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Matej Avbelj, Jan Komárek



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Constitutional Pluralism in the EU Klemen Jaklic, 2014-01-09 Where does the law and political power of any given territory come from Until recently it was believed that it came from a single and hierarchical source of constitutional authority a sovereign people and their constitution However how can this model account for the new Europe Where state constitutions and the European Constitution which are ultimately equally self standing sources of constitutional authority overlap heterarchically over a shared piece of territory Constitutional pluralism is a new branch within constitutional thought that argues sovereignty is no longer the accurate and normatively superior constitutional foundation It instead replaces this thought with its own foundation It emerged on the basis of contributions by the leading EU constitutionalists and has now become the most dominant branch of European constitutional thought Its claims have also overstepped the European context suggesting that it offers historic advantages for further development of the idea of constitutionalism and world order as such This book offers the first overarching examination of constitutional pluralism Comprehensively mapping out the leading contributions to date and solving the complicated labyrinth they currently form Klemen Jaklic offers a complete assessment against existing and new criticisms while elaborating his own original vision Constitutional pluralism thus refined has the potential to rightfully be considered the superior new approach within constitutional thought

The Tangled Complexity of the EU Constitutional Process Giuseppe Martinico, 2022-08-05 Offering a fresh view on the EU constitutionalisation process the new edition of *The Tangled Complexity of the EU Constitutional Process* presents three main points the idea of constitutional complexity the tension between constitutional evolutionism and constitutional constructivism in the process of European integration and the functional nature of conflicts in the evolution of the EU Because of its prodigiousness European law produces consternation among constitutionalists accustomed to traditional patterns of power This book argues that while constitutional conflicts have frequently been depicted as elements of disturbance along the path towards legal coherence they are physiological and might even be functional to the development of the European legal order which should not be understood in a deterministic manner The new edition will be of particular interest to academics and students in the disciplines of law international relations and political science

Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012-02-29 Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance Some of them believe that constitutionalism traditionally thought to be bound to a nation state can emerge beyond state borders most importantly in the process of European integration but also beyond that for example in international regulatory regimes such as the WTO or international systems of fundamental rights protection such as the European Convention At the same time the idea of constitutional pluralism has not gone unchallenged Some have questioned its compatibility with the very nature of law and the values which law brings to constitutionalism The critiques have come from both sides from those who believe in the traditional European

constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states The book collects contributions taking opposing perspectives on constitutional pluralism some defending and promoting the concept of constitutional pluralism some criticising and opposing it While some authors can be called the founding fathers of constitutional pluralism others are young academics who have recently entered the field Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism enriching our existing understanding of the concept in current scholarship

Research Handbook on Legal Pluralism and EU Law Gareth Davies, Matej Avbelj, The Research Handbook on Legal Pluralism and EU Law explores the diversity of phenomenon of overlapping legal systems within the European Union the nature of their interactions and how they deal with the difficult question of the legal hierarchy between them The contributors reflect on the history sociology and legal scholarship on constitutional and legal pluralism and develop this further in the light of the challenges currently facing the EU

New Economic Constitutionalism in Europe George Gerapetritis, 2019-10-31 New Economic Constitutionalism in Europe focuses on the institutional mutation of constitutionalism following the major economic crisis in the Eurozone and globally The main axis is that a new economic constitutionalism has arisen which trespasses on the conventional conceptual foundations and needs to be addressed with novel institutional vehicles The author proposes an original and searching analysis of the significant constitutional evolutions that have taken place in member states in response to the global financial crisis The book combines a sophisticated theoretical model of a new form of economic constitutionalism with detailed practical argumentation This important new work provides a valuable addition to the understanding of this hugely important topic

Europe's Constitutional Mosaic Neil Walker, Josephine Shaw, Stephen Tierney, 2011-06-14 This book emerged from an extended seminar series held in Edinburgh Law School which sought to explore the complex constitutional arrangements of the European legal space as an inter connected mosaic There has been much recent debate concerning the constitutional future of Europe focusing almost exclusively upon the EU in the context of the failed Constitutional Treaty of 2003 5 and the subsequent Treaty of Lisbon The premise of the book is that this focus while indispensable offers only a partial vision of the complex constitutional terrain of contemporary Europe In addition it is essential to explore other threads of normative authority within and across states embracing internal challenges to state level constitutional regimes the growing jurisprudential assertiveness of the Council of Europe regime through the ECHR and various democracy building measures as well as Europe's ever thicker relations both with its border regions and with broader international institutions especially those of the United Nations Together these developments create increasingly dense networks of constitutional authority within the European space This fluid and multi dimensional dynamic is difficult to classify and indeed may seem in many ways impenetrable but that makes the explanatory challenge all the more important and pressing Without this fuller picture it becomes impossible to understand the legal context of Europe today or the prospects of ongoing changes The book brings

together a range of experts in law legal theory and political science from across Europe in order to address these complex issues and to supply illustrative case studies in the topical areas of the constitutionalisation of European labour law and European criminal law

