



CONSTITUTIONAL ASSESSMENT
AND THE ENVIRONMENTAL
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Constitutionalism And The Enlargement Of Europe

Jan Komárek



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

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

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 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 Law and Governance in an Enlarged European Union

George A. Bermann,Katharina Pistor,2004-11-10 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 *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

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

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

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

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

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