



CORE ANALYSIS

Europe's political constitution

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(Received 21 February 2023; revised 23 July 2023; accepted 23 July 2023)

Abstract

Pluralism is a defining feature of European human rights law and of the European constitution. Contestability and conditional deference determine how participating states eventually calibrate their relation to international and supranational authority. This structure gives rise to differences of opinion that reverberate throughout a public sphere that is composed of a growing number of scholars. They increasingly rely on digital media to exchange their ideas. A major role has come to be played by blogs such as the *Verfassungsblog*. Since its inception, its focus has rested on defending the values of constitutionalism vis-à-vis 'backsliding' Member States. The constitutional culture that results from this is somewhat reminiscent of Germany during the period of the Weimar Republic (1919–1933). While the rise of authoritarianism is a major issue, public law scholarship appears to become increasingly partisan. As European constitutional law emerges against the backdrop of an expanding public sphere, scholarly interventions are drawn into the vortex of politics. Unsurprisingly, scholarship begins to face up to its politicisation by reflecting on its proper task.

Keywords: European constitutional law; transnational constitutional law; public sphere; consensus in human rights law; scholactivism

1. Introduction

The shape of constitutional discourse, and of the law of constitutions, has changed considerably in Europe over the last thirty years.¹ The relevant transformations have as one of their roots the post-war project of stabilising constitutional democracies by means of an international human rights regime.² The other root reflects the vicissitudes of European integration, as a result of which the Member States of the European Union (EU) have become part of a *Verfassungsverbund*³ in the relation of supranational European Union law and national constitutional law. One consequence of this development is that Member States are now subject to a new form of vigilance that is

¹For a most recent and comprehensive account, see A von Bogdandy, *Strukturwandel des öffentlichen Rechts: Entstehung und Demokratisierung der europäischen Gesellschaft* (Suhrkamp 2022).

²See A Moravčík, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe' 54 (2000) *International Organization* 217–52.

³We owe the term *Verbund*, the meaning of which remains elusive, to the German Constitutional Court that has first used it as part of the compound noun *Staatenverbund* in the reasoning underpinning the so-called *Maastricht* decision. See G Wegen and C Kuner, 'Germany: Federal Constitutional Court Decision Concerning the Maastricht Treaty' 33 (1994) *International Legal Materials* 388–444. German legal scholarship has developed it further into the *Verfassungsverbund*. See I Pernice, 'Die dritte Gewalt im europäischen Verfassungsverbund' (1996) in his *Der Europäische Verfassungsverbund: Ausgewählte Schriften zur verfassungstheoretischen Begründung und Entwicklung der Europäischen Union* (Nomos 2020) 431–54. The best way of describing a *Verbund* is possibly by calling it a loosely connected union.

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Constitution Of Europe

Lingjun Ying



Constitution Of Europe:

The Constitution of Europe Joseph Weiler, 1999-02-25 Joseph Weiler presents essays written during the 1990s on issues related to European constitutional law In a series of highly accessible discussions concerning the legal framework of the European Communities and the European Union Professor Weiler describes the gradual strengthening of transnational European institutions at the expense of national legislators Although individuals as legal consumers have been empowered by Community law he writes this has been at the expense of their rights as citizens The Constitution of Europe thus provides from a legal perspective a balanced and authoritative critique of the attractions and demerits of the goal of European integration

Understanding the European Constitution Clive H. Church, David Phinnemore, 2005-11-16 The European Union is now entering a crucial phase as the ratification process accelerates and key debates and referenda take place in existing and potentially new member states The Union's Constitutional treaty is often cast as either a blueprint for a centralized and protectionist super state or as the triumph of Anglo Saxon economics Yet it has been little read particularly in the United Kingdom This book puts this right by publishing the full text of the crucial first part of the document and showing that it does not justify either of the extreme interpretations imposed on it Written by two experts of the treaties

Understanding the European Constitution sets the Constitutional Treaty in context examining its main themes and content and considering the implications of any rejection It does this in uncomplicated language and with the help of explanatory tables and a glossary Those who wish to make a considered verdict on the basis of the facts will find it invaluable *The Constitution for Europe* Marcel Kielhorn, 2005 A Constitution for Europe Why do we need it Is it really better than the current treaty based system Which difficulties faces the ratification process This book answers these questions and provides an analysis of the Treaty establishing a Constitution for Europe It visualizes the huge importance of the document for a working EU emphasizes the prospects of a really unified continent and shows that Europe as well as the EU stands at the crossroads of its future fate Hopefully its politicians and people do not decide to turn into a blind alley **The European Constitution**

