution throughout the multiform process of European integration A founding doctrine of EU constitutional law and the driving force of the EU legal system direct effect enables individuals and companies to invoke their rights before domestic authorities and the Court of Justice of the EU CJEU Yet while the doctrine of direct effect remains the backbone of the EU legal system it lacks clear legal framing by the CJEU Emphasizing the need for the CJEU to fully articulate and systematize direct effect as to its core components and consequences the book advocates for an innovative understanding of such principle that acknowledges its transformative impact on EU law It bridges theory and practice drawing upon the CJEU rulings dating from the 1950s up to 2024 The book reconstructs direct effect beyond the doctrine originating from Van Gend Loos and ultimately puts forward solutions for its principled comprehension and enforcement

**The Politics of the New Europe** Ian Budge, Kenneth Newton, 2014-01-21 A pioneering textbook which explains the dynamics of politics across Europe in the post Cold war era Comparing democratisation transition to a market economy and increasing economic and political integration in the countries of central and eastern Europe with experiences in Scandinavia and southern and western Europe the book provides a wealth of information and analysis on the state of Europe at the end of a momentous century of European and World history Article 47 of the EU Charter and Effective Judicial Protection, Volume 1 Matteo Bonelli, Mariolina Eliantonio, Giulia Gentile, 2022-12-15 This ambitious innovative project examines the principle of effective judicial protection in EU law over two volumes The principle of effective judicial protection is a cornerstone of the EU s judicial system and is re affirmed in Article 47 of the Charter of Fundamental Rights of the European Union Since the 1980s the Court of Justice has used the principle to shape EU and national procedural rules more recently the principle has acquired an even more central role in the EU constitutional structure In this first volume an expert team explores how the Court of Justice has interpreted the principle as expressed in particular by Article 47 of the Charter in selected policy areas and reflects on the impact of the principle on the EU s constitutional structure Addressing key questions such as legal certainty judicial independence and procedural autonomy this volume significantly adds to our

understanding of judicial protection within the multi level EU judicial architecture      **National Constitutions and EU Integration** Stefan Griller, Lina Papadopoulou, Roman Puff, 2022-08-25 Do individual constitutions and the legal cultures underlying them pose an obstacle to future EU integration This ambitious collection brings together reports from all the European Member States systematically setting out their individual constitutional guarantees In doing so it tracks possible roadblocks to the future evolution of European integration Written by recognised authorities in each Member State it offers an authoritative and rigorous overview of the European Union s constitutional landscape Its single structure approach allows for comparison while maintaining consistency It will become the standard reference work for academics students and practitioners in the field of European Union law and integration      **Standing to Enforce European Union Law before National Courts** Hilde K Ellingsen, 2021-03-25 Access to court has long been recognised as an essential element of a Union based on the rule of law This book asks how can Member States ensure that their rules on standing guarantee that right The book answers this question by analysing the requirements of EU law from two angles first the effective protection of Union rights second the effectiveness of Union law per se With detailed case law examination the book formulates an autonomous Union law doctrine of standing based on the principle of effective judicial protection It then goes further setting out an effectiveness test of Member States enforcement mechanisms to ensure that EU law is rendered operative in practice This is a rigorous study on a question of immense importance      Constitutionalism in Context David S. Law, 2022-02-09 With its emphasis on emerging and cutting edge debates in the study of comparative constitutional law and politics its suitability for both research and teaching use and its distinguished and diverse cast of contributors this handbook is a must have for scholars and instructors alike This versatile volume combines the depth and rigor of a scholarly reference work with features for teaching in law and social science courses Its interdisciplinary case study approach provides political and historical as well as legal context each modular chapter offers an overview of a topic and a jurisdiction followed by a case study that simultaneously contextualizes both Its forward looking and highly diverse selection of topics and jurisdictions fills gaps in the literature on the Global South as well as the West A timely section on challenges to liberal constitutional democracy addresses pressing concerns about democratic backsliding and illiberal and or authoritarian regimes      Finnish Yearbook of International Law, Volume 23, 2012-2013 Jarna Petman, 2016-01-28 The Finnish Yearbook of International Law aspires to honour and strengthen the Finnish tradition in international legal scholarship Open to contributions from all over the world and from all persuasions the Finnish Yearbook stands out as a forum for theoretically informed high quality publications on all aspects of public international law including the international relations law of the European Union The Finnish Yearbook publishes in depth articles and shorter notes commentaries on current developments book reviews and relevant overviews of Finland s state practice While firmly grounded in traditional legal scholarship it is open for new approaches to international law and for work of an interdisciplinary nature The Finnish Yearbook is published for the Finnish Society of International

