

III 'ERASMUS' LEGAL SCIENCE WEEK

Stream I (red stream) Courts and Politics

Stream II (blue stream) The Role of Courts in Contemporary Legal Orders

Stream III (green stream) Judicial Dialogue

Dates: 29-30 March 2019

Venue: Sofia, Bulgaria

University of Sofia 'St. Kliment Ohridski', Faculty of Law

1504 Tzar Osvoboditel Blvd.

Aula Magna, new conference hall, hall 1 and hall 2

Day 1.
29 March 2019

Courts and Politics
new conference hall,
Rectorate, north wing, II floor

**The Role of Courts in
Contemporary Legal Orders**
hall 2,
Rectorate, north wing, ground floor

Judicial Dialogue
hall 1,
Rectorate, South wing, ground floor

Registration
8:20 – 9:00
(lobby of the Aula Magna)

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8:20 – 9:00
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8:20 – 9:00
(lobby of the Aula Magna)

Opening panel
9:00 – 10:00
Aula Magna

Sasho Penov (dean of the Faculty of Law) Official greetings to the conference participants

Martin Belov (organizer of the conference) Opening speech

<p>Panel 1.1. Judicialization of Politics and Politicization of Judiciary 10:00 – 11:20</p> <p>Moderator: Paul Yowell (University of Oxford)</p> <p>Daniel Valchev (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) Democracy and Courts beyond the ideological banality</p> <p>Konrad Lachmayer (University ‘Sigmund Freud’, Vienna, Austria) Disempowering Courts. The interrelationship between courts and politics in contemporary legal orders</p>	<p>Panel 2.1. Philosophy and Theory of Judicial Decision-Making 10:00 – 11:20</p> <p>Moderator: Monica Claes (Maastricht University, The Netherlands)</p> <p>Ioannis A. Tassopoulos (National and Kapodistrian University, Athens, Greece) Judicial Ethos and the Role of Impartial Courts in a Culturally Divided World</p> <p>Michele Mangini (University of Bari ‘Aldo Moro’, Italy) Epistemic Reasonableness: Improving On Bard?</p> <p>Tomáš Gábriš (Comenius University in Bratislava) Judicial dialogue between ethics and logic</p>	<p>Panel 3.1. Judicial Dialogue and the Pluralist Structure of the Legal Order at the Beginning of the XXI Century 10:00 – 11:20</p> <p>Moderator: Francisco Pereira Coutinho (University of Lisbon Nova, Portugal)</p> <p>Florian Heindler (Sigmund Freud University, Austria) The application of foreign law and judicial dialogue</p> <p>Alexandra Mercescu (West University of Timisoara, Romania) Judicialization of Politics through Comparative Law</p> <p>Joaquin Cayon-De Las Cuevas (University of Cantabria, Spain) The widening of the national margin of appreciation in Strasbourg Court’s case-law: a backward step for reproductive rights in Europe?</p>
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	Tamara Capeta (University of Zagreb, Croatia) Who's afraid of a robo-judge?	Anna-Stiina Tarkka (University of Helsinki, Finland) The developing dialogue between the ECtHR and national courts
Coffee break Lobby in front of New Conference Hall 11:20 – 12:00		
Panel 1.2. Courts and Their Relationship with Legislative and Executive Power (part I) 12:00 – 14:00 Moderator: Tamara Capeta (University of Zagreb, Croatia) Helen Xanthaki (University College, London, UK) Legislation and the courts (per teleconference) Attila Menyhárd (Eötvös Loránd University, Budapest, Hungary) Text, values and	Panel 2.2. Legitimacy of Courts. Judicial Activism, Supranational Judicial Empire and Beyond 12:00 – 14:00 Moderator: Guerino Fares (University Roma Tre, Italy) Bojan Spaic (University of Belgrade, Serbia) The Legitimacy of Courts in Contemporary Democracies Cristina Contartese (European Law and Governance School, Athens, Greece) The role	Panel 3.2. The Engagement of National Courts in Judicial Dialogue (part I) 12:00 – 14:00 Moderator: Martin Belov (University of Sofia 'St. Kliment Ohridski') Patricia Popelier (University of Antwerp, Belgium) Constitutional dialogue as an expression of trust and distrust in multilevel governance Francisco Pereira Coutinho (University of Lisbon Nova, Portugal) The last court