Giuliano Amato, 2009-01-01 I can enthusiastically recommend and endorse this book It serves the very important purpose of collecting key documents together in an elegant and accessible text There currently exists a huge proliferation of material on the EU Constitution this volume makes a very wise selection of this profusion compiling it into a manageable and informative whole Nine chapters deal with the most significant matters concerning the Constitution A short but well written introduction at the start of each chapter precedes following extracts Part of the value of this book lies in the fact that it includes translations of some important documents which are difficult or impossible to access in English for example recent decisions of national courts concerning the European Arrest Warrant All in all this work is a comprehensive but not overwhelmingly large collection of materials on the EU Constitution and it will prove extremely valuable to all those working within this area of law By presenting the Constitution the background to the Constitution and the issues it deals with in this clear and

informative way it will shed new light upon and help all of us to form our own judgements on the EU Constitution and its importance to our lives Sionaidh Douglas Scott King's College London UK Whatever the ultimate fate of the EU's Constitutional Treaty both the events which led to its conclusion and those which occurred afterwards during its ill fated ratification process have profoundly shaped the future of the European Union as a constitutional project This collection of materials offers an invaluable set of resources for understanding these events in their widest legal and political context The text will be useful to all those who seek to understand both why the EU has reached such a turning point and where it might go in the future Jo Shaw Edinburgh Law School UK This book offers a selection of materials that enable a better understanding of some of the most important changes that would be introduced by the Treaty establishing a Constitution for Europe in the EU legal and political system It also helps to assess the need for the reforms embedded in the Constitutional Treaty as well as the quality of the formulations agreed upon by the signatory Member States The book includes excerpts of the European Convention's work selected statutory and constitutional provisions of the Member States and also related passages from pertinent court decisions from both European courts as well as Member States constitutional courts Institutional and doctrinal analyses and relevant excerpts from the Constitutional Treaty itself are also included Many of these documents directly relate to the provisions of the Constitutional Treaty while the others although not directly related are nevertheless relevant to the debate surrounding it The European Constitution by two of the best experts on the Constitution for Europe will be of great interest to researchers and teachers in the fields of European Law and European politics and also to policy makers in European affairs

The Many Constitutions of Europe Suvi Sankari, 2016-03-03 This volume makes a contribution to the ongoing lively discussion on European constitutionalism by offering a new perspective and a new interpretation of European constitutional plurality The book combines diverse disciplinary approaches to the constitutional debate It brings together complementing contributions from scholars of European politics economics and sociology as well as established scholars from various fields of law Moreover it provides analytical clarity to the discussion and combines theory with more practical and critical approaches that make use of the constitutional toolbox in analysing the tensions between the different constitutions The collection is a valuable point of reference not only for scholars interested in European studies but also for graduate and post graduate students

Governing Europe under a Constitution Herm.-Josef Blanke, Stelio Mangiameli, 2006-02-28 At the summit in Laeken in December 2001 the European Council opened the debate on the reform of the supranational structures through its Declaration on the Future of the European Union and proposed a wide ranging agenda The European Convention with the mandate of the European Council has been forming proposals for a more democratic transparent and efficient European Union and presented a draft of a Treaty establishing a Constitution for Europe on 20th of June 2003 On these fundamentals the Intergovernmental Conference finally came to a compromise in summer 2004 after wrestling especially with the problem of qualified majority voting within the Council On

29th of October 2004 the Heads of State and Governments of the 25 Member States signed the Treaty. After the French and Dutch citizens refused their approval of the Treaty in referendums the future of the draft Constitution remains uncertain. The volume contains articles from high ranking experts from politics and academia of different Member States about the basic principles of the actual constitutional law of the European Union and its need of reform through a Constitution for Europe. By analysing the rules to govern a Europe of 25 and in time 28 and more Member States the publication intends to make a contribution to the emerging *Ius Publicum Europaeum*.

The EU Constitution Gráinne De Búrca (jurist.), 2005. Based on a lecture presented by the author this book analyzes how the treaty establishing a constitution for Europe adds to Europe's search for an international identity. De Búrca submits that the boldest of the novel features of the new constitution and the weight of significance of the changes which it has introduced lie in the external domain. She launches the challenging question whether the emphasis on Europe's global role and its international identity will be the factor that ultimately will be capable of triggering the public imagination in such a way as to generate sufficient support for the ratification of the constitution and in the long term to generate a sense of European solidarity rather than the internally focussed changes brought about by the constitutional treaty.

The Constitution for Europe and an Enlarging Union Kirstyn Inglis, Andrea Ott, 2005.

