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CONSTITUTIONAL PRINCIPLES AND THEIR IMPACT ON THE ESTABLISHING OF THE CONSTITUTIONAL ORDER AND RULE OF LAW IN KOSOVO

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Considered as a progressive document based on the models of the Western constitutions, the Constitution of the Republic of Kosovo has established the legal basis for a functional state that respects rights and fundamental freedoms while guaranteeing the rule of law. In its provisions, the Constitution has laid down basic principles which serve as the foundation for Kosovo's constitutional order. In this regard, these constitutional principles have been further enshrined in the provisions of laws that emanate from the Constitution, and also have been established in the institutional mechanisms for its appropriate application. In addition, what played a prominent role in defining these principles was the impact of the Constitutional Court's case-law. Case-law has reaffirmed in many instances the tremendous importance of constitutional principles in enhancing the rule of law, protecting the rights of minority groups and other members of Kosovo's society, and the right to freedom of belief and secularism by implementing the most modern European standards in human protection. Hence, this paper analyzes the impact that constitutional principles have had on defining the structure of the state, guaranteeing the rule of law, protection of human rights and establishing Kosovo as a multi-ethnic society. Likewise, it examines the case-law of Kosovo's Constitutional Court by providing some of the most prominent cases.

Key words: *Constitution, constitutional principles, case-law, Constitutional Court, rule of law, affirmative action programs, human rights*

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Principles Of The Constitutional Order

Hanri Mostert



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attachment to international law in legal systems that have survived a period of repression resulting in many cases in a higher normative status for international human rights instruments in those states The impact of the European Union on the constitutional order of its member states is also examined *Italian Constitutional Justice in Global Context* Vittoria Barsotti, Paolo G. Carozza, Marta Cartabia, Andrea Simoncini, 2016 *Italian Constitutional Justice in Global Context* is the first book ever published in English to provide an international examination of the Italian Constitutional Court ItCC offering a comprehensive analysis of its principal lines of jurisprudence historical origins organization procedures and its current engagement with transnational European law The ItCC represents one of the strongest and most successful examples of constitutional judicial review and is distinctive in its structure institutional dimensions and well developed jurisprudence Moreover the ItCC has developed a distinctive voice among global constitutional actors in its adjudication of a broad range of topics from fundamental rights and liberties to the allocations of governmental power and regionalism Nevertheless in global constitutional dialog the voice of the ItCC has been almost entirely absent due to a relative lack of both English translations of its decisions and of focused scholarly commentary in English This book describes the Italian Style in global constitutional adjudication and aims to elevate Italian constitutional jurisprudence to an active participant role in global constitutional discourse The authors have carefully structured the work to allow the ItCC's own voice to emerge It presents broad syntheses of major areas of the Court's case law provides excerpts from notable decisions in a narrative and analytical context addresses the tension between the ItCC and the Court of Cassation and positions the development character and importance of the ItCC's jurisprudence in the larger arc of global judicial dialog **Remedies against Immunity?**

Valentina Volpe, Anne Peters, Stefano Battini, 2021-04-08 The open access book examines the consequences of the Italian Constitutional Court's Judgment 238/2014 which denied the German Republic's immunity from civil jurisdiction over claims to reparations for Nazi crimes committed during World War II This landmark decision created a range of currently unresolved legal problems and controversies which continue to burden the political and diplomatic relationship between Germany and Italy The judgment has wide repercussions for core concepts of international law and for the relationship between different legal orders The book's three interlinked legal themes are state immunity reparation for serious human rights violations and war crimes including historical ones and the interaction between international and domestic institutions notably courts Besides a meticulous legal analysis of these themes from the perspectives of international law European law and domestic law the book contributes to the civic debate on the issue of war crimes and reparation for the victims of armed conflict It proposes concrete legal and political solutions to the parties involved for overcoming the present paralysis with a view to a sustainable interstate conflict solution and helps judges directly involved in the pending post-Sentenza reparation cases After an Introduction Part I Part II Immunity investigates core international law concepts such as those of pre/post judgment immunity and international state responsibility Part III Remedies examines the tension between state immunity and

the right to remedy and suggests original schemes for solving the conundrum under international law Part IV adds European Perspectives by showcasing relevant regional examples of legal cooperation and judicial dialogue Part V Courts addresses questions on the role of judges in the areas of immunity and human rights at both the national and international level Part VI Negotiations suggests concrete ways out of the impasse with a forward looking aspiration In Part VII The Past and Future of Remedies a sitting judge in the Court that decided *Sentenza 238* 2014 adds some critical reflections on the Judgment Joseph H H Weiler's Dialogical Epilogue concludes the volume by placing the main findings of the book in a wider European and international law perspective

The Foundations and Traditions of Constitutional Amendment Richard Albert, Xenophon Contiades, Alkmene Fotiadou, 2017-07-13 There is growing interest in constitutional amendment from a comparative perspective Comparative constitutional amendment is the study of how constitutions change through formal and informal means including alteration revision evolution interpretation replacement and revolution The field invites scholars to draw insights about constitutional change across borders and cultures to uncover the motivations behind constitutional change to theorise best practices and to identify the theoretical underpinnings of constitutional change This volume is designed to guide the emergence of comparative constitutional amendment as a distinct field of study in public law Much of the recent scholarship in the field has been written by the scholars assembled in this volume This book like the field it hopes to shape is not comparative alone it is also doctrinal historical and theoretical and therefore offers a multiplicity of perspectives on a subject about which much remains to be written This book aspires to be the first to address comprehensively the new dimensions of the study of constitutional amendment and will become a reference point for all scholars working on the subject The volume covers all of the topics where innovative work is being done such as the notion of the people the trend of empirical quantitative approaches to constitutional change unamendability sunrise clauses constitutional referenda the conventional divide between constituent and constituted powers among other important subjects It creates a dialogue that cuts through these innovative conceptualisations and highlights scholarly disagreement and in so doing puts ideas to the test The volume therefore captures the fierce ongoing debates on the relevant topics it reveals the current trends and contested issues and it offers a variety of arguments elaborated by prominent experts in the field It will open the way for further dialogue

European Union Law Damian Chalmers, Gareth Davies, Giorgio Monti, 2019-09-12 The most current contextual and authoritative EU law text including Brexit the euro and the migration crisis

Policy Responses to the Radical Right in France and Germany Bénédicte Laumond, 2020-03-13 Based on research fieldwork conducted in France and Germany this study seeks to explain how public actors have taken part in the regulation of the expression of right wing radicalism The author compares these two neighbouring countries which have framed the struggle against right wing radicalism differently German political and state actors have constructed a public policy responding to political radicalism whilst in France the radical right is primarily handled in the political arena The text evaluates how these two Western European democracies

address the paradox of tolerance i.e. the fact that liberal democracies may restrain rights they value such as freedom of speech in order to repress intolerant forces that threaten democracy This book is core reading for scholars and students interested in the spread of far right politics in contemporary democracies

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