

Constitutional Reasoning in Europe. A Linguistic Turn in Comparative Constitutional Law

Final Report

Courts are reason-giving institutions and argumentation plays a central role in constitutional adjudication. Yet a cursory look at just a handful of constitutional systems suggests important differences, as well as commonalities, in the practices of constitutional judges, whether in matters of form, style, language, or other. Over time, too, constitutional reasoning may seem to exhibit both elements of change and elements of continuity. In what measure is this really the case? What is common to constitutional reasoning everywhere? Is the trend one of growing convergence (standardisation of constitutional reasoning?) or, on the contrary, one of increasing fragmentation? To what extent is the language of judicial opinions responsive to the political and social context in which constitutional courts operate? And how does it affect the behaviour of public and private litigants interacting with the courts? Funded by a Schumpeter Fellowship from the VolkswagenStiftung and housed by the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany (and in the second half of the project, also by the Institute for Legal Studies of the Centre for Social Sciences at the Hungarian Academy of Sciences in Budapest, Hungary), the CONREASON Project endeavoured to answer these central questions of comparative constitutional scholarship by applying and developing a new set of tools and research methods.

Theoretical efforts included the development of comprehensive typologies of constitutional arguments, but the Project also addressed judicial argumentation as a form of political communication, seeking to theorize how the rhetorical strategies deployed by constitutional judges differ from those employed by other public decision-makers.

1. Researchers Employed in the Frame of the Project

The project started on 1st September 2011 and finished on 31st August 2016. The Schumpeter Team had its seat at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg (MPI), and had two members: András Jakab (PI, Schumpeter Fellow) and Arthur Deyvre (postdoc researcher as senior research fellow, employed until September 2013), both began their employment on 1st September 2011 at the MPI.

During the project period, András Jakab succeeded with his habilitation in Hungary [19.09.2012: *habilitation* lecture at the Pázmány Péter Catholic University in Budapest on ‘Legal Arguments Used in the Fight against Terrorism’; *habilitation* document issued on 4 December 2012). Immediately after the habilitation, he also received a *Ruf* to take up a tenured research chair at the Hungarian Academy of Sciences (Budapest) which he accepted. Jakab continued with his position as Schumpeter Fellow at the Max Planck Institute in Heidelberg. He recently also received a new position as chair in European and constitutional law at the Catholic University Pázmány Péter Budapest (beginning date: 1 September 2016).

Arthur Deyvre, the other member of the Schumpeter Group received a *Ruf* for an associate professorship at the Catholic University of Leuven: he formally left the research group at the end of August 2013, but in fact we continued our co-operation. Deyvre currently holds an ERC Starting Grant in a topic connected to the CONREASON project (‘Conflict and Cooperation in the EU Heterarchical Legal System’).

2. Monograph (subproject 1, Jakab)

The promised monograph has been published both in English and in Hungarian:

1. *European Constitutional Language* (Cambridge: Cambridge University Press 2016) pp. xviii + 511
<http://www.cambridge.org/us/academic/subjects/law/jurisprudence/european-constitutional-language>
2. *Az európai alkotmányjog nyelve* (European Constitutional Language) (Budapest: NKE 2016) pp. 453
<https://bookline.hu/product/home.action? v=Jakab Andras Az europai alkotmanyjog nyelve&id=284463&type=22>

2.1 Short description and table of contents

This book provides a theory for constitutional lawyers about *fundamental questions of European constitutional law*. My intention was: (1) to present a map (or a structured and concise overview) of the immense literature on these questions; (2) to show in an intelligible methodological manner my own answers to these questions; and (3) to demonstrate the practical relevance of constitutional theory by presenting concrete examples of its application and by showing how different theoretical answers (presuppositions) lead to different legal solutions.

The volume analyses the language of constitutionalism, with a special emphasis on Europe. Most social issues can be expressed in this language, one just has to follow its grammar and learn its vocabulary. Constitutional lawyers speak this language by profession, their job is to translate social issues into constitutional ones and *vice versa*. Constitutional theorists (as the author of the book himself understands) see their role as describing this language and even in influencing its use through advising constitutional lawyers about its correct use. My general advice in this book was to have a look at the social challenges to which the different elements of this language were a response in the time in which they were invented, and to find their current meaning in the light of today's challenges.

The grammar of this constitutional language, i.e., the rules of constitutional reasoning, are slightly different in every country, but generally, I have argued for a more frequent use of 'objective teleological' arguments (i.e., reference to the 'objective purpose' of the norm when explaining the content of constitutional norms) whenever and wherever it is possible. This denomination does *not* mean that the objective purpose can be established in an entirely objective way, the word 'objective' simply refers to the origin of the purpose: we establish it on the basis of an object, i.e., the norm (and not on the basis of a subject, i.e., the law-maker), supposing that the norm serves a socially reasonable purpose. What actually this purpose (in Greek: *telos*) is, is very much open to the partly subjective interpretations of scholars and judges.

In the main part of the book, I have shown how this objective teleological interpretation can be applied in practice to key concepts of the constitutional language. I have suggested the use of a core vocabulary which includes sovereignty (in a strongly redefined form, only as a 'claim of supreme exclusive power' which, consequently, does not impede European integration), the rule of law and fundamental rights (in an unchanged form, in spite of today's terrorist challenge), constitution (also including the founding treaties of the European Union), democracy (ensuring both the loyalty of citizens and the self-correction mechanism, which in the case of the European Union requires a practically exclusive role of

the European Parliament in electing the European Commission) and nation (meaning by it also all European citizens as a European nation).

In a short final part, I have highlighted a few conceptual dead-ends, referring to them as ‘redundant vocabulary’. These were rejected partly because they are conceptually incoherent, and partly because they imply pre-democratic and pre-constitutional ideas on how a legal order functions. The redundant vocabulary includes the conceptual framework of *Staatslehre* (i.e., using the concept of a pre-legal state administration in constitutional reasoning), *Stufenbaulehre* (the Kelsenian terminology explaining the validity of norms), principles as norms logically distinct from rules (as exemplified by the theory of Robert Alexy) and the traditional public law/private law divide (which is both conceptually flawed and which also implies pre-democratic ideas of hierarchy between the state and its citizens).

This book describes a European constitutional language which is already widely used but very often in an unconscious and, in some cases, in a substantively different way. The suggested grammar (i.e., the pre-eminence of objective teleological arguments) could be used anywhere in the world and there is currently no specifically European grammar, but the suggested vocabulary with its partly re-defined content is distinctively European. The definitions and social challenges which motivate those definitions are all to be understood in the context of European integration. This volume is thus not just a methodological exercise in constitutional theory, but also a conscious effort to choose, clean and clarify the core constitutional vocabulary of the European constitutional discourse.

The volume is based on an approach to constitutional theory viewing as its main task to set out a language in which the discourse of constitutional law may be grounded. It maps out and analyses the grammar and vocabulary on which the core European traditions of constitutional theory are based. It suggests understanding key constitutional concepts as responses to historical and present day challenges experienced by European societies. Drawing together a great and diverse range of literature, much of which has never before been touched upon by scholarship in the English language, it reconceptualises and argues for a new understanding of European constitutional law discourse.

