

Workshop Programme

Constitutional Interpretation in Emergencies in Europe

European University Institute, Florence

Badia Fiesolana, Emeroteca, June 24-25, 2024

The aim of the workshop is to examine how emergencies impact the methodology and practice of constitutional interpretation in Europe.

There has been a vast and growing literature over the last two decades on the legal theory of emergencies, regulatory regimes, and the scientific assessment of exceptional powers and rights-restrictions. However, less attention has been paid to the constitutional review of emergency legislation, despite the fact that the issue has been raised time and time again from *Ex parte Milligan*, 71 U.S. (4 Wall.) 2 (1866) to *Korematsu v. United States*, 323 U.S. 214 (1944), from *A v. Secretary of State for the Home Department* [2004] UKHL (the *Belmarsh* case) to the “COVID-19 case law” of the European Court of Human Rights. The primary reason for this scholarly gap may be that (constitutional) courts have traditionally been deferential to the executive in dealing with a crisis in times of emergency, and, since judicial review usually reacts to legal challenges with some delay and after the events, it is difficult to access the relatively limited information needed for normative assessment or even for broader comparative analysis.

Organisers

The workshop is organised as part of the project on *Constitutional Interpretation in Emergencies in Europe* (CINEM) and is supported by the Widening Europe Programme of the European University Institute, Florence, the HUN-REN Centre for Social Sciences, Institute for Legal Studies, Budapest, and the Research Group on Constitutional Interpretation of the International Association of Constitutional Law. The EUI Widening Europe Programme initiative, backed by contributions from the European Union and EUI Contracting States, is designed to strengthen internationalisation, competitiveness, and quality in research in Widening countries, and thus foster a more cohesive European Higher Education and Research area. The Principal Investigators of the framework project are Gráinne de Búrca, Professor of Law at the European University Institute, Florence; Fruzsina Gárdos-Orosz, Research Professor, Institute for Legal Studies, HUN-REN Centre for Social Sciences and Professor of Law, ELTE Law School, and Zoltán Sente, Fernand Braudel Fellow, European University Institute and Research Professor, Institute for Legal Studies, HUN-REN Centre for Social Sciences.



Day 1: 24 June, Monday

9.30 – 9.45 Registration

9.45 – 10.00 Welcome speeches **Gráinne de Búrca** and **Zoltán Szente**

Morning session

Chair: **Zoltán Szente**

10.00–10.20 **Fruzsina Gárdos-Orosz**: *State of emergency and (the lack of) functioning constitutional standards in Hungary*

10.20–10.40 **Monika Florczak-Wątor**: *Constitutional interpretation in emergencies: Navigating legal standards and methodologies in times of crisis*

10.40–11.00 **Pavel Ondřejek**: *Justification of Extraordinary Measures Adopted Pursuant to the Pandemic Act in the Czech Republic*

11.00–11.45 Discussion

11.45–12.00 Coffee break

12.00–12.20 **Martin Belov**: *Deus ex Machina: the Extraordinary Epidemic Situation as Unconstitutional Constitutional Amendment Approved by the Bulgarian Constitutional Court*

12.20–12.40 **Đorđe Gardašević**: *Relevance of classical arguments in contemporary emergency interpretation*

12.40–13.00 **Cosmin Cercel**: *Constitutional Interpretation in Emergency in Romania*

13.00–13.45 Discussion

13.45–14.45 Lunch break

Afternoon session

Chair: **Fruzsina Gárdos-Orosz**

14.45–15.05 **Vaidotas Vaičaitis**: *Covid-19 case-law of the Lithuanian Constitutional Court*

15.05–15.25 **Vanessa Barbé**: *“Particular circumstances” before the French Constitutional Council: the case of the confirmation of a clear breach of the Constitution*

15.25- 16.00 Discussion

16.00–16.20 **Francisco Balaguer Callejón**: *Constitutional Interpretation in Emergency in Spain*