Recoge 1 Formalising European Constitutionalism. Potencial added value or Death by Constitution. 2 Towards a more democratic union. Comments on the Treaty establishing a Constitution for Europe. 3 Institutional reform in the European Union. 4 The National Parliaments in an enlarged Europe and the Constitutional Treaty. 5 The principle of differentiation in an enlarged European Union: unity in diversity. 6 Impact of European Union enlargement on EMU: monetary split up into ins and outs as a temporary or permanent phenomenon. 7 Differentiation in European Union citizenship law: the Cyprus problem. 8 The impact of the agriculture on the success of enlargement. 9 European counter terrorism in the context of enlargement challenges ahead. 10 EU enlargement membership conditions applied to future and potential member states. 11 Minority protection in the EU. Challenges ahead. 12 Turkey's democratisation in light of its EU candidate status. EU enlargement at a crossroads.

Understanding the European Constitution Werner Weidenfeld, 2010-07-30. The purpose of the European Constitution is to make the European Union more democratic and more accessible to its citizens and to enable it to function more effectively. The burgeoning EU is no longer governable through the Treaties as they stand. Yet the document that politicians have hailed as historic is needlessly complicated and virtually incomprehensible to ordinary people. This was one of the main reasons why the citizens of France and the Netherlands rejected the Constitution in their referenda. The European Constitution marks the starting point for a renewed debate about Europe. This book makes it easier to understand both the Constitution and the EU in general. Using accessible language it guides the reader through the complicated subject matter step by step. Concise tables explain the genesis of the Constitution, its structure, the changes that it will bring about and how decisions in the EU will be made in the years to come. Those who wish to play a part in shaping the future of Europe

need to be familiar with the basic foundations of the European Union and this demands an understanding of the European Constitution *The Constitution for Europe* Jean-Claude Piris, 2006-03-30 Publisher Description *The Rise and Fall of the European Constitution* NW Barber, Maria Cahill, Richard Ekins, 2019-01-10 The Draft European Constitution was arguably both an attempt to constitutionalise the Union re framing that project in the language of the state and an attempt to stretch the boundaries of constitutionalism itself re imagining that concept to accommodate the sui generis European Union The partial failure of this project is the subject of this collection of essays The collection brings together leading EU constitutional scholars to consider with the benefit of hindsight the purportedly constitutional character of the proposed Constitutional Treaty the reasons for its rejection by voters in France and the Netherlands the ongoing implications of this episode for the European project and the lessons it teaches us about what constitutionalism really means **Developing a Constitution for Europe** Erik Oddvar Eriksen, John Erik Fossum, Agustín Menéndez, 2004-08-02 The European Union is currently in the midst of a comprehensive process of reform and the aim of this book is to address the challenge of forging a legitimate Constitution for the EU These authors clarify the constitutional status of the EU to take stock of the European Charter of Fundamental Rights and Convention of the Future of Europe as vehicles to foster and create a European constitution

Draft Constitution for Europe Prepared by the European Convention Council of the European Union, 2004 *The Rise and Fall of the EU's Constitutional Treaty* Finn Laursen, 2008-07-31 This book analyses the EU's Constitutional Treaty which emerged in draft form from the European Convention in the summer of 2003 and which was finalised by an Intergovernmental Conference IGC in June 2004 It describes the main novelties of the treaty and looks at policies of important actors Member States and Community actors the Commission and European Parliament and the roles played by the Convention and the Italian and Irish Presidencies during the process of deliberation and negotiation that produced the treaty It further studies the failure of ratification in France and the Netherlands and the implications for the process of European integration of this failure It finally touches on the question whether a constitutional equilibrium has been reached Since the new Lisbon Treaty negotiated in 2007 contains much of what was in the Constitutional Treaty the analyses of the book remain pertinent for this latest EU treaty *A Constitution for Europe*, 2004 *The Making of a European Constitution* Sonja Puntscher Riekmann, Wolfgang Wessels, 2007-08-19 The aim of this publication is an analysis of the process of European constitutionalisation and its entanglement with relevant national discourses Thus national constitutional traditions in Austria France Germany and the United Kingdom are evaluated with regard to the positions of the respective national representatives in the European Convention Interviews with Members of National Parliaments and of the European Parliament as well as a content analysis of the debate on the future of Europe in print media form the empirical basis of this study **The European Constitution in the Making** Roberto Miccù, 2004 In the European Convention parliamentarians and government representatives from the Member States have elaborated the Draft Constitution establishing a Constitution

for Europe This process requires academic guidance and analysis The European Constitutional Law Network provides an important forum of associated constitutional and European lawyers from different old and new Member States [www ecln net](http://www.ecln.net) The structure of the future constitution and the general lines of argument underlying the deliberations of the Convention are the focus of the individual contributions to this volume which were presented on the occasion of the second ECLN conference in summer 2002 in Rome Against the background of their national constitutional and legal orders the contributors demonstrate their expectations for the European constitution in the making Thereby the deliberations provide a pan European basis for the debate on the future Constitution for Europe

