The Struggle for Constitutional Justice in Post-Communist Europe

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испектичност из Волиск Вытичности М. Жилли

Struggle For Constitutional Justice In Post Communist Europe

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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 The Struggle for Constitutional <u>Justice in Post-communist Europe</u> Herman Schwartz,2000 The Struggle for Constitutional Justice in Post-Communist Europe Herman Schwartz, 2000-07-01 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 The Invisible Constitution in Comparative Perspective Rosalind analysis James L Gibson Law and Politics Book Review Dixon, Adrienne Stone, 2018-11-08 Constitutions worldwide inevitably have invisible features they have silences and lacunae unwritten or conventional underpinnings and social and political dimensions not apparent to certain observers This contributed volume will help its wide audience including scholars students and practitioners understand the dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems

Constitutionalism and Political Reconstruction Saïd Amir Arjomand,2007-01-01 This book offers a unique interdisciplinary comparison of the dominant trends in constitutional developments and legal change across different regions of the world in the last half century bringing together the constitution making of the post colonial era with the post communist political reconstruction and globalization of constitutionalism

The Constitutional Theory of the Federation and the European Union Signe Rehling Larsen,2021-02-04 From the start of the European integration process one question has puzzled scholars what type of political association is the European Union In absence of an agreed upon response most scholars have suggested that the European Union is sui generis This book challenges the sui generis thesis by demonstrating that the EU is not a unique form of association but rather a federal union of states or what this book calls a federation This is a discrete form of political association on par with though differentiated from political modernity s two other main forms namely the state and the empire The federation cannot be understood on the basis of the general theory of the state or its

concept of sovereignty The statist imaginary still dominates both the debates on federalism and the EU meaning that all federal policies are either seen as confederal associations of sovereign states or sovereign federal states. This book challenges this binary by demonstrating that the federation is not a super state but a discrete political form with its own constitutional theory. It is characterized by a double political existence a lack of internal hierarchy and the internal absence contestation or repression of sovereignty. This book details the key aspects of federal constitutional theory and how this theory accounts for the EU s constitutional form as well as the crises it has faced in recent years. This book is broken into five chapters that cover the introduction to federalism origins of the EU state transformation and teleology unity in diversity and emergency rule without a sovereign. This book draws on a variety of literatures and historical material to help the reader develop a critical understanding of constitutional myths and the theory of federalism.

Halduskultuur-Administrative Culture 12 (1),

Central and Eastern Europe After Transition Wojciech Sadurski, 2016-04-08 How have national identities changed developed and reacted in the wake of transition from communism to democracy in Central and Eastern Europe Central and Eastern Europe After Transition defines and examines new autonomous differences adopted at the state and the supranational level in the post transitional phase of the post Communist area and considers their impact on constitutions democracy and legal culture With representative contributions from older and newer EU members the book provides a broad set of cultural points for reference Its comparative and interdisciplinary approach includes a useful selection of bibliographical resources specifically devoted to the Central Eastern European countries transitions **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 European and US Constitutionalism Georg Nolte, 2005-09-29 European constitutionalism is not merely an intra European phenomenon but it can also be compared to other major forms of constitutionalism Over the past decade or so issues have emerged which seem to indicate that European constitutional theory and practice is becoming aware that it has developed certain rules and possesses certain characteristics which distinguish it from US constitutionalism and vice versa This book explores whether such differences can be found in the five areas of freedom of speech human dignity duty to protect adjudication and democracy and international influences The authors of this

book are constitutional scholars from Europe and the United States as well as from other constitutional states such as Canada Israel Japan Peru and South Africa The Right to Political Participation Gabriella Citroni, Irene Spigno, Palmina Tanzarella, 2022-01-27 This book provides a comparative analysis of how judgments from the European Court of Human Rights ECtHR and the Inter American Court of Human Rights IACtHR affect political participation and electoral justice at the national level Looking at specific countries the work analyses the legal impact the implementation of the ECtHR and the IACtHR judgments has with a specific focus on cases in which the regional court concerned uses the democratic argument that is an argument related to democracy and political rights The reasoning is that although democracy is a much wider concept judgments concerning violations of political rights and electoral justice provide reliable indicators to assess the status and sustainability of democracy in a State Moreover the analysis of the violations of political rights and electoral justice allows an in depth comparison between the two regional human rights systems Mindful of the broader scope of the fall out generated by the non implementation of judgments including in socio economic terms the book includes a section exploring how judgments issued by the ECtHR and the IACtHR affect voters participation in the countries under their jurisdiction To this end an original dataset including the 47 Member States of the Council of Europe and the 20 countries which recognised the adjudicatory jurisdiction of the IACtHR is built Multidisciplinary in aim and scope of analysis the book will be an invaluable resource for researchers academics and policy makers working in the areas of constitutional law international human rights law and political economy **Distributive Justice in Transitions** Morten Bergsmo, César Rodriguez-Garavito, Pablo Kalmanovitz, Maria Paula Saffon, 2010-08-01 The chapters of this book explore from different disciplinary perspectives the relationship between transitional justice distributive justice and economic efficiency in the settlement of internal armed conflicts They specifically discuss the role of land reform as an instrument of these goals and examine how the balance between different perspectives has been attempted or not in selected cases of internal armed conflicts and how it should be attempted in principle Although most chapters closely examine the Colombian case some provide a comparative perspective that includes countries in Latin America Africa and Eastern Europe while others examine some of the more general theoretical issues involved Freedom of Speech Uladzislau Belavusau, 2013-10-08 This book considers the issue of free speech in transitional democracies focusing on the socio legal developments in the Czech Republic Hungary and Poland In showing how these Central and Eastern European countries have engaged with free speech models imported from the Council of Europe EU and the USA the book offers valuable insights into the ways States have responded to challenges associated with transformation from communism to Western democracy The book first explores freedom of expression in European and American law looking particularly at hate speech historical revisionism and pornography It subsequently enquires into the role and perspectives of those European mandatory and US American persuasive models for the constitutional debate in Central and Eastern Europe The study offers an original interpretation of the European model of