<p>interpretation: the role of judges and legislative power</p> <p>Zsolt Szabó (Károli Gáspár University of the Reformed Church, Budapest and National University of the Public Service, Hungary) Possibilities of judicial control over parliamentary procedures</p> <p>Mauro Zamboni (University of Stockholm, Sweden) Supreme courts in Sweden: from public servants to “real” judges?</p>	<p>of the CJEU in defining EU autonomy from international law: A case of judicial activism?</p> <p>Charalambos Tsiliotis (University of Peloponnese, Greece) The Judgment of the CJEU about the revocability of the UK’s notification to withdraw from the EU. Case C-621/18 Wightman and Others v Secretary of State for Exiting the European Union</p> <p>Dilyan Nachev (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) Judicial Activism and Democratic Legitimacy of Courts</p> <p>Federico Niccolò Ricotta (University LUISS ‘Guido Carli’, Italy) Principle of legality and creative jurisprudence: a rarefaction of democracy?</p>	<p>standing: the Portuguese Constitutional Court and the preliminary reference procedure</p> <p>Flavio Guella (University of Trento) Remedies against European law violations and the stability of the Italian final judgments</p> <p>François Andia (University Paris X Nanterre, France) The CJEU’s extensive conception of the EU legal order – an impediment to judicial dialogue</p> <p>Aleksandra Kustra-Rogatka (Nicolaus Copernicus University, Toruń, Poland) Constitutional Courts, Fundamental Rights and Judicial Dialogue with the Court of Justice of the European Union</p>
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	<p>Simeon Groysman (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) Legal Realism vs. Legal Ideology: On Explanatory Models of Judicial Activism</p> <p>Monika Martišková (University in Trnava, Slovak Republic) Judicial precedent in civil law (continental European) jurisdictions and the rise of legal realism in Europe</p>	<p>Jasper Krommendijk (Radboud University Nijmegen, Netherlands) The ever more circumscribed role of lower national courts in the EU: heading into the Dutch direction? (per teleconference)</p>
<p>Lunch break 14:00-15:00</p>		
<p>Panel 1.2. Courts and Their Relationship with Legislative and Executive Power (part II) 15:00 – 16:00</p> <p>Moderator: Irmantas Jarukaitis (Judge, European Court of Justice)</p>	<p>Panel 2.3. The Role of Constitutional Courts in Contemporary Legal Orders (part I) 15:00 – 16:00</p> <p>Moderator: Rui Lanceiro (University of Lisbon, Portugal)</p> <p>Giacomo Delledonne (Scuola Superiore Sant’Anna, Pisa, Italy) Appointing and</p>	<p>Panel 3.2. The Engagement of National Courts in Judicial Dialogue (part II) 15:00 – 16:00</p> <p>Moderator: Maria Lucia Di Bitonto (University of Camerino and University LUISS ‘Guido Carli’, Italy)</p> <p>Silvia Marino (University of Insubria, Como/Varese, Italy) The dialogue between the</p>

<p>Monica Bonini (University of Milan-Bicocca) Courts and separation of powers. The Italian case</p> <p>Edward Bécharde-Torres (McGill University, Canada) Orchestrating structural change: deconstructing the Indian Supreme Court's decades-long effort to solve starvation</p>	<p>Electing Constitutional Judges: An Evolving Comparative Landscape</p> <p>Francesco Giulio Cuttaia (University of Padova, Italy) Status, functions, and legitimacy of the constitutional Courts</p> <p>Gábor Dobos (Hungarian Academy of Sciences and National University of Public Service), Attila Gyulai (Hungarian Academy of Sciences and National University of Public Service) and Kálmán Pócza (Hungarian Academy of Sciences and Pázmány Péter Catholic University) Dissenting judges and legislative majorities in Hungary 1990-2018</p>	<p>Italian Constitutional Court and the Court of Justice of the European Union</p> <p>Ivan Ingravallo (University of Bari Aldo Moro, Italy) The ECJ as an EU Constitutional Court: Is It Lawful (and Desirable)?</p> <p>Michiel Duchateau (University of Groningen, Netherlands) Are Dutch judges looking for a dialogue?</p>
<p>Coffee break</p> <p>Lobby in front of New Conference Hall</p> <p>16:00 – 16:30</p>		
<p>Panel 1.3. Courts, Constitution-Making, and the Constituent Power</p> <p>16:30 – 18:00</p>	<p>Panel 2.3. The Role of Constitutional Courts in Contemporary Legal Orders (part II)</p> <p>16:30 – 18:00</p>	<p>Panel 2.4. The Role of Criminal Courts in Contemporary Legal Orders</p> <p>16:30 – 18:00</p>

