

# Global Constitutionalism and Its Challenges to Westphalian Constitutional Law

PAR 1250974

Edited by  
Martin Belov

Dipartimento di Scienze Politiche Biblioteca
Inv. DSP 6685
Coll. COST. A3R.C. 323

• H A R T •

OXFORD • LONDON • NEW YORK • NEW DELHI • SYDNEY

# *Contents*

<i>Notes on Contributors .....</i>	vii
<i>Introduction.....</i>	xi

## **Part I. General Constitutional Theory of Global Constitutionalism**

1. Global Constitutionalism and Normative Hierarchies .....	3
<i>Jean-Bernard Auby</i>	
I. The Basic Problem: The Disorder Created by the Multiplication and Dispersion of Legal Producers and of Places of Production of Law in the Global Space.....	3
II. Theories of Global Constitutionalism as Efforts to Instil some Order and Values into the Normative Disorder of Legal Globalisation .....	4
III. The Problem of Normative Hierarchies in Legal Globalisation .....	5
IV. Global Constitutionalism and Links between Legal Orders .....	7
V. Global Constitutionalism and Normative Arrangements .....	8
VI. Global Constitutionalism and Dissemination of the Rule of Law's Fundamental Principles .....	10
VII. Conclusion: Necessity and Limits of Global Constitutionalism.....	11
2. The Challenges to Westphalian Constitutional Geometry in the Age of Supranational Constitutionalism, Global Governance and Information Revolution .....	13
<i>Martin Belov</i>	
I. Taking Constitutional Geometry Seriously .....	13
II. Geometrical Explanatory Paradigms in Westphalian Constitutional Law.....	20
III. Post-Westphalian Challenges of Supranational Constitutionalism, Global Governance and Information Revolution to the Constitutional Geometry of Westphalian Constitutional Law.....	38
IV. Conclusion .....	52
3. Overcoming False Dichotomies: Constitutionalism and Pluralism in European and International Studies .....	55
<i>Giuseppe Martinico</i>	
I. Aims and Structure.....	55

II.	Constitutionalism According to Krisch.....	57
III.	Questioning this Reconstruction.....	60
IV.	Italian Constitutionalism between Resistance and Openness ....	65
V.	The Italian Constituent Process and its Relevance .....	66
VI.	External Openness.....	70
VII.	Final Remarks .....	76
<b>Part II. Limits to Global Constitutionalism</b>		
4.	Counter-developments to Global Constitutionalism.....	81
<i>Konrad Lachmayer</i>		
I.	The Road Towards Constitutional Authoritarianism.....	81
II.	The Threats to Global Constitutionalism .....	89
III.	Between Societal and Civic Constitutionalism .....	101
5.	Romanian Tendential Constitutionalism and the Limits of European Constitutional Culture.....	103
<i>Manuel Gutan</i>		
I.	Failure of the European Model of Civic Constitutionalism....	103
II.	The European Constitutional Convergence and the Limits of the European Constitutional Transplant.....	107
III.	Factors Explaining the Poor Romanian Score in Endorsing Civic Constitutionalism.....	109
IV.	Romanian Tendential Constitutionalism .....	118
V.	Conclusions.....	127
<b>Part III. Issues of European Supranational Constitutionalism</b>		
6.	The Limits of Sovereignty Pooling: Lessons from Europe.....	133
<i>Balázs Fekete</i>		
I.	An Evergreen Problem Re-exposed.....	133
II.	Keohane's Idea of Pooled Sovereignty.....	135
III.	Sovereignty Pooling in EU Constitutional Law .....	143
IV.	The Nightfall of Sovereignty Pooling in Europe? .....	151
7.	EU Agencies in the Internal Market: A Constitutional Challenge for EU Law.....	161
<i>Marta Simoncini</i>		
I.	Introduction .....	161
II.	EU Agencies in the Complex Nature of the EU Integration Process .....	164
III.	The Constitutional Value of the Meroni Doctrine .....	168
IV.	The Constitutional Challenges to EU Agencies .....	173
V.	Final Remarks .....	179
<i>Index.....</i> 183		