

First week:

Concrete control of constitutionality

Prof. Constance Grewe, Professor of Constitutional Law, Université Robert Schuman, Strasbourg and Judge of the Constitutional Court of Bosnia-Herzegovina

Monday July 28th / Tuesday July 29th

The seminar will explore the relationship between Constitutional Courts and ordinary jurisdictions through the organization and the practice of concrete control (named “incidental control of constitutionality” in Italian terminology, or “exception de constitutionnalité” in French, or “exception of unconstitutionality” in English). The presentation will be centered on the models in this field, focusing in particular the narrow or wider margin of discretion left up to the other jurisdictions with the implications due to a resulting decentralization in the interpretation and enforcement of constitutional law. Participants will contribute by presenting the case law (or the *obiter dicta*) on the issue of such relationship in their respective jurisdictions. The discussion will include both the theoretical ground and the practice underlying this specific instrument of access to constitutional adjudication.

The constitutional rights of foreigners

Prof. Roberto Toniatti, Professor of Comparative Constitutional Law, Dean of the Faculty of Law, University of Trento

Thursday July 31st / Friday August 1st

The Seminar aims at exploring if there is and what is a shared European approach to the protection of constitutional rights of foreigners, on equality ground with nationals. The category of “foreigners” has grown quite large both within the legal systems of the European Union and of the Council of Europe (ECHR-ECtHR) and of member States, including other jurisdictions sharing the western legal tradition: it will be therefore necessary to have a preliminary general review of “foreigners”. The seminar will then focus on those subcategories of foreigners (e.g.: citizens of the EU, citizens of third Countries, asylum seekers, immigrants and their families, nationals but non citizens, et cetera) the protection of whose rights is producing more litigation and consequently more constitutional case law, according also to the materials indicated by participants.

Second week:

Structure and Functions of the Individual Constitutional Complaint

Prof. Rainer Arnold, Professor of Law, Public Law and European Law at the Faculty of Law of the University of Regensburg

Monday August 4th / Tuesday August 5th

The Seminar will deal with this instrument for directly advancing issues of constitutionality to Constitutional Courts, thus affecting not only legislation but also – according to the national jurisdiction involved – judicial decisions and administrative acts. The Individual Constitutional Complaint is a peculiar instrument, raising doubts as to its efficiency due to the remarkable workload imposed on Courts and yet being considered as to its introduction where it is not present. Undoubtedly, the individual complaint contributes to the development of constitutional law, also by making the citizen become more familiar to the own constitution. Participants will provide materials in which the various Courts comment and evaluate and perhaps even compare the instrument of the individual complaint as operating in each jurisdiction.

Human rights compatibility of international acts in national and EU domestic constitutional law: old questions, new answers in a globalized world?

Dr. Alberto Alemanno , PhD, LLM (Bruges), LLM (Harvard), Clerk at Court of Justice of the European Communities, Luxembourg

in substitution for

Dr. Luigi Malferrari, Ph. D., LL.M., formerly clerk, Court of Justice of the European Communities, Luxembourg ; at present Legal Officer, European Commission, DG Internal Market, Brussels
Thursday August 7th / Friday August 8th

Law has become more and more global. National and supranational legal orders are increasingly opening up to international law and legal cooperation among different States and institutions, especially within international organizations, is essential in some fields. Having its ground on such assumption, the Seminar aims at discussing the following basic questions: What are the implications of all this for the human rights protection vis-à-vis the execution of international acts (such as UN resolutions) by national authorities? To what extent do judges and governments have powers to ensure this protection? Must international legal acts and their execution be scrutinized with regard to human rights? If so, with regard to (national or EC) constitutional human rights? Shall all constitutional human rights be taken into account or only the most important ones? Shall the whole content of constitutional human rights be abided by or only their hardcore? Is it appropriate to apply a lower standard of scrutiny than the one normally used? Can international human rights be used as criteria for this legal scrutiny? If so, how can their content and scope be determined? Does the legal scrutiny with regard to international human rights substitute the legal scrutiny with regard to constitutional human rights? Participants are invited to submit judicial decisions and in particular constitutional judgments with a view of discussing these questions.

Guest Speaker: Schnutz Rudolf Dürr (Head of the Constitutional Justice Division, Venice Commission, Council of Europe / Chef de la Division de la Justice Constitutionnelle, Commission de Venise, Conseil de l'Europe)

The assistance by Venice Commission to constitution drafters and constitutional courts

Tuesday, July 29th

Guest Speaker: Tania Groppi (Professor of Public Law, University of Siena)

The use of comparative law by constitutional courts

Wednesday, July 30th

Special Speaker: Rainer Arnold (Professor of Law, Public Law and European Law at the Faculty of Law of the University of Regensburg)

General Principles of Transnational Constitutional Law? Reflections on Their Existence, Nature and Legal Basis

Monday, August 4th

Guest Speaker: PD Dr. Dagmar Richter (University Lecturer, Universität Heidelberg; Temporary Professor, Freie Universität Berlin)

Foreign Law as a Means of Interpretation in European Constitutional Courts - For Better or Worse?

Wednesday, August 6th