16.20–16.40 **Cesare Pinelli**: *Constitutional Interpretation in Emergency in Italy*



16.40–17.20 Discussion

19:30 Dinner for workshop participants

Day 2: 25 June, Tuesday

Morning session

Chair: **Fruzsina Gárdos-Orosz**

10.00–10.20 **Anna-Bettina Kaiser**: *Constitutional Interpretation in Emergency in Germany*

10.20–10.40 **Konrad Lachmayer**: *Considering the circumstances while interpreting the constitution – The Austrian reluctance towards states of emergencies*

10.40–11.00 **Daniella Lock**: *Constitutional Interpretation in Emergency in the United Kingdom*

11.00–11.50 Discussion

11:50–13:00 Lunch break

Afternoon session

Chair: **Gráinne de Búrca**

13.00–13.20 **Claudia Cinnirella**: *Emergency interpretation in European Union Law: a first attempt of systematisation*

13.20–13.40 **Giuliano Vosa**: *Constitutional interpretation as an exhausted resource: When emergencies unveil a dark side of EU law*

13.40–14.00 **Alan Greene**: *Emergency jurisprudence of the European Court of Human Rights*

14.00–14.45 Discussion

14.45–15.00 Coffee break

15.00–15.40 Book discussion on **Monika Florczak-Wator et al (eds.)** “*State of Emergency and Human Rights Protection: The Theory and Practice of the Visegrad Countries*”, (Routledge 2024) – Introduction by **Leszek Garlicki**

15.40–15.20 Book discussion on **Fruzsina Gárdos-Orosz** “*Constitutional Review under Populism: The Transformation of Hungarian Constitutional Jurisprudence since 2010*”, (AK - Wolters Kluwer, 2024) - Introduction by **Gábor Halmai**

16.20–16.40 **Zoltán Szente**: *Constitutional interpretation in emergency – Closing remarks*



Participants:

BALAGUER CALLEJÓN, Francisco, Professor of Law, University of Granada, Granada

BARBÉ, Vanessa, Professor of Law, University of Valenciennes, Valenciennes

BELOV, Martin, Professor of Law, University of Sofia, Sofia

CERCEL, Cosmin, Professor of Law, Ghent University, Ghent

CINNIRELLA, Claudia, Post-doc Researcher, University of Catania, Catania

DE BÚRCA, Gráinne, Professor of Law, European University Institute, Florence

FLORCZAK-WĄTOR, Monika, Professor of Law, Jagellonian University, Cracow

GARDAŠEVIĆ Đorđe, Professor of Law, University of Zagreb, Zagreb

GÁRDOS-OROSZ, Fruzsina, Research Professor, Institute for Legal Studies, HUN-REN;
Professor of Law, ELTE Law School, Budapest

GARLICKI LESZEK, Professor Emeritus, University of Warsaw, Warsaw, former Judge of the
European Court of Human Rights, and former Judge of the Polish Constitutional
Tribunal

GÁBOR HALMAI, Professor, European University Institute, Florence

KAISER, Anna-Bettina, Professor of Law, Humboldt University, Berlin

GREENE, Alan, Reader in Constitutional Law, University of Birmingham, Birmingham

LACHMAYER, Konrad, Professor of Law, Sigmund Freud University, Vienna

LOCK, DANIELLA, Postdoctoral Fellow, University of Oxford, Oxford

ONDŘEJEK, Pavel, Associate Professor, Charles University, Prague

PINELLI, Cesare, Professor of Law, Sapienza University, Rome

SZENTE, Zoltán, Research Professor, Institute for Legal Studies, HUN-REN, Budapest

VAIČAITIS Vaidotas, Associate Professor, University of Vilnius, Vilnius

VOSA, Giuliano, T-T Researcher, University of Catania, Catania

To join the workshop, please register via event web page. The Zoom meeting link for the online participation will also be shared upon the registration.