freedom of expression beyond the mechanisms of the Council of Europe It encompasses the relevant aspects of EU law judgments of the Court of Justice and the harmonised EU instruments as mandatory standards for courts and legislators including those in transitional countries of Central and Eastern Europe The book argues for de criminalisation of historical revisionism and pornography and illuminates topics such as genocide denial the rise of Prague and Budapest as Europe s porno capitals anti Semitism and anti Gypsyism religious obscurantism and homophobia virulent Islamophobia and the glorification of terrorism The research methodology in this study combines a descriptive case law assessment comparative constitutional public international and EU law with a normative critique stemming from post structuralist scrutiny rhetoric postmodern legal movements legal history history of ideas and art criticism This book will be of interest to students and scholars of comparative constitutional law law and society human rights and European law as well as political philosophers

Constitutional Law in Hungary Zoltán Szente, 2024-04-17 Derived from the renowned multi volume International Encyclopaedia of Laws this very useful analysis of constitutional law in Hungary provides essential information on the country's sources of constitutional law its form of government and its administrative structure Lawyers who handle transnational matters will appreciate the clarifications of particular terminology and its application Throughout the book the treatment emphasizes the specific points at which constitutional law affects the interpretation of legal rules and procedure Thorough coverage by a local expert fully describes the political system the historical background the role of treaties legislation jurisprudence and administrative regulations The discussion of the form and structure of government outlines its legal status the jurisdiction and workings of the central state organs the subdivisions of the state its decentralized authorities and concepts of citizenship Special issues include the legal position of aliens foreign relations taxing and spending powers emergency laws the power of the military and the constitutional relationship between church and state Details are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable time saving tool for both practising and academic jurists Lawyers representing parties with interests in Hungary will welcome this guide and academics and researchers will appreciate its value in the study of comparative Judicial Independence in Transition Anja Seibert-Fohr, 2012-04-25 Strengthening the rule of law constitutional law has become a key factor for the transition to democracy and the protection of human rights Though its significance has materialized in international standard setting the question of implementation is largely unexplored This book describes judicial independence as a central aspect of the rule of law in different stages of transition to democracy The collection of state specific studies explores the legal situation of judiciaries in twenty states from North America over Western Central and South Eastern Europe to post Soviet states and engages in a comparative legal analysis Through a detailed account of the current situation it takes stocks considers advances in and shortcomings of judicial reform and offers advice for future

strategies The book shows that the implementation of judicial independence requires continuous efforts not only in countries in transition but also in established democracies which are confronted with ever new challenges **Judicial Dissent in European Constitutional Courts** Katalin Kelemen, 2017-09-28 Dissent in courts has always existed It is natural and healthy that judges disagree on legal issues of a certain importance and difficulty The question is if it is reasonable to conceal dissent Not every legal system allows judges to explain their disagreement to the public in a separate opinion attached to the judgment of the court Most constitutional courts do This book presents a comparative analysis of the practice of judicial dissent in constitutional courts from the perspective of the civil law tradition It discusses the theoretical background presents the history of the institution and today s practice thus laying down the basis for an accurate consideration of the phenomenon **Constitutional Review in Europe** Maartje De Visser, 2014-07-18 Constitutions serve to from a legal perspective delineate state powers and enshrine basic rights Such matters are hardly uncontroversial but perhaps even more controversial are the questions of who should uphold s 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 tre 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 Amicus Curiae Phenomenon Shai Farber, 2024-09-25 This book offers a thorough analysis of the Amicus Curiae phenomenon emphasizing its critical role in modern legal systems The book reveals how these interventions influence judicial decisions legislative processes and societal norms by presenting third party perspectives through amicus briefs Delving into the historical development and global adoption of Amicus Curiae the book provides insights into its benefits and drawbacks Readers will learn about the various types of amici the breadth of issues they address and the diverse courts that accept these briefs The author's extensive research and case studies from multiple legal systems highlight the transformative power of third party interventions in ensuring justice and public transparency. The book explores real world examples where amicus briefs have played pivotal roles in landmark cases from human rights advancements to environmental protections It discusses the strategic importance of these briefs and how they democratize the legal process by allowing more voices to be heard By fostering a deeper understanding of the complexities and significance of Amicus Curiae this book empowers readers to appreciate the intricate

interplay between law and societal change Ideal for legal professionals academics and anyone interested in law and society this book is an essential guide to understanding the impact of Amicus Curiae on the judicial process Whether you are a seasoned lawyer a policymaker or a curious reader this book provides a comprehensive and engaging exploration of one of the most influential elements in contemporary jurisprudence 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 The Max Planck Handbooks in European Public Law Armin von Bogdandy, Peter comparative politics Huber, Christoph Grabenwarter, 2020-03-12 The Max Planck Handbooks in European Public Law describe and analyse 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 make legal comparison the task of our time for both scholars and practitioners the series aims to foster the development of a specifically European legal pluralism and to contribute to the legitimacy and efficiency of European public law The first volume of the series began this enterprise 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 outlook of constitutional adjudicators throughout the Continent They include countries with powerful constitutional courts jurisdictions with traditional supreme courts and states with small institutions and limited ex ante review In keeping with the focus on a diverse but unified legal space each report also details how its institution fits into the broader association of constitutional courts that through dialogue and conflict brings to

fruition the European legal space Together the chapters of this volume provide a strong and diverse foundation for this dialogue to flourish	

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