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**Transformation of Civil Justice** Alan Uzelac, Cornelis Hendrik (Remco) van Rhee, 2018-09-03 National civil justice systems are deeply rooted in national legal cultures and traditions However in the past few decades they have been increasingly influenced by integration processes at the regional supra national and international level As a by product of the emergence of economic and political unions and globalisation processes there is pressure to harmonise or even unify the way in which national civil justice systems operate In an attempt to create a genuine area of justice new unified procedures are being developed which operate in parallel with national civil procedures and sometimes even strive to replace them As a reaction to the forces that endeavour to harmonise and unify procedural laws and practices an opposing trend is gaining momentum one that insists on diversity and pluralism of national civil procedures This book focuses on the evolution of procedural reforms in various jurisdictions and the ongoing transformation of national civil justice systems Redefining Comparative Constitutional Law, 2024-11-20 Over the past two decades the field of comparative constitutional law has emerged as a major domain of scholarly inquiry It has also been a notable feature in judicial practice Many of the world's leading courts are now composed of at least some members who engage with comparative materials and thinking comparatively has developed into one of the most significant ways of engaging in constitutional analyses Redefining Comparative Constitutional Law Essays for Mark Tushnet reflects upon the field of comparative constitutional law Among the most prominent figures in the development of the field in its ongoing renaissance has been Mark Tushnet This book uses the occasion of Professor Tushnet's recent retirement from Harvard Law School to think critically about the field Each essay takes up one of Professor Tushnet's major recent themes which focuses on variations within liberal constitutionalism and the possibility of other forms of constitutionalism that find articulation under other political regimes In this book leading scholars contribute to the debate over the nature of the field including the role of empiricism and language discussions of democracy and entrenchment analyses of rights and courts consideration of constitutional design and explorations of the extent to which there are varieties of constitutionalism At a moment of renewed stress and political debate over the relationship between democracy and constitutionalism Redefining Comparative Constitutional Law Essays for Mark Tushnet offers timely insights into comparative analyses of constitutional rights Academics and students alike will benefit from the essays that range across both methodological questions and substantive analysis in the development of constitutions throughout the globe **The Euro Crisis and Constitutional Pluralism** Tomi Tuominen, 2021-06-25 This insightful book assesses the theory of constitutional pluralism in light of the events of the Eurozone crisis of the past decade Based on an analysis of how national courts reviewed the crisis response mechanisms and participated in the European level political process Tomi Tuominen argues that constitutional pluralism is not a valid normative theory of European constitutionalism



Constitutional Review Europe Comparative Analysis: Bestsellers in 2023 The year 2023 has witnessed a remarkable surge in literary brilliance, with numerous captivating novels captivating the hearts of readers worldwide. Lets delve into the realm of popular books, exploring the fascinating narratives that have charmed audiences this year. The Must-Read : Colleen Hoover's "It Ends with Us" This heartfelt tale of love, loss, and resilience has captivated readers with its raw and emotional exploration of domestic abuse. Hoover skillfully weaves a story of hope and healing, reminding us that even in the darkest of times, the human spirit can succeed. Uncover the Best : Taylor Jenkins Reid's "The Seven Husbands of Evelyn Hugo" This intriguing historical fiction novel unravels the life of Evelyn Hugo, a Hollywood icon who defies expectations and societal norms to pursue her dreams. Reid's captivating storytelling and compelling characters transport readers to a bygone era, immersing them in a world of glamour, ambition, and self-discovery. Discover the Magic : Delia Owens' "Where the Crawdads Sing" This captivating coming-of-age story follows Kya Clark, a young woman who grows up alone in the marshes of North Carolina. Owens spins a tale of resilience, survival, and the transformative power of nature, entrancing readers with its evocative prose and mesmerizing setting. These top-selling novels represent just a fraction of the literary treasures that have emerged in 2023. Whether you seek tales of romance, adventure, or personal growth, the world of literature offers an abundance of compelling stories waiting to be discovered. The novel begins with Richard Papen, a bright but troubled young man, arriving at Hampden College. Richard is immediately drawn to the group of students who call themselves the Classics Club. The club is led by Henry Winter, a brilliant and charismatic young man. Henry is obsessed with Greek mythology and philosophy, and he quickly draws Richard into his world. The other members of the Classics Club are equally as fascinating. Bunny Corcoran is a wealthy and spoiled young man who is always looking for a good time. Charles Tavis is a quiet and reserved young man who is deeply in love with Henry. Camilla Macaulay is a beautiful and intelligent young woman who is drawn to the power and danger of the Classics Club. The students are all deeply in love with Morrow, and they are willing to do anything to please him. Morrow is a complex and mysterious figure, and he seems to be manipulating the students for his own purposes. As the students become more involved with Morrow, they begin to commit increasingly dangerous acts. The Secret History is a brilliant and suspenseful novel that will keep you speculating until the very end. The novel is a warning tale about the dangers of obsession and the power of evil.

<https://www.portal.goodeyes.com/results/Resources/Documents/Crystal%20Cove%20Cottages%20Islands%20In%20Time%20On%20The%20California%20Coast.pdf>

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