I. Introduction

A. The Grammar: the Rules of Constitutional Reasoning

II. Constitutional Reasoning in General

III. A Scheme of the Specific Methods of Interpretation

IV. The Conceptual System of Constitutional Law

V. Dialects or Local Grammars: The Style of Constitutional Reasoning in Different European Countries

B. Suggested Vocabulary as a Patchwork Historical Collection of Responses to Different Challenges

VI. Sovereignty and European Integration

VII. The Rule of Law, Fundamental Rights and the Terrorist Challenge in Europe and Elsewhere

VIII. The Constitution of Europe

IX. Democracy in Europe through Parliamentarisation

X. Constitutional Visions of the Nation and Multi-Ethnic Societies in Europe

C. Redundant Vocabulary

XI. Staatslehre as Constitutional Theory?

XII. The Stufenbaulehre as a Basis for a Constitutional Theory?

XIII. Principles as Norms Logically Distinct from Rules?

XIV. Public Law – Private Law Divide?

D. Concluding Remarks

2.2 Project events

The different chapters have been presented at conferences and published (in preliminary versions) as working papers, journal articles or chapters in edited collections during the fellowship period:

The introductory-methodological chapter was presented in Heidelberg on 26 February 2013 and 2 May 2013 in Budapest. The introductory methodological chapter of the monograph was presented at the international conference of PPKE BTK on “Constitutional Culture in Western and Central Europe” in Budapest (14 November 2013) in a lecture which was entitled “The Language of a Constitutional Discourse”. Certain parts of the chapter on the concept of a constitution were published in the edited volume: Ellen Bos / Kálmán Pócsa (eds.), *Verfassunggebung in konsolidierten Demokratien: Neubeginn oder Verfall eines Systems?* (Baden-Baden: Nomos 2014) pp. 78-104 (title of the chapter: The Two Functions of a Constitution).

The chapter on constitutional reasoning was presented at Cornell Law School (Ithaca, NY) on 10 April 2012 (Berger Lecture) and at Bocconi University (Milan) on 11 December 2011.

The chapter on democracy was presented at workshops at the Central European University in Budapest (26 January 2012). The chapter on democracy was published as a Jean Monnet Working Paper: “Full Parliamentarisation of the EU without Changing the Treaties. Why We Should Aim for It and How Easily It Can be Achieved” *Jean Monnet Working Papers* <http://centers.law.nyu.edu/jeanmonnet/papers/12/documents/JMWP03Jakab.pdf> 2012/3. pp. 33. This chapter was also presented in Vienna on 27 May 2015 at the EuDEM 2015 conference at the Diplomatic Academy Vienna (‘Full Parliamentarisation of the European Union’).

The chapter on the constitutional concept of nation has been presented in Belgrade (Serbia) on 23 March 2012 at the conference on “The Challenges of Multiculturalism”, in Barcelona on 26 June 2012 (lecture at Pompeu Fabra University on “Constitutional Visions of the Nation”) and in Budapest on 8 April 2013 lecture at the conference of the Research Institute for Hungarian Communities Abroad on “Territorial Autonomies in Europe: Solutions and Challenges”; title of the lecture: “Constitutional Visions of the Nation”).

The chapter on the concept of the constitution was presented in Fehérvársurgó (Hungary) on 9 March 2013 (lecture at the conference of the Foundation Joseph Károlyi on “What is a Constitution Good For? Between National Differences and European Consensus”; title of the lecture: “The Constitution of Europe”) and in Budapest on 15 April 2013 (lecture at the conference of the Andrassy University on “Verfassunggebung in konsolidierten Demokratien”; title of the lecture: “Wozu dient eine Verfassung?”).

One of the chapters was presented in German at the *Staatsrechtslehrertagung* (Yearly Congress of the German Society of Constitutional Lawyers) in Düsseldorf on 1 October 2014 (Der ‘German Approach’ – Staatsrechtslehre im Wissenschaftsvergleich). The possibility to present at this congress is a great honour for every German constitutional lawyer, and it is an *exceptionally* great honour for a foreign lawyer like myself.

The originally planned chapter on the constitutional concept of sustainability does, however, not form part of the monograph, as the topic grew too big to be just a chapter. The research continues on it though, basic tenets of this new research were presented at the international conference “Model Institutions for a Sustainable Future” (Budapest, 25 April 2014) in lecture entitled “Sustainability as a Constitutional Principle: Ever-Growing Pension Systems in Constitutional Democracies” and at the IVR XXVIth World Congress of

Philosophy of Law and Social Philosophy (Belo Horizonte, 22 July 2013) in a lecture entitled “Demographic Sustainability and Constitutional Law”. In Belo Horizonte, András Jakab also co-organised a workshop on “Sustainability as a Legal Principle” (22.07.2013, co-organiser: Matthias Goldmann).

3. Edited volume of country reports (subproject 2, Jakab and Dyevre)

The edited volume on comparative constitutional reasoning, which was the most innovative and organisationally most demanding part of the project, will be published in February 2017 by Cambridge University Press (manuscript submitted and approved):

András Jakab / Arthur Dyevre / Giulio Itzcovich (eds), *Comparative Constitutional Reasoning* (Cambridge: Cambridge University Press forthcoming in Feb 2017)
<http://www.cambridge.org/mt/academic/subjects/law/comparative-law/comparative-constitutional-reasoning?format=HB>

Focusing on independently-verified leading cases globally, a combination of qualitative and quantitative analysis is used to offer the most comprehensive and systematic account of constitutional reasoning to date. This analysis is supported by the examination of eighteen legal systems around the world including the European Court of Human Rights and the European Court of Justice. Universally common aspects of constitutional reasoning are identified in this book, and contributors also examine whether common law countries differ to civil law countries in this respect.

For publicity purposes we renamed our project CONREASON project, as it seems shorter and easier to refer to than “Constitutional Reasoning in Europe. A Linguistic Turn in Comparative Constitutional Law” (see our website which we launched in March 2013: <http://www.conreasonproject.com/>, designed mainly by Dyevre).

András Jakab presented this e CONREASON project at the VolkswagenStiftung Treffen der Geförderten in Hannover on 5 July 2013 and at the Humboldt University in Berlin on 20 November 2013 in the frame of the prestigious *Rechtskulturen* lecture series. On the latter event see blog contribution: http://www.verfassungsblog.de/zahlendaemmerung/#.U2-JmPl_uSo.

3.1 Short description (methodology and results)

Is it possible to map judicial practices and ascertain (either in this research or, based on the database that we offer, in future researches) whether these are consistent with the hypotheses and theories just outlined? At first, the sheer amount of constitutional decisions might seem to pose a daunting challenge. A constitutional court may issue several hundred decisions a year. Many of these come with an opinion spreading over dozens of pages and sometimes far more. Multiply this by the number of judicial bodies holding the power to make pronouncements on the application of constitutional norms across the planet and it becomes readily apparent that no single book or research project may reasonably be expected to survey each and every aspect of constitutional reasoning for all constitutional systems currently in existence. So, even for a large research project like ours involving 25 scholars and researchers, choices had to be made.

We eventually settled for a research design that, we believe, strikes a fair balance between depth and coverage. As for the jurisdictions covered, we assembled a team of comparative scholars to report on the practices of the following 18 courts: the High Court of

Australia, the Austrian Constitutional Court, the Supreme Federal Tribunal of Brazil, the Supreme Court of Canada, the Czech Constitutional Court, the French Constitutional Council, the German Federal Constitutional Court, the Hungarian Constitutional Court, the Irish Supreme Court, the Supreme Court of Israel, the Italian Constitutional Court, the Spanish Constitutional Tribunal, the Constitutional Court of South Africa, the Constitutional Court of Taiwan, the Supreme Court of the United Kingdom, the Supreme Court of the United States, the Court of Justice of the European Union and the European Court of Human Rights.

While the overrepresentation of Europe reveals our initial impulse to focus on constitutional reasoning within the EU, we believe that this set of courts fairly reflects the diversity of constitutional traditions in the democratic world. In addition to featuring courts from all five continents, it achieves a remarkable balance between Common Law and Civil Law jurisdictions. Similarly, our nine specialized constitutional courts are matched by an almost equal number (eight) of generalist apex courts. By including the European Court of Justice and the European Court of Human Rights, our study further reflects the rise of supranational courts as quasi-constitutional tribunals. In Europe, the decisions rendered by these two institutions have become an integral part of domestic constitutional discourse. To be sure, we do not claim that these 18 judicial bodies are representative, in the statistical or probabilistic sense of the word, of the world's larger population of constitutional courts. Yet we are confident that we could greatly advance our comparative understanding of constitutional argumentation by looking at the decisions of the courts that are the most typical of their kind and the most influential outside their borders.

