

Rainer Arnold

Constitutional Justice (CJ) in Europe

18.03.2024 Monday :

Introduction: The notion of Constitutional Justice. The forms of CJ existing in Europe. CJ on a supranational level.

19.03.2024 Tuesday:

The Review of Legislation as the Core Element of CJ.

Historical Developments and Present Day Situation. Rule of Law in a modern perspective. The tension between sovereignty of Parliament and judicial review of legislation. Margin of appreciation of the legislator and constitutional review. The different approaches of UK, France and Germany. The developments of CJ in Central and Eastern Europe.

20.03.2024 Wednesday:

The Judicial Protection of Fundamental Rights – Further Competences of Constitutional Courts

The anthropocentric approach of modern Constitutions. The judicial means to protect Fundamental Rights. The characteristics of individual recourses to the Constitutional Courts for the protection of Fundamental Rights. The diverging systems of judicial protection in Europe. - Controversies of State institutions - federal and regional disputes

21.03.2024 Thursday:

Constitutional Courts, Court of Justice of the EU and European Court of Human Rights: Cooperation and Conflicts

22.03.2024 Friday:

Conclusion and Repetition

General Description of the Intensive Course

Constitutional justice is of main importance for the new constitutionalism in Europe. Constitutional courts interpret constitutions as “living instruments” often in a dynamic way and contribute essentially to the development of constitutional law concepts destined to moderate the political process and to protect the individual by fundamental rights. This active role of constitutional courts corresponds to the new understanding of Rule of Law.

The intensive course analyses the different models of constitutional justice in Europe, gives an insight into the various forms of actions and procedures and includes the international law impact on national constitutional jurisprudence.

Literature:

Constitutional Courts and Ordinary Courts: Cooperation or Conflict? Rainer Arnold, Herbert Roth (Eds.), XVIIth International Congress on European and Comparative Law, Universitätsverlag Regensburg, 2017, 380 p.

Wojciech Sadurski, Constitutional Justice, East and West: Democratic Legitimacy and Constitutional Courts in Post-Communist Europe in a Comparative Perspective, 2002

Rainer Arnold (ed.), The protection of human rights through inter- and supranational jurisprudence, Comparative Law Studies, vol. 14, University of Regensburg, 2021, 69 p.

The Convergence of the Fundamental Rights Protection in Europe, R. Arnold (ed.), 2016, 235 p.

Rule of Law, Human Rights and Judicial Control of Power. Some Reflections from National and International Law, Rainer Arnold/José Ignacio Martínez-Estay (Editors), Springer, 2017, 446 p.