<p>Moderator: Mauro Zamboni (University of Stockholm, Sweden)</p>	<p>Moderator: Simina Tanasescu (University of Bucharest, Romania)</p>	<p>Moderator: Yanaki Stoilov (University of Sofia ‘St. Kliment Ohridski’, Bulgaria)</p>
<p>Paul Yowell (University of Oxford) The Negative Legislator: On Kelsen’s Idea of a Constitutional Court and Lessons for Today</p>	<p>Maja Nastić (University of Niš) Interrelations between the Constitutional Court and ordinary Courts from the perspective of the human rights protection</p>	<p>Maria Lucia Di Bitonto (University of Camerino and University LUISS ‘Guido Carli’, Italy) Problematic aspects of criminal procedure rules built by the jurisprudence</p>
<p>Martin Belov (University of Sofia ‘St. Kliment Ohridski’) Constitutional courts as ultimate players in multilevel constituent power games</p>	<p>Minh Tuan DANG (Vietnam National University (VNU) School of Law, Hanoi, Vietnam and Boston College Law School, USA) Constitutional Protection of Fundamental Rights – A Comparative Analysis on the European and American Model of Constitutional Review</p>	<p>Ilaria Sforza (University of Rome Sapienza and University LUISS ‘Guido Carli’, Italy) Victims’ Participation before the International Criminal Court</p>
<p>Antonios Kouroutakis (IE University Madrid, Spain) Courts in the constitution-making process: paradoxes and justifications</p>	<p>Djordje Markovic (University of Belgrade, Serbia) Status, functions and legitimacy of the constitutional courts in the Post-Yugoslav area</p>	

<p>Michael Hein (University of Göttingen, Germany) Between “amendophobia” and “courtophobia”: The case against constitutional entrenchment clauses</p>	<p>Alexander Tsekov (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) The constitutional court as a negative constitutional legislator</p>	
<p>Day 2. 30 March 2019</p>		
<p>Panel 1.4. The Role of Courts in the Context of Democratic Backsliding, Illiberal Democracies and Populist Constitutionalism – Comparative Framework 9:00 – 10:20</p> <p>Moderator: Patricia Popelier (University of Antwerp, Belgium)</p> <p>Angela di Gregorio (University of Milan, Italy) Constitutionals courts in the constitutional regressions. Some comparative remarks</p>	<p>Panel 2.5. The Role of Courts in Administrative and Financial Matters 9:00 – 10:20</p> <p>Moderator: Michael Hein (University of Göttingen, Germany)</p> <p>Jurgen Goossens (Tilburg University, Netherlands) Judicial Review of Administrative Action: One and Twin Peak Models</p>	<p>Panel 3.3. Judicial Dialogue in Financial Matters 9:00 – 10:20</p> <p>Moderator: Daniel Valchev (University of Sofia ‘St. Kliment Ohridski’, Bulgaria)</p> <p>Cesare Pinelli (Sapienza University of Rome, Italy) The role of courts in financial matters</p>

<p>Daniela Urosa (Universidad Católica Andrés Bello, Venezuela and Boston College Law School) The role of constitutional courts in illiberal democracies: from guardians of constitutional supremacy to main support of authoritarianism</p>	<p>Simone Franca (University of Trento, Italy) The evolution of locus standi before the administrative courts. A comparative survey</p>	<p>Joan Solanes Mullor (University ‘Pompeu Fabra’, Barcelona, Spain) The European Central Bank facing the European Court of Justice. Some thoughts about the appropriate standard of judicial review</p>
<p>Punsara Amarasinghe (Scuola Superiore Sant’ Anna, Pisa, Italy) Apotheosis of Constitutional Identity against Regionalism: Emerging trend of Populist Constitutionalism in Europe</p>	<p>Sasho Penov (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) The Role of Courts in the Application of the Tax Legislation in Bulgaria</p>	<p>Gavin Barrett (University College Dublin, Ireland) The role of courts in the Eurozone (per teleconference)</p>
<p>Enrico Albanesi (University of Genova, Italy) The use of the infringement proceedings to protect de facto the rule of law under article 2 TEU before the European Court of Justice via the development of the relevant parameter</p>	<p>Maria Slavova (University of Sofia ”St. Kliment Ohridski”, Bulgaria) Administrative Courts in Bulgaria at the Stake of the Legislature</p>	<p>Adrianto Dwi Nugroho (University of Helsinki, Finland) Harnessing the Link between Constitutional Law and Tax Law through Constitutional Reviews of the New International Tax Order</p>