Treaty Establishing a Constitution for Europe
European Union,2005 This publication contains the text of the Treaty including the protocols and annexes and final act with declarations as signed in Rome on 29 October 2004 The Treaty will take effect only on the date of its entry into force 1 November 2006 provided that all the instruments of ratification have been deposited by the contracting parties

EU Enlargement and the Constitutions of Central and Eastern Europe Anneli Albi,2005-06-30 In the wake of the EU s biggest enlargement this book explores the adaptation of the constitutions of Central and Eastern Europe CEE for membership in the European Union In response to the painful past these new constitutions were notably closed to transfer of powers to international organizations and accorded a prominent status to sovereignty and independence A little more than a decade later the process of amending these provisions in view of the transfer of sovereign powers to a supranational organization has proved a sensitive and controversial exercise This book analyses the amendments against the background of comparative experience and theory of sovereignty as well as the context of political sensitivities such as rising euroscepticism ahead of accession referendums

Treaty Establishing A Constitution for Europe The European Union,2006-01-02 HIS MAJESTY THE KING OF THE BELGIANS THE PRESIDENT OF THE CZECH REPUBLIC HER MAJESTY THE QUEEN OF DENMARK THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY THE PRESIDENT OF THE REPUBLIC OF ESTONIA THE PRESIDENT OF THE HELLENIC REPUBLIC HIS MAJESTY THE KING OF SPAIN THE PRESIDENT OF THE FRENCH REPUBLIC THE PRESIDENT OF IRELAND THE PRESIDENT OF THE ITALIAN REPUBLIC THE PRESIDENT OF THE REPUBLIC OF CYPRUS THE PRESIDENT OF THE REPUBLIC OF LATVIA THE PRESIDENT OF THE REPUBLIC OF LITHUANIA HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG THE PRESIDENT OF THE REPUBLIC OF HUNGARY THE PRESIDENT OF MALTA HER MAJESTY THE QUEEN OF THE NETHERLANDS THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA THE PRESIDENT OF THE REPUBLIC OF POLAND THE PRESIDENT OF THE PORTUGUESE REPUBLIC THE PRESIDENT OF THE REPUBLIC OF SLOVENIA THE PRESIDENT OF THE SLOVAK REPUBLIC THE PRESIDENT OF THE REPUBLIC OF FINLAND THE GOVERNMENT OF THE KINGDOM OF SWEDEN HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND DRAWING INSPIRATION from the cultural religious and humanist inheritance of Europe from which have developed the universal

values of the inviolable and inalienable rights of the human person freedom democracy equality and the rule of law BELIEVING that Europe reunited after bitter experiences intends to continue along the path of civilisation progress and prosperity for the good of all its inhabitants including the weakest and most deprived that it wishes to remain a continent open to culture learning and social progress and that it wishes to deepen the democratic and transparent nature of its public life and to strive for peace justice and solidarity throughout the world CONVINCED that while remaining proud of their own national identities and history the peoples of Europe are determined to transcend their former divisions and united ever more closely to forge a common destiny CONVINCED that thus United in diversity Europe offers them the best chance of pursuing with due regard for the rights of each individual and in awareness of their responsibilities towards future generations and the Earth the great venture which makes of it a special area of human hope DETERMINED to continue the work accomplished within the framework of the Treaties establishing the European Communities and the Treaty on European Union by ensuring the continuity of the Community acquis GRATEFUL to the members of the European Convention for having prepared the draft of this Constitution on behalf of the citizens and States of Europe

This book delves into Constitution Of Europe. Constitution 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 Constitution Of Europe, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:

- Chapter 1: Introduction to Constitution Of Europe
- Chapter 2: Essential Elements of Constitution Of Europe
- Chapter 3: Constitution Of Europe in Everyday Life
- Chapter 4: Constitution Of Europe in Specific Contexts
- Chapter 5: Conclusion

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3. In chapter 2, the author will delve into the foundational concepts of Constitution Of Europe. This chapter will elucidate the essential principles that need to be understood to grasp Constitution Of Europe in its entirety.
4. In chapter 3, the author will examine the practical applications of Constitution Of Europe in daily life. This chapter will showcase real-world examples of how Constitution Of Europe can be effectively utilized in everyday scenarios.
5. In chapter 4, this book will scrutinize the relevance of Constitution Of Europe in specific contexts. This chapter will explore how Constitution Of Europe is applied in specialized fields, such as education, business, and technology.
6. In chapter 5, this book will draw a conclusion about Constitution Of Europe. The final chapter will summarize the key points that have been discussed throughout the book.

This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of Constitution Of Europe.

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