A similar philosophy guided our choice of cases. Ideally, we would have wanted our authors to collect, read and analyse all the decisions. But even for 18 courts, this was not a realistic option. There were simply too many decisions. Nor was, owing to the array of judicial practices we wanted to address, random sampling a plausible alternative. Instead, we decided that each report would document the opinion-writing practices of a court on the basis of a systematic and thorough analysis of its 40 leading cases. By "leading cases" we meant the rulings deemed the most important in the legal community of the court under consideration. And 40 was chosen as the appropriate compromise to enable a thorough examination of every judgment while still providing a meaningful basis for comparison.

Why chose to focus on great cases rather than on routine decisions whose study may perhaps more easily lend itself to generalisations about a court's typical mode of argumentation? Oliver Wendell Holmes, for one, was wary of the distorting effect that great cases may have on legal thinking: "Great cases like hard cases make bad law. For great cases are called great, not by reason of their importance... but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment." The risk exists, indeed, that a fixation on landmark decisions distorts our picture of constitutional reasoning. Yet landmark judgments tend to set the tone of a court's jurisprudence, as they often provide the lens through which court watchers recognize the defining traits of a court's approach to constitutional argumentation. For the same reason, they probably exert more influence on the practices of other judges, both at home and abroad, than do less salient decisions.

Fair enough, but how can one possibly go about selecting constitutional opinions on the sole basis that they somehow represent "great", "important", or "leading" judgments? How does this not constitute an irreducibly subjective criterion? We were fully aware of this problem. However, we assumed that, in any legal community, a relative consensus usually exists as to what decisions constitute leading judgments. We asked the author(s) of each court report to draw up a list of 40 leading cases list according to his or her assessment of the scholarly consensus, or what German legal scholars call the *herrschende Meinung*. We expected the list to include the landmark constitutional cases law students commonly

encounter in a standard constitutional law course at law school. We did more than just assume the existence of a consensus, however. Indeed, once her 40-cases list had been established, each author was required to designate five mainstream legal experts (preferably constitutional law scholars) to review her choice of opinions. These experts were separately requested to indicate the extent to which they agreed with the choice made. We did not expect perfect agreement among the experts. But we believed a consensus would exist over at least a subset of these 40 decisions.

Due to the dramatic changes in the competences, rules of standing, personnel and general political context that affected the Hungarian Constitutional Court after 2010 – events that culminated in the adoption of a new Basic Law in 2011 – the initial report on Hungary had largely become legal history. The authors of the Hungarian report, therefore, conducted a second analysis on the basis of a distinct set of leading cases for the period corresponding to the new constitutional regime. The results were attached, as epilogue, to the initial report. This means that the present book is based on the investigation of $(18+1) \times 40 = 760$ leading judgments. As we decided to consider landmark rulings independently of the year in which they were rendered, the 18 reports assembled in this book cover periods of disparate lengths.

The first ruling in our corpus goes as far back as 1793 (US Supreme Court decision in *Chisolm v. Georgia*). Most leading judgments, though, were handed down after WWII. The skewed distribution suggests that landmark constitutional cases tend to be relatively recent rulings. In part, this may reflect the predisposition of constitutional scholars to evaluate the importance of a constitutional ruling in light of current societal debates and policy preoccupations. As more recent rulings are more likely to speak to current policy preoccupations, constitutional scholars are also more likely to regard them as important. Evidently, there are structural causes, too, to the bulge in the temporal distribution of leading judgments. Before WWII, constitutional review was an essentially American institution (although we do find some Australian and British constitutional cases in the first half of the twentieth century). In fact, most of the courts considered in this book were set up after WWII, while some (the Spanish Constitutional Tribunal, the Brazilian Federal Supreme Court, the Czech Constitutional Court and the Hungarian Constitutional Court) were only established in their current form in the 1980s or 1990s after their countries embraced democracy.

To analyse and compare argumentation patterns in these leading judgments, we developed a detailed questionnaire (which we publish in the Appendix to the book). Our goal was to ensure maximum comparability across a broad array of constitutional practices. Designed to serve as guidelines for the authors of the court reports, the questionnaire embraced 12 sections covering not only the court's style of reasoning but also its institutional configuration and broader political environment. The questions directly addressing the court's argumentation style fell in three broad categories (for the detailed codebook, see the Questionnaire in the Appendix to the book):

- 1) The dominant topical and argumentative structure of constitutional opinions. Questions in this category included the weight of rights discourse and separation of powers discourse in judicial argumentation: Are leading judgments more likely to be framed as raising a rights issue or a separation of powers issue? Another important question pertained to the basic structure of judicial reasoning and how sequences of arguments appearing in opinions fit together. For this purpose, we distinguished three basic argumentation structures: a) “chain-like” – or, more technically, “one-line conclusive” – reasoning, when a conclusion is supported by a single argument; b) what we initially called “legs-of-chair” reasoning but later renamed, for the sake of precision, “parallel conclusive” argumentation, when a conclusion is supported by separate sets of premises with each individually presented as conclusive; and c) “dialogical” reasoning, also called “parallel inconclusive but together conclusive”

argument, when various considerations are neither presented as necessary nor as sufficient to entail the conclusion, but as elements bearing, at least, some relevance for the issue at hand. These questions came with others relating to the candour, or lack thereof, of judicial communication and the frequency of dissenting opinions.

2) The sources of constitutional law and the repertoire of interpretive methods. These encompassed questions regarding the status of putatively constitutional texts, the justiciability of constitutional issues and the use of precedent-based arguments. We asked our contributors to report the incidence of various canons of constitutional construction: plain meaning, original intent (teleological-historical interpretation), purposive interpretation (teleological-textual interpretation), analogy, coherence (conciliation of conflicting constitutional requirements) and interpretation in light of international law. In this category figured further questions on the frequency of non-legal arguments, reference to scholarship and the use of foreign legal materials.

3) Key concepts and generic constitutional doctrines. The third and final category included questions on the use of generic concepts such as “democracy”, “sovereignty”, the “rule of law” and “human dignity”. Also included were questions regarding the propensity of opinions to rely on rights-based standards like equality and privacy. Finally, we asked our contributors to report the extent to which constitutional opinions consider means-end tests such as proportionality. We were fully aware that they key concepts and the different tests can have different meanings in different legal systems (cf. the endless debate about the relationship between *Rechtsstaat* and the rule of law), so we asked our authors to reflect on these conceptual issues in their respective reports.

Each author was to write a detailed account of her court’s argumentative practices describing how these categories are instantiated in judicial discourse. The resulting court reports make up the 18 chapters of this book.

We made three further methodological choices when designing the project. First, we chose one single court from every legal system. While we are aware that both lower-courts and non-judicial organs are sometimes employing constitutional reasoning to justify their decisions, we wanted to stay focused on a narrower question, and we also realised that specific institutional (esp. procedural) rules can very much influence the reasoning which might be relevant when explaining the different results. Second, we decided to code separate (dissenting or parallel) opinions together with the majority opinions. This means that we did not make a difference between cases when a certain argument appeared in the majority opinion as opposed to cases when that argument came up in a dissenting opinion. While we could have collected some additional information about the differences between typical ‘winning’ and ‘losing’ arguments, the additional effort and the considerably higher complexity of such a design made us not to choose this path. And third, we did not count the number of appearances of arguments: we only coded whether an argument was present in the case or not (1 or 0). While counting the number of arguments might sound appealing, it would have seriously endangered the reliability of our data: whether the same type of argument is just a repetition of the very same argument, whether it is a better explained version of a former argument or whether it is already a new one, are questions which are endlessly debatable and many times also conceptually artificial. Thus also here, we opted for the simpler design which does not show the absolute numbers, but which shows the pervasiveness of certain arguments along judgments. An additional bonus of this choice was that we did not have to deal with outliers where one single judgment contains a high number of one specific type or argument distorting data on absolute numbers: for us, it was still a simple ‘1’, and our authors could mention such cases in the qualitative part of their report (i.e. in the following chapters of this volume) if they found specific cases noteworthy. For similar reasons, we did

not code the weight of arguments, but the treatment of this issue was left to the qualitative part of the reports.