Coffee break
Lobby in front of New Conference Hall
10:20 – 10:50

Panel 1.5. The Role of Courts in the Context of Democratic Backsliding, Illiberal Democracies and Populist Constitutionalism – Case Studies (Part I)
 10:50 – 12:20

Moderator: Angela di Gregorio (University of Milan, Italy)

Simina Tanasescu (University of Bucharest, Romania) Can constitutional courts become populist?

Panel 2.6. Courts and Human Rights
 10:50 – 12:20

Moderator: Joan Solanes Mullor (University ‘Pompeu Fabra’, Barcelona, Spain)

Guerino Fares (University Roma Tre, Italy) The contribution provided by the Italian Constitutional Court and the European Court of Human Rights to the development of the principle of self-determination: the effects on the relationship between the right to health and the right to personal data protection

Panel 2.7. Are There Alternatives to Courts?
 10:50 – 12:20

Moderator: Dilyan Nachev (University of Sofia ‘St. Kliment Ohridski’, Bulgaria)

Yanaki Stoilov (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) and Ivan Stoynev (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) The Competition between competence of the Court of Justice of the EU and Independent and Impartial Tribunals

<p>Fruzsina Gárdos-Orosz (Institute for Legal Studies, Hungarian Academy of Sciences, Budapest and Department of Constitutional Law, ELTE Law School, Budapest) The populist transformation of the role of the Hungarian Constitutional Court – 2010-2018</p> <p>Zoltán Szente (National University of Public Service, Budapest and Institute for Legal Studies, Hungarian Academy of Sciences, Budapest Hungary) Subverting judicial independence in the new authoritarian regimes in Hungary and Poland</p>	<p>Władysław Józwicki (University of Poznan, Poland) Fundamental Rights Protection in the EU after Opinion 2/13. Reaction from Strasbourg: Stir up in Hornets’ Nest of the CJEU and MSs Constitutional Courts</p> <p>Zoltan J. Toth (Károli Gáspár University of the Reformed Church in Hungary) The freedom of expression in the practice of the Supreme Court and the Constitutional Court of Hungary – with special regard to the criminal defamation and slander</p> <p>Simona Veleva (University of Sofia ‘St. Kliment Ohridski’, Bulgaria) Freedom of Expression and its correlation with the Maintenance of the Authority and Independence of the Judiciary</p>	<p>Valere Ndior (Université de Bretagne occidentale, France) International institutions and the development of internal compliance mechanisms as an alternative to courts (per teleconference)</p>
<p>Panel 1.6. The Role of Courts in the Context of Democratic Backsliding, Illiberal</p>	<p>Panel 2.8. The Role of Courts in Environmental Issues</p>	

<p>Democracies and Populist Constitutionalism – Case Studies (Part II) 12:20 – 13:20</p> <p>Moderator: Ioannis A. Tassopoulos (National and Kapodistrian University, Athens, Greece)</p> <p>Wojciech Brzozowski (University of Warsaw) Can the constitutional court accelerate democratic backsliding? Lessons from the Polish experience</p> <p>Michał Sopiński (University of Warsaw, Poland) Following the letter versus the spirit of the law: the two different approaches to the concept of the rule of law and the reform of the supreme court in Poland</p> <p>Wojciech Engelking (University of Warsaw, Poland) The political character on the judiciary: Schmitt, Kelsen and Polish Constitutional Tribunal</p>	<p>12:20-13:20</p> <p>Moderator: Monica Bonini (University of Milan-Bicocca)</p> <p>Monica Claes (Maastricht University, The Netherlands) Can courts save the world?</p> <p>Rui Lanceiro (University of Lisbon, Portugal) Access to justice in environmental matters in the EU Member States: cooperation and tension between the Aarhus Compliance Committee, the CJEU, and national courts</p>	
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Closing of the conference

New conference hall

13:20-13:40