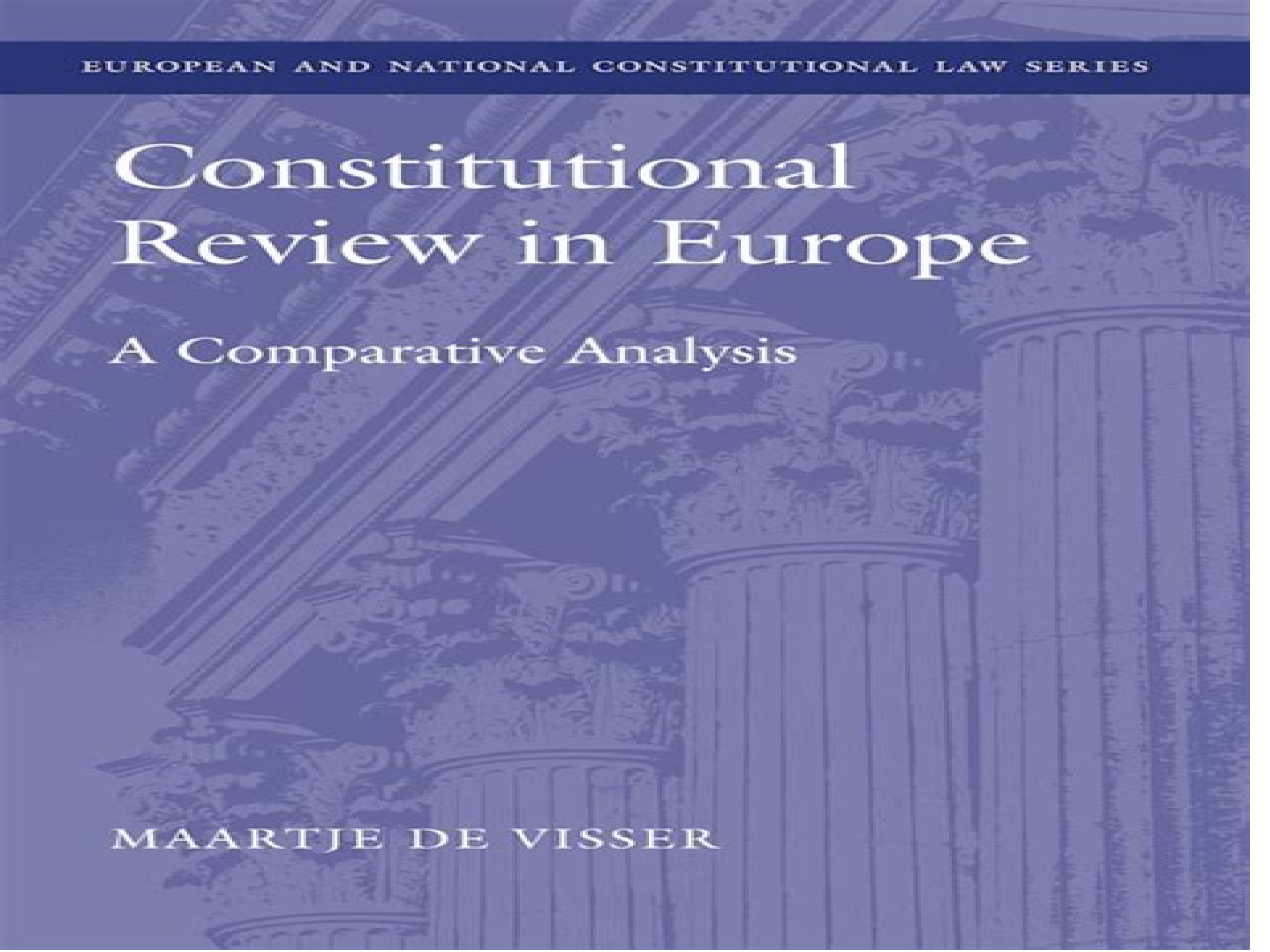




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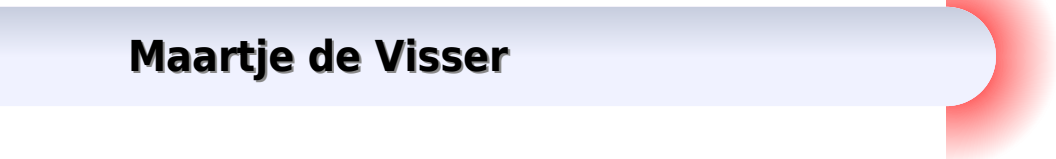
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A Comparative Analysis

MAARTJE DE VISSER

Constitutional Review Europe Comparative Analysis

Maartje de Visser



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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.