While adherence to a detailed and comprehensive questionnaire promised to enhance comparability across the reports, we did not stop there. Indeed, we instructed each contributor to encode in a spreadsheet information on nearly 40 opinion characteristics covering the three categories above. Each author had to repeat this for every single opinion in her 40 cases set. Thanks to the extra effort of our contributors, we were able to assemble a novel dataset, the CONREASON Dataset, summarizing the argumentative characteristics of 760 landmark constitutional decisions. Herein lies probably one of the principal and most original contributions of the present book. As the aggregate results presented in the concluding section demonstrate, our research design and the dataset we have constructed greatly facilitate the identification of argumentation patterns across judicial institutions as well as across time.

To be sure, the application of the questionnaire and the completion of the CONREASON Dataset, not unlike the application of a constitution, raised delicate interpretive questions. Yet again, our primary goal was to maximize comparability across the jurisdictions investigated. So we strived to ensure uniform operationalisation of our conceptual framework across the reports and compiled data. One of us developed a conceptual map fleshing out the abovementioned argumentative categories. This comprehensive typology of constitutional arguments served as reference point, which our authors were instructed to follow. On top of this, the entire international research team met physically on two occasions. The first time in Heidelberg in January 2012 to introduce the questionnaire and coding scheme; and the second time in Budapest in February 2013 to address conceptual issues and take stock of the progress made. Last but not least, as editors and team leaders, we kept constant contact with the contributors throughout the drafting and data collection process. The present volume is the end-product of this unprecedented collective effort.

Each of the 18 chapters of the book reports the argumentation practices of a constitutional court on the basis of its 40 leading judgments. To enhance comparability, each chapter follows the same structure. It begins by setting out the broader cultural and political backdrop of constitutional reasoning: the court's political environment, its institutional make-up, the outlook and origin of its judges and its rapport with the law professoriate. Each chapter then moves on to discuss the court's general opinion-writing style before dissecting the content of its 40 leading judgments. Each chapter also includes a comparative section reflecting on what are perceived to be the principal differences and commonalities between the court and its counterparts in other jurisdictions. The book concludes by pulling together the results of the qualitative court reports along with those from the quantitative analysis of the CONREASON Dataset.

A few figures can give a taste of the final results of the project:

Figure 1. General Opinion Characteristics as Proportion of Courts' Leading Judgments

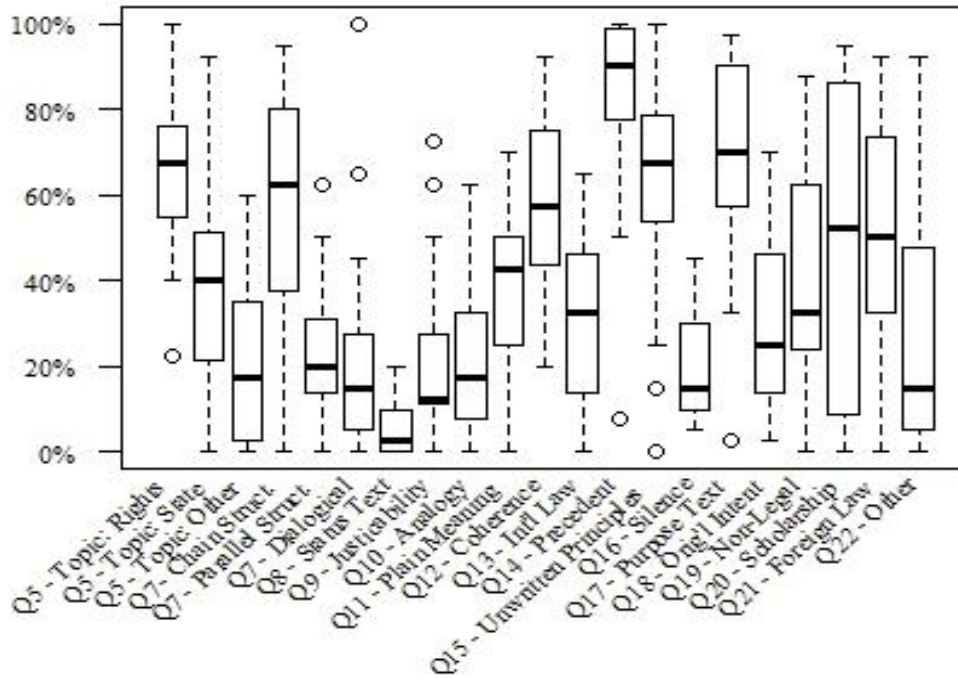


Figure 2. Key Concepts and Generic Doctrines as Proportion of Courts' Leading Judgments

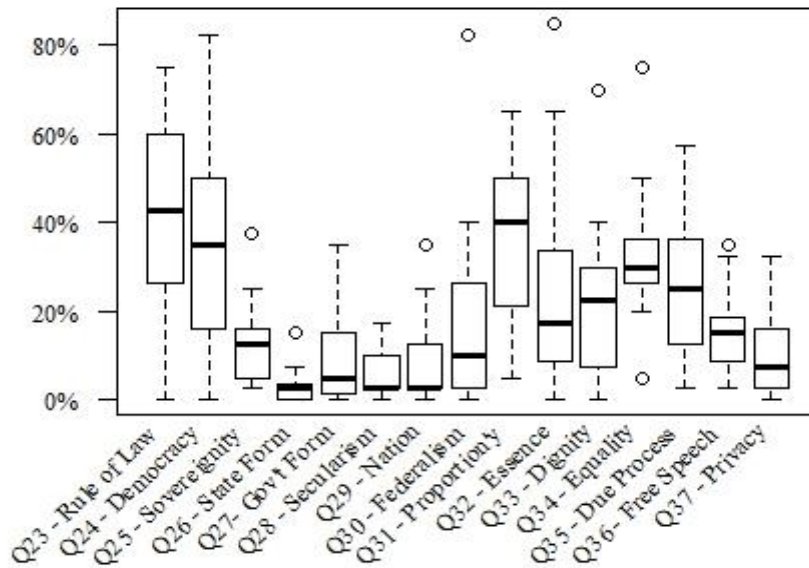


Figure 3. Argumentative Diversity and Conceptual Diversity in the Courts' Leading Judgments

