

Reading Group (DACPVPO3), autumn 2020

National and Constitutional Identities in the European Union

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This is a course designed primarily for PhD students but open also to motivated students of other programmes, including Mgr., Bc., or Erasmus. Every semester we read either a selected book or a set of articles, book chapters or other texts dedicated to a given topic. We gradually read our weekly portions of assigned readings and then meet to discuss the content of the readings and our follow-up thoughts and ideas. The atmosphere of this course will (hopefully) be informal, creative, and intellectually stimulating.

In the autumn of 2020, we will read texts on national/constitutional identities in the context of (European) constitutionalism and discuss our understanding of these notions.

The course will run in a hybrid form, i.e. as a series of personal meetings in Brno (in a meeting room at the office of the Public Defender of Rights) which will be streamed online for those who cannot (or do not want to) meet in person. For now, those interested in the course should join the virtual classroom in MS Teams (code: **cc4mdoi**).

Would you like to join?
You will be most welcome!

❖ Main Readings (selected chapters, not full books)

András Sajó & Renáta Uitz, *The Constitution of Freedom: An Introduction to Legal Constitutionalism* (OUP 2017)

Alejandro Saiz Arnaiz & Carina Alcoberro Llivina (eds.), *National Constitutional Identity and European Integration* (Intersentia 2013)

Syllabus for autumn 2020

(subject to minor changes during the semester)

❖ Introduction: Constitutionalism, Constitutions, Communities, Cultures

- 7. 10. 2020:** **Sajó & Uitz**, p. 13-19 (The Concept of Constitutionalism)
Stanford Enc. of Philosophy, [John Rawls](#) (part 3: Political Liberalism)
Further reading: **Sajó & Uitz**, p. 19-29 (The Idea of a Constitution)
- 14. 10. 2020:** **Sajó & Uitz**, p. 29-41 (Constitutional Fabric; Social Organization)
Orgad, *The Cultural Defence of Nations* (OUP 2015), p. 1-11
Further reading: **Kymlicka**, 'Multiculturalism' (2002), p. 327-376;
Orgad, *The Cultural Defence of Nations* (OUP 2015), p. 203-229

🌀 Constitutional Identity

21. 10. 2020: **Sajó & Uitz**, p. 63-68 (Constitutional Identity)
Clouts, National ID, Const. ID, and Sovereignty in the EU (2016)
Further reading: **Schmitt**, Constitutional Theory (DUP 2008), p. 239-252;
Luis Martí, 'Two different ideas of constitutional identity'
(in: Saiz Arnaiz & Alcobarro Llivina 2013, p. 17-36)
28. 10. 2020: [no class, state holiday: The Independent Czechoslovak State Day]
This is a very topical state holiday for our course! To celebrate it, read the
text on Czech constitutional identity by D Kosař & L Vyhnánek (CUP 2019)
Further reading: **Přibáň**, The Semantics of Constitutional Sovereignty... (2015)
4. 11. 2020: **Rosenfeld**, The Identity of the Constitutional Subject: Selfhood,
Citizenship, Culture, and Community (Routledge 2010), p. 17-69
Further reading: **Werner-Müller**, Constitutional Patriotism (2012)
11. 11. 2020: **Jacobsohn**, Constitutional Identity (HUP 2010), p. 84-117
18. 11. 2020: Recapitulation & discussion

🌀 European Constitutionalism & National (Constitutional) Identities

25. 11. 2020: **Sajó & Uitz**, p. 446-471 (Multi-Layered Constitutionalism)
Weiler, 'Europe's constitutional Sonderweg' (in: CUP 2003, p. 7-23)
Further reading: **MacCormick**, 'On Sovereignty and Post-Sovereignty'
(in: OUP 2009, p. 123-136); **Jovanović**, Sovereignty-Out, Const ID-In (2015)
2. 12. 2020: **Von Bogdandy & Schill**, Overcoming Absolute Primacy (CMLR 2011)
Claes, 'National identity: trump card or up for negotiation?'
(in: Saiz Arnaiz & Alcobarro Llivina 2013, p. 109-139)
9. 12. 2020: **Faraguna**, 'Const. Identity in the EU - A Shield or a Sword?' (GLJ 2017)
Piqani, 'In Search of Limits for the Protection of National Identities
as a Member State Interest' (in: Varju 2019, p. 21-47)
16. 12. 2020: **Drinóczi**, 'Constitutional Identity in Europe' (GLJ 2020)
Kaczorowska-Ireland, 'What is the European Union required to
Respect under Article 4(2) TEU? The Uniqueness Approach' (EPL 2019)

🌀 European Union's Own Identity?

6. 1. 2021: **Jakáb**, European Constitutional Language (OUP 2016), p. 143-170
Sarmiento, 'The EU's constitutional core' (in: Saiz Arnaiz & Alcobarro
Llivina 2013, p. 177-204)
13. 1. 2021: **Cebulak**, European Constitutional Identity "Inside Out" (2012);
Cuyvers, The EU as a Confederal Union of Sovereign Member Peoples:
Exploring the Potential of American (Con)Fedralism... (2013)

Further readings: **Clouts**, National Identity in EU Law (OUP 2015); **Toniatti**, 'Sovereignty lost,
constitutional identity regained' OR **Martinico**, 'What lies behind Article 4(2) TEU?' (both in: Saiz
Arnaiz & Alcobarro Llivina 2013, p. 49-73 and 93-108, respectively); **Schnettger**, Article 4(2) TEU
as a Vehicle for National Constitutional Identity in the Shared European Legal System (in:
Calliess & van der Schyff, CUP 2019, p. 9-37), and much more!

Looking forward to our meetings!