The Max Planck Handbooks in European Public Law Armin von Bogdandy, Huber Peter M., Christoph Grabenwarter, 2023-04-13 The Max Planck Handbooks in European Public Law series describes and analyzes the public law of the European legal space, an area that encompasses not only the law of the European Union but also the European Convention on Human Rights and importantly the domestic public laws of European states. Recognizing that the ongoing vertical and horizontal processes of European integration render legal comparison the task of our time for both scholars and practitioners, the project aims to foster a better understanding of the specific European legal pluralism and ultimately to contribute to the legitimacy and efficiency of European public law. The first volume of the series began this endeavour with an appraisal of the evolution of the state and its administration, offering both cross-cutting contributions and specific country reports. The third volume, the second in chronological terms, continues this approach with an in-depth appraisal of constitutional adjudication in various and diverse European countries. Fourteen country reports and two cross-cutting contributions investigate the antecedents, foundations, organization, procedure and specific approach to constitutional issues throughout the Continent. The fourth volume now compares European constitutional jurisdiction in the European legal space. It examines the structures of the organization, the appointment of judges, the procedures and the methods of argumentation and interpretation, their impact on state and society, their legitimacy as well as their role in the division of powers and thus completes the picture following the country reports in Volume III. This comparative perspective is supplemented by an examination that illustrates the relationship with the ECJ, the ECtHR and the Venice Commission as well as their constitutional function. Finally, Constitutional Adjudication: Common Themes and Challenges is devoted to the challenges constitutional jurisdiction in the European judicial area is currently facing. The historical, political and theoretical

foundations as well as the basic dogmatic features of constitutional jurisdiction are presented in such a way that the discussion about its role and further development in this legal space is sustainably stimulated

The Jurisprudence of Constitutional Conflict in the European Union Ana Bobić, 2022 A comparative and comprehensive account of the jurisprudence of constitutional conflict between the Court of Justice and national courts with the power of constitutional review This monograph addresses the incidences of and reasons for constitutional clashes in the application and enforcement of EU law It aims to determine how the principle of primacy of EU law works in reality and whether the jurisprudence of the courts under analysis supports this concept To this end the book explores the three areas of constitutional conflict ultra vires review identity review and fundamental rights review The book substantiates the descriptive and strengthens the normative contributions of the theory of constitutional pluralism in relation to the web of relations in the European judicial space By examining the influence that the jurisprudence of constitutional conflict has on the balance of powers between the Court of Justice and constitutional courts the volume develops the judicial triangle as an analytical tool that depicts the consequences for the horizontal constitutional courts vis vis the Court of Justice and vertical judicial relationships Court of Justice vis vis ordinary national courts constitutional courts vis vis ordinary national courts By offering a thorough compilation of the jurisprudence of constitutional conflict in the EU The Jurisprudence of Constitutional Conflict in the European Union improves our understanding of the principle of primacy of EU law and its limits as well as reinforces the theory of constitutional pluralism in explaining and guiding judicial power relations and interactions in the EU

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

European Yearbook of Constitutional Law 2021 Jurgen de Poorter, Gerhard van der Schyff, Maarten Stremmer, Maartje De Visser, 2022-06-06 The European Yearbook of Constitutional Law EYCL is an annual publication devoted to the study of constitutional law It aims to provide a forum for in depth analysis and discussion of new developments in the field both in Europe and beyond This third volume of the EYCL focuses on constitutional advice an underexplored topic of legal scholarship today and addresses this situation by looking beyond constitutional law's familiar focus on the classic separation of powers and the main legislative executive and judicial bodies implied by this construct The attention is shifted to mapping and analysing the advisory bodies and functions grouped around and in support of the legislators administrators and judges at the frontline of the constitutional