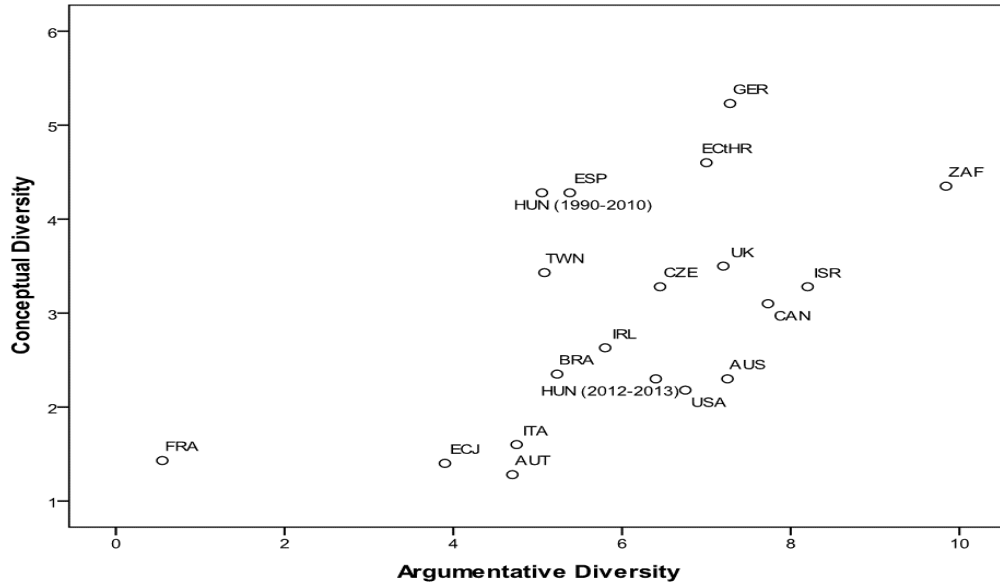
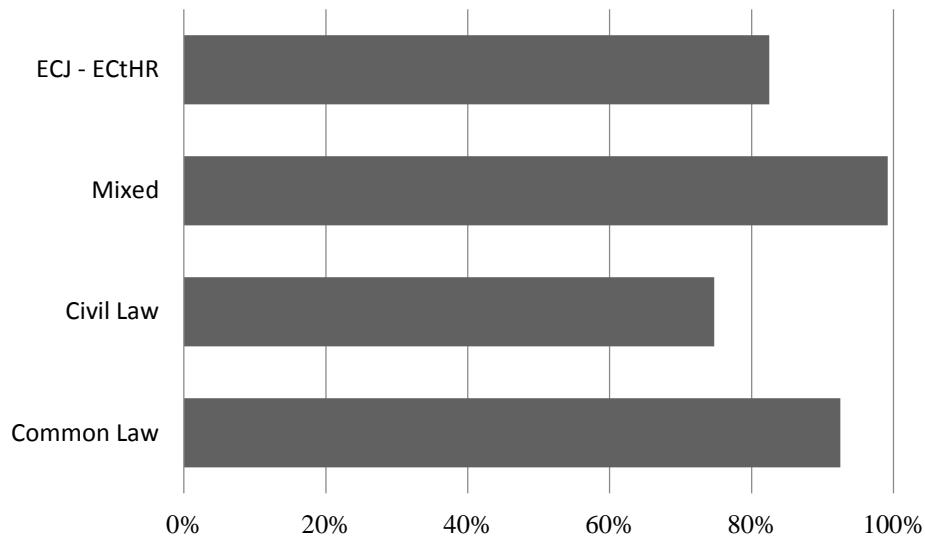


Figure 4. Average Proportion of Leading Judgments Citing Precedents¹



¹ N = 19. The graph displays average proportions. First, we calculated the proportion of judgments that contain reference to precedents for each of the 19 courts. Then, after classifying courts into four groups (ECJ/ECtHR, Mixed, Civil Law, Common Law), we plotted the average of each group.

Figure 6. Average Proportion of Leading Judgments Considering “Non-Legal” Arguments

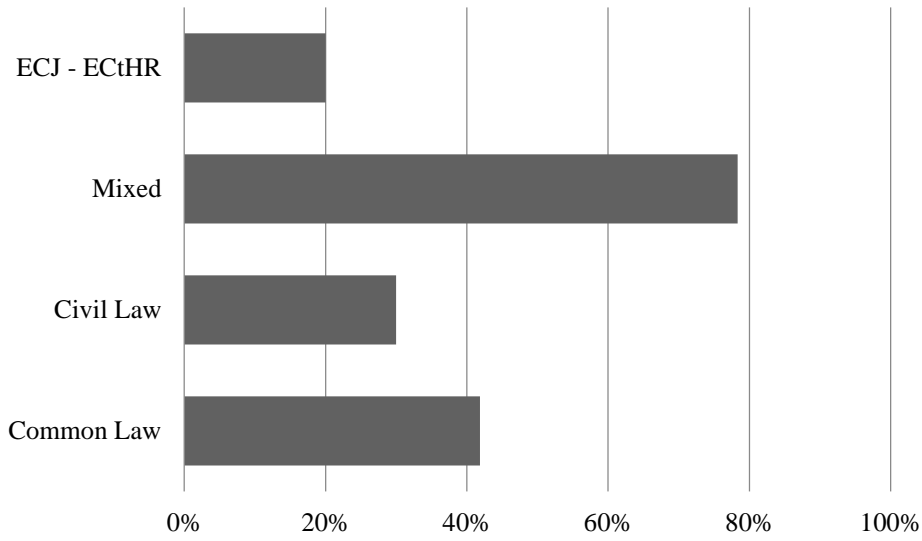


Figure 7. Average Proportion of Leading Judgments Considering Arguments from Plain Meaning

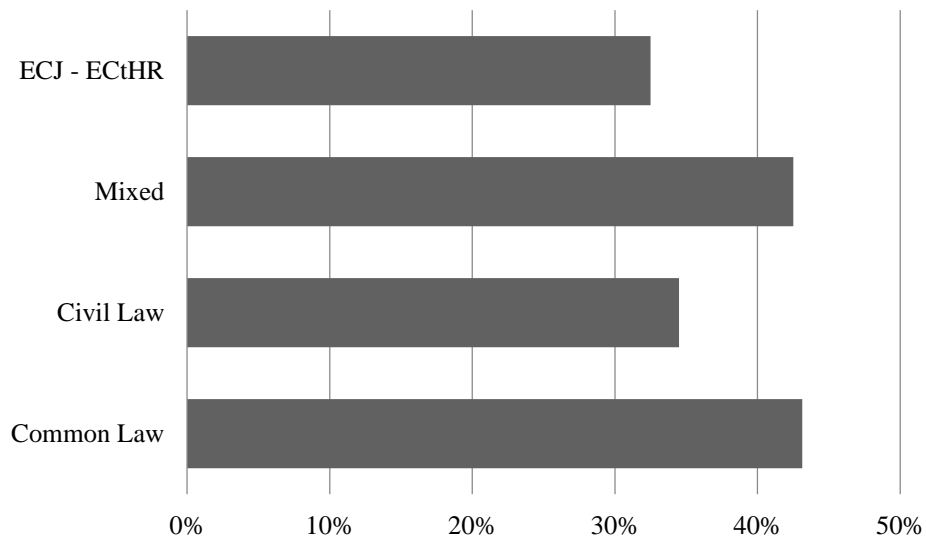


Table 1. General Opinion Attributes Included in Cluster Analysis

Opinion Attributes	Mean	SD	Min.	Max.
One-line conclusive argumentation structure (Q7)	23.21	10.51	0	38
Cumulative-parallel argumentation structure (Q7)	9.53	7.10	0	25
Dialogic argumentation structure (Q7)	8.84	9.87	0	40
Consider constitutional status of text (Q8)	2.21	2.50	0	8
Justiciability argument (Q9)	8.95	7.62	0	29
Analogical argument (Q10)	8.74	7.97	0	25
Plain meaning (Q11)	14.95	7.11	0	28
Domestic coherence argument (Q12)	23.26	7.89	8	36
Precedent-based argument (Q14)	33.26	8.79	3	40
Consider principle not found in constitutional text (Q15)	24.53	10.40	0	40
Argument from silence (Q16)	8.05	4.97	2	18
Teleological-textual argument (Q17)	27.74	9.77	1	39
Teleological-historical (intentional) argument (Q18)	11.63	8.49	1	28
Non-legal argument (Q19)	15.63	9.97	0	35
Reference to scholarship (Q20)	19	14.42	0	38
Reference to foreign legal material (Q21)	20.26	10.60	0	37
Other argument or method (Q22)	10.32	11.22	0	37