The Role of the Court of Justice in EU Labour Law Silvia Rainone, 2023-05-17 In an unresolved ongoing debate the Court of Justice of the European Union CJEU is often included among the institutional actors responsible for the declining condition of labour law in Europe Has its case law been more protective of employers interests than of workers rights This innovative book greatly enhances the discussion by bringing to light the judicial lawmaking logic other than those pertaining to the balancing of social and business values that drive the CJEU s reasoning in its interpretation of the labour law provisions enshrined in the European Union EU law with particular attention to the directive on transfer of undertakings Addressing fundamental issues such as uneven bargaining power labour as a commodity coexistence of workers rights and the market economy in the context of judicial lawmaking the author clearly defines the tensions at work What normative models underlie the approaches of EU institutional policymakers with respect to labour law Does the CJEU have its own vision of the socioeconomic model to which the Union should adhere How does the CJEU s interpretative approach stand in relation to the transformation processes that regulators impose on labour law Is the CJEU particularly attentive to the preferences expressed by national governments especially those from the most politically influential states or rather reflect the political pressure of the European Commission What is the role of trans judicial dynamics in shaping the CJEU s reasoning in labour law cases The study is extraordinarily thorough drawing on a wide range of policy documents scholarly and doctrinal research and the entire body of the CJEU s case law on transfer of undertakings The legal arguments that the CJEU has developed over the years are mapped and classified according to their affinity with the labour law functions that underlie them With its comprehensive assessment of the normative implications of EU policymaking in the labour and social domains its thorough exploration of the CJEU s judicial lawmaking dynamics and its extensive empirical legal analysis of the CJEU s case law on transfer of undertakings the book has no peers in revealing the forces that guide the CJEU s decisions in the realm of labour law Of particular value to scholars and researchers interested in EU social policies and constitutional law the book will also prove of immeasurable value to labour law practitioners aiming to use the case law of the CJEU as well as to in house counsel industrial relation specialists and trade unionists

Europe's Functional Constitution Turkuler Isiksel, 2016-05-26 Constitutionalism has become a byword for legitimate government but is it fated to lose its relevance as constitutional states relinquish power to international institutions This book evaluates the extent to which constitutionalism as an empirical idea and normative ideal can be adapted to institutions beyond the state by surveying the sophisticated legal and political system of the European Union Having originated in a series of agreements between states the EU has acquired important constitutional features like judicial review protections for individual rights and a hierarchy of norms Nonetheless it confounds traditional models of constitutional rule to the extent that its claim to

authority rests on the promise of economic prosperity and technocratic competence rather than on the democratic will of citizens Critically appraising the European Union and its legal system this book proposes the idea of functional constitutionalism to describe this distinctive configuration of public power Although the EU is the most advanced instance of functional constitutionalism to date understanding this pragmatic mode of constitutional authority is essential for assessing contemporary international economic governance

The EU and Constitutional Time Massimo Fichera, 2023-07-01 This insightful book examines the inherent fragility of modern liberal constitutionalism and shows how it is in the nature of every constitutional community including the European Union to try to protract its own duration as much as possible The book considers the strengths weaknesses tensions and contradictions of European constitutionalism using the lens of constitutional time

European Ways of Law Volkmar Gessner, David Nelken, 2007-10-30 Can there be such a thing as a European sociology of law The uncertainties which arise when attempting to answer that straightforward question are the subject of this book which also overlaps into comparative law legal history and legal philosophy The richness of approaches reflected in the essays including comparisons with the US makes this volume a courageous attempt to show the present state of socio legal studies in Europe and map directions for its future development Certainly we already know something about the existence of differences in the use and meaning of law within and between the nation states and groups that make up the European Union They concern the role of judges and lawyers the use of courts patterns of delay contrasts in penal sensibilities or the meanings of underlying legal and social concepts Still similarities in legal culture are at least as remarkable in societies at roughly similar levels of political and economic development The volume should serve as a needed stimulus to a research agenda aimed at uncovering commonalities and divergences in European ways of approaching the law

Constitutional Pluralism In The Eu Oxford Studies In European Law Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has are more apparent than ever. Its ability to stir emotions, provoke thought, and instigate transformation is actually remarkable. This extraordinary book, aptly titled "**Constitutional Pluralism In The Eu Oxford Studies In European Law**," published by a very acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound impact on our existence. Throughout this critique, we will delve into the book is central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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