edifice which is accomplished through national comparative and transnational perspectives on constitutional advice from Europe and beyond Addressing the topic of constitutional advice is necessary to broaden and deepen not only our understanding of advice as a field in its own right but also as a way of rendering a fuller account of contemporary constitutionalism Also the increasing political polarisation across many societies today underscores the need to study constitutional advice on topics of significance in an attempt to bridge divides and end gridlock This book will be of special interest to constitutional scholars and legal scholars more generally as well as to political scientists In addition government officials judges and policy makers wishing to better understand the legal mechanisms and avenues when it comes to rendering or receiving advice in the contemporary constitutional context will find much of relevance Jurgen de Poorter is professor at Tilburg Law School Department of Public Law and Governance Gerhard van der Schyff is associate professor at Tilburg Law School Department of Public Law and Governance Maarten Stremmer is assistant professor at Maastricht University Faculty of Law Department of Public Law Maartje De Visser is associate professor at Yong Pung How School of Law Singapore Management University Singapore

National Parliaments After the Lisbon Treaty and the Euro Crisis Davor Jančić, 2017 A critical assessment of the role of national parliaments in the EU after the Lisbon Treaty and the sovereign debt crisis in the Eurozone this book examines whether national parliaments have become resigned or resilient actors in these new socio economic and politico legal circumstances

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

The Struggle for Constitutional Justice in Post-Communist Europe Herman Schwartz, 2000 In the former Eastern Bloc countries one of the most difficult and important aspects of the transition to democracy has been the establishment of constitutional justice and the rule of law Herman Schwartz's wide ranging book backed with rich historical detail and a massive array of research is the first to

chronicle and analyze the rise and troubles of constitutional courts in this changing region Those who are interested in understanding the behavior of constitutional courts in transitional regimes cannot afford to ignore this important book It is fecund with hypotheses of interest to political scientists and we are indebted to Professor Schwartz for his comprehensive analysis James L Gibson Law and Politics Book Review **Empirical Legal Analysis** Yun-chien Chang, 2013-12-17 This innovative volume explores empirical legal issues around the world While legal studies have traditionally been worked on and of letters and with a normative bent in recent years quantitative methods have gained traction by offering a brand new perspective of understanding law That is legal scholars have started to crunch numbers not letters to tease out the effects of law on the regulated industries citizens or judges in reality In this edited book authors from leading institutions in the U S Europe and Asia investigate legal issues in South Africa Argentina the U S Israel Taiwan and other countries Using original data in a variety of statistical tools from the most basic chi square analysis to sophisticated two stage least square regression models contributors to this book look into the judicial behaviours in Taiwan and Israel the determinants of constitutional judicial systems in 100 countries and the effect of appellate court decisions on media competition In addition this book breaks new ground in informing important policy debates Specifically how long should we incarcerate criminals Should the medical malpractice liability system be reformed Do police reduce crime Why is South Africa s democratic transition viable With solid data as evidence this volume sheds new light on these issues from a road more and more frequently taken what is known as empirical legal studies analysis This book should be useful to students practitioners and professors of law economics and public policy in many countries who seek to understand their legal system from a different and arguably more scientific perspective Judicial Authority in EU Internal Market Law Vilija Velyvyte, 2022-11-17 This book examines the role of the European Court of Justice in the regulation of the internal market from a competence perspective However rather than focusing on the Court s role in enforcing the limits of EU competence in the EU s political decision making it explores a related albeit understudied question to what extent does the Court observe the constitutional limits of EU competence and its own institutional powers in the interpretation of EU internal market law laid down in the Treaties The book provides an answer to this question through the analysis of EU free movement case law in light of the constitutional principles that govern the allocation of competences and powers in the EU conferral subsidiarity and proportionality on the vertical level and institutional balance on the horizontal level Why should the Court be bound by these principles What do they mean when applied to judicial practice To what extent are they observed in the free movement case law The book argues that the Court s observance of the four principles has been inconsistent thereby creating substantive and constitutional tensions in the EU s relationship with the Member States and upsetting the institutional balance of powers between the EU legislature and judiciary Shortlisted for the UACES Best Book Prize 2023 Runner up of the 2024 Peter Birks Prize for Outstanding Legal Scholarship

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