Figure 8. Cluster Analysis of General Opinion Characteristics

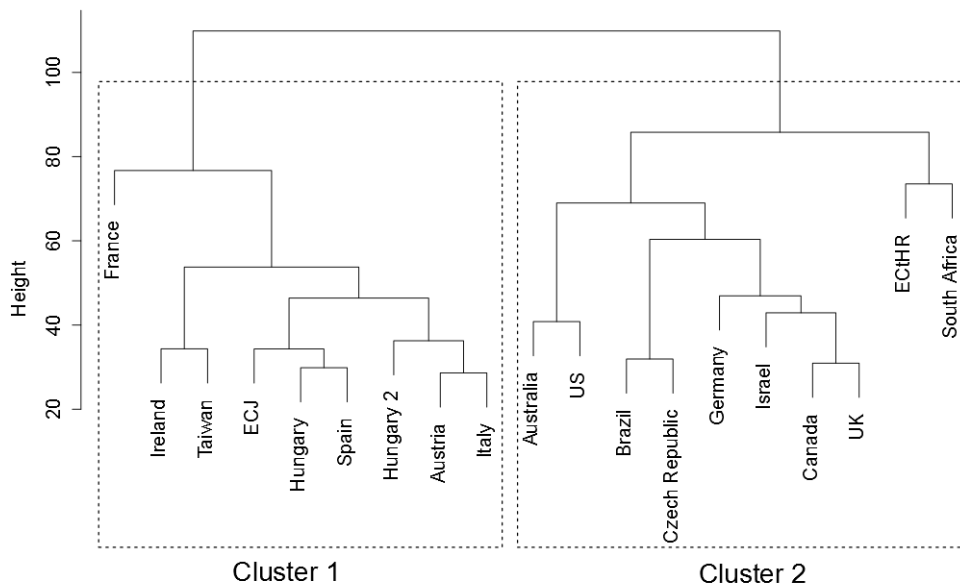


Figure 9. Proportion of Leading Judgments Featuring Precedent-Based Arguments, 1951-2010

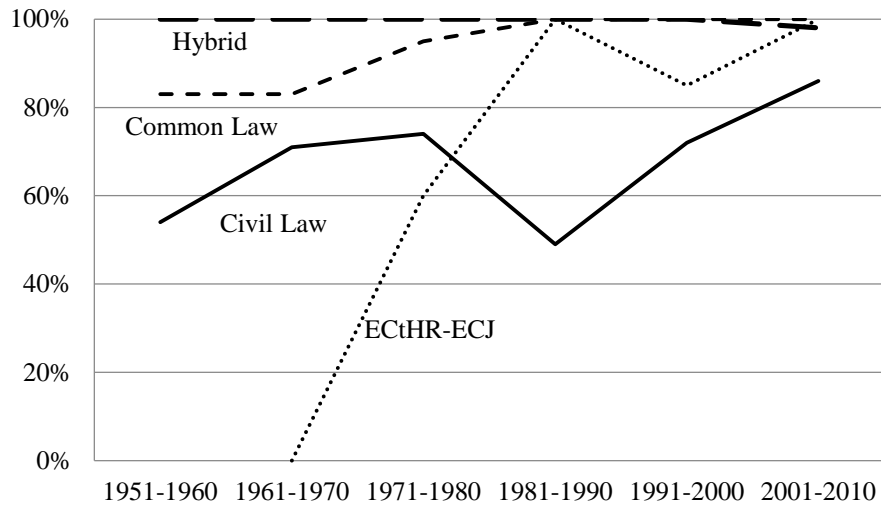


Figure 10. Proportion of Leading Judgments, General Topic, 1951-2010

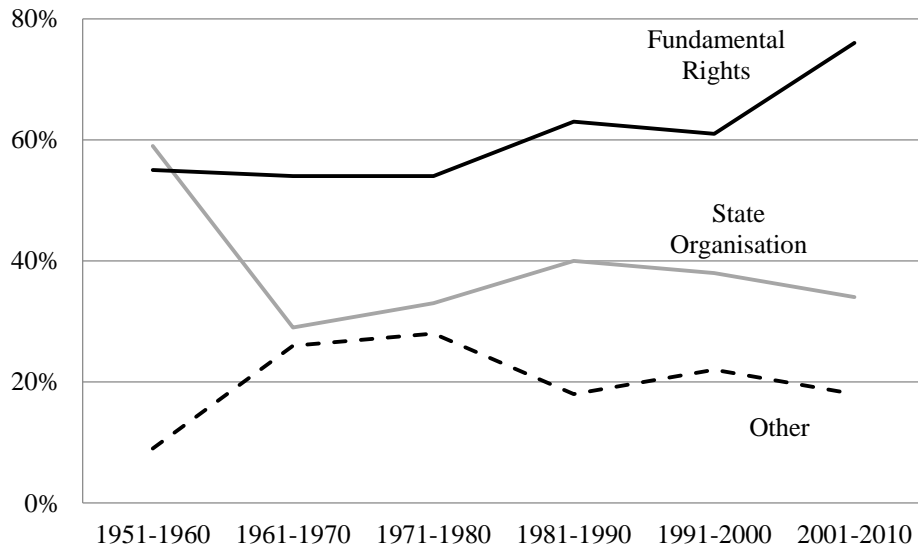


Figure 11. Proportion of Leading Judgments Mentioning Democracy, Rule of Law, Equality, Proportionality and Human Dignity

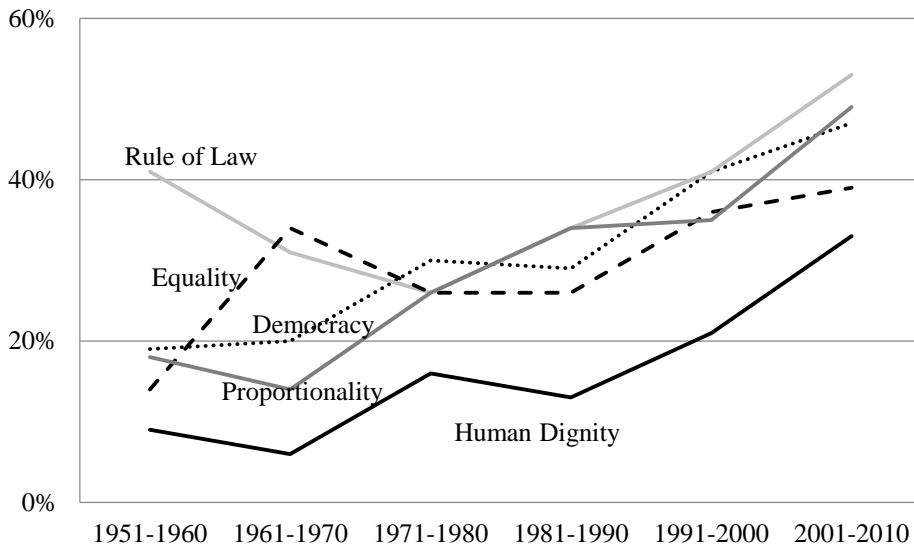


Figure 13. Proportion of Leading Judgments Referring to Original Intent (Q18), Ordinary Meaning and Purpose of the Text

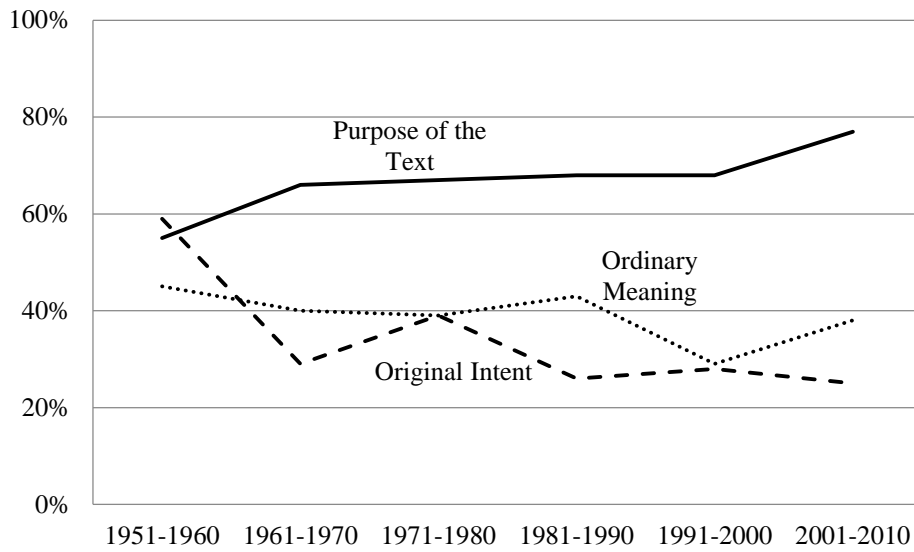


Figure 14. Argumentative and Conceptual Diversity in Leading Judgments

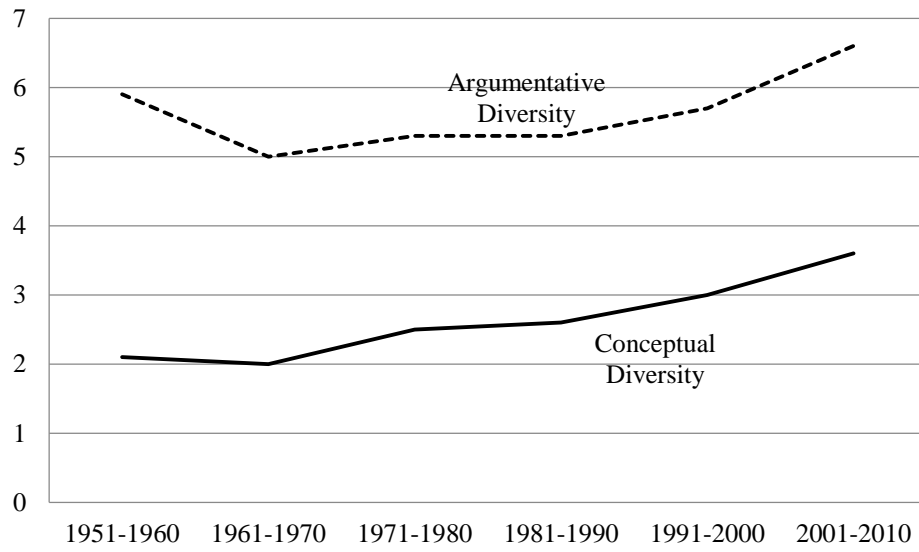
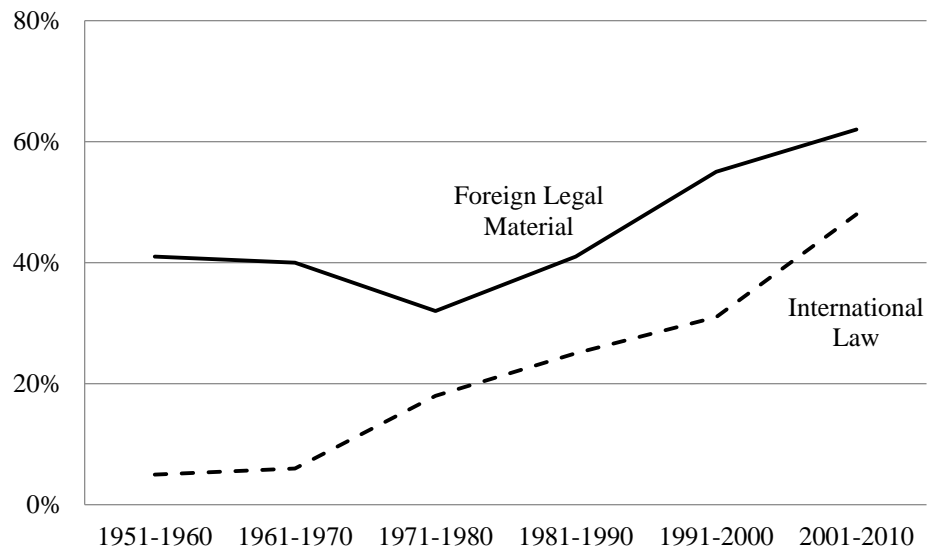


Figure 16. Proportion of Leading Judgments Considering Foreign Legal Material and International Law



List of project participants:

Marian Ahumada Ruiz, Professor of Constitutional Law, Faculty of Law, Autonomous University of Madrid.

Jennifer L. Brookhart, Ph.D. Candidate, University of Wisconsin-Madison.

Eoin Carolan, Senior Lecturer, School of Law, University College Dublin.

Wen-Chen Chang, Professor, National Taiwan University College of Law, Taiwan.

Hugo Cyr, Dean, Faculty of Political Science and Law, Université du Québec à Montréal.

Arthur Dyevre, Associate Professor, KU Leuven Faculty of Law.

Lourens du Plessis, Extraordinary Professor, North-West University (Potchefstroom), South Africa.

Johanna Fröhlich, associate researcher and professor of comparative constitutional law, Law School, University San Francisco de Quito, Quito; law clerk, Hungarian Constitutional Court, Budapest.

Janneke Gerards, Professor of European Law, Radboud University, Nijmegen, the Netherlands.

Tania Groppi, Full Professor of Public Law, University of Siena.

Tamas Gyorfı, Senior Lecturer, University of Aberdeen, School of Law.

Michaela Hailbronner, Humboldt Research Fellow, Institute for International and Comparative Law in Africa, University of Pretoria, South Africa.

Conrado Hübner Mendes, Professor Doctor of Constitutional Law at the University of São Paulo.

Giulio Itzcovich, Professor in Philosophy of Law, University of Brescia, Italy.

András Jakab, Schumpeter Fellow, Max Planck Institute for Comparative Public Law and International Law, Heidelberg; Director of the Institute for Legal Studies, Hungarian Academy of Sciences, Centre for Social Sciences, Budapest.

Zdenek Kühn, Associate Professor of Jurisprudence at Charles University Law School and Judge at the Supreme Administrative Court of the Czech Republic.

Konrad Lachmayer, Research Chair, Institute for Legal Studies, Hungarian Academy of Sciences, Centre for Social Sciences, Budapest; Research Fellow at the Durham Law School (UK), ERC Project on “Neo-Federalism”.

Stefan Martini, Walther Schücking Institute for International Law, Kiel University.

Suzie Navot, Professor of Law, The Striks School of Law, The College of Management Academic Studies, Rishon Lezion (Israel).

Monica Popescu, Assistant Professor, Faculty of Law, Université Laval.

Christa Rautenbach, Professor of Law, North-West University (Potchefstroom), South Africa and Ambassador Scientist, Alexander von Humboldt Foundation, Germany.

Cheryl Saunders, Laureate Professor Emeritus, Melbourne Law School.

Howard Schweber, Professor of Political Science and Legal Studies, University of Wisconsin-Madison.

Irene Spigno, Professor of Constitutional Law, Universidad Autonoma de Coahuila (Mexico) and Director of the Centre of Comparative Constitutional Studies, Inter-American Academy of Human Rights (Mexico).

Adrienne Stone, Director, Centre for Comparative Constitutional Studies, Melbourne Law School.

The CONREASON Website <http://www.conreasonproject.com/> also contains the updated project documentation (list of participants, methodological explanations, sample chapters) and the protocols of the project meetings.

3.2 Project events

At the very beginning of the fellowship, we organised our first workshop at the Max Planck Institute on the 2nd September 2011 with the aim of preparing the authors' guidelines. In the first year we prepared three country reports (France, EU, Hungary) as pilot studies. By the end of the first project year, we invited the authors of the country report to take part in our project, and we had a workshop on 15 February 2013 in Heidelberg where we were able to finalise the questionnaire and discuss methodological issues of the project. We used on the website both the logo of the Max Planck Society and the VolkswagenStiftung (both with explicit approval of those concerned). We also prepared a youtube video for those project participants who could not make it to our February workshop: <http://www.youtube.com/watch?v=DVJ5boxzu5M>.

The second international CONREASON workshop took place in Budapest on 7 and 8 February 2014. The event was co-financed by the VolkswagenStiftung and by the Hungarian Academy of Sciences (I am grateful to the VolkswagenStiftung that they allowed the re-allocation of the workshop from Heidelberg to Budapest). The purpose of the workshop was to discuss the first drafts of the papers. Due to delays on part of some of the authors, we needed more time to acquire the chapters, but by the end of the third year, we did manage to acquire all of them. The manuscripts were copyedited by a research assistant of mine in Budapest (both linguistically and concerning their format). The statistical counting was also completed with the financial help of the Hungarian Academy of Sciences, the data are downloadable from an open database: <http://openarchive.tk.mta.hu/369/>.

Some of the authors published their chapters on ssrn, which served well advertisement purposes. The Hungarian country report has been published in Hungarian [“Alkotmányjogi érvelés az Alkotmánybíróság gyakorlatában” (Constitutional Reasoning of the Hungarian Constitutional Court) *Alkotmánybírósági Szemle* (Review of the Constitutional Court) 2014/2. pp. 83-103 (co-author: Johanna Fröhlich)].

We also published in a working paper the final methodological explanations for our project (serving also as an advert for the forthcoming publication): “CONREASON – The Comparative Constitutional Reasoning Project. Methodological Dilemmas and Project Design” *MTA Law Working Papers* 2015/9. http://jog.tk.mta.hu/uploads/files/mtalwp/2015_09_jakab.pdf (co-authors: Arthur Dyeve and Giulio Itzcovich).

The methodology has also been presented in Bielefeld on 10 June 2014 at the conference “Index Building in Socio-Legal Scholarship”.

4. Automated-Content Analysis and Expert Survey (subproject 3, Dyevre)

4.1 Automated-Content Analysis

After acquiring and installing the statistical software Stata 12 in the Fall 2011, we proceeded to download and install the free add-on Wordscores. While working on the theoretical assumptions underlying automated content analysis techniques when applied to legal discourse (such as probabilistic distribution of words in given languages, rhetorical vs. law-making dimensions of judicial discourse, etc.), we were considering various legal areas to find an issue where we could “showcase” our approach in a convincing manner.

We decided to start with an analysis exploring the role of the law professoriate in the recent constitutional reform in France. Rather than directly analysing judicial opinions, we used the Wordscores approach to map the positions of legal scholars on the reform. The idea here was that it would be easier, in the first phase of the project, to demonstrate that the technique provides reliable estimates of the policy-position revealed by legal scholars in their individual publications than to do so for judicial opinions authored by what is, for all intent and purposes, a collective entity. The working hypothesis for this piece of applied research was that French constitutional scholars had a strong interest in expanding the influence of the Constitutional Council and were thus more likely to praise the reform and to criticise those who appeared to oppose it than other legal scholars. While collecting academic papers commenting the reform and its implementing, we contacted the French association of constitutional scholars (*Association française de droit constitutionnel*) to obtain a membership list, which served serve to operationalise the concept of “French constitutional scholar”.

Dyevre led the automated content analysis side of the Project. Figure 1 shows how the Wordfish approach, which models word frequency as a Poisson process, can be used to classify the decisions of the German Federal Constitutional Court on European integration on a pro- anti-integration dimension.

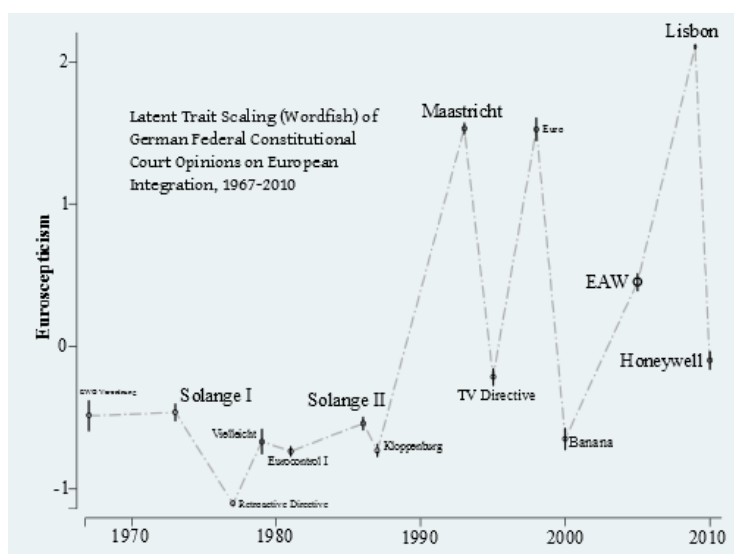


Figure 1. Automated Content Analysis of GFCC Decisions on European Integration, 1967-2010

These findings – which Dyevre presented at seminars at the London School of Economics, CEU-San Pablo University in Madrid, and the European University Institute in Florence – are broadly consistent with standard doctrinal analyses of the German Court’s jurisprudence over the past four decades.

High correlation with other text-scaling approaches demonstrates the reliability of this content analysis technique. Figure 2 shows the correlation between the Wordscores and Wordfish techniques for the GFCC decision corpus on European integration.

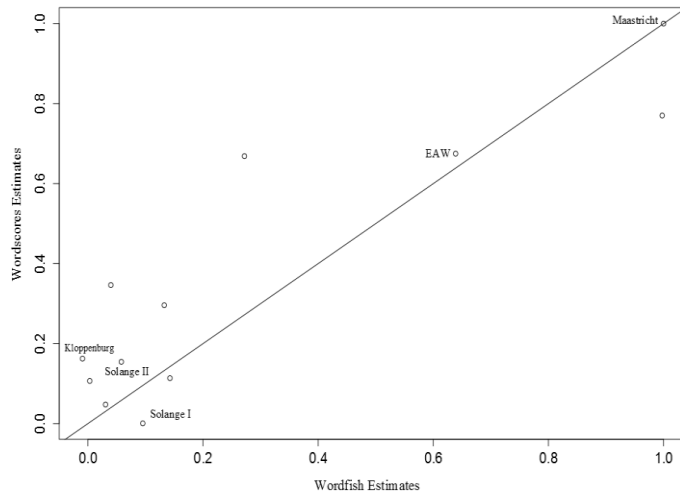


Figure 2. Wordfish vs. Wordscores (Pearson $r = 0.89$)

Using both Wordscores and Wordfish, Dyevre also conducted an analysis of French law review articles on the recent introduction of concrete review in the French constitutional system. Based on a selection of over 100 articles, the first preliminary results are very promising. But he was then incorporating another statistical technique, called “correspondence analysis”, in his research. This with a view to explore multi-dimensionality: the fact that differences in a text collection usually reflect latent divergences along more than one dimension. Dyevre was in touch with Will Lowe at University of Mannheim – who happens to be one of the leading researchers in the area of automated content analysis – to see how this can be integrated in the approach.

Another challenge we were grappling with relates to the automation of repetitive tasks involved in the analysis of large text collections: how to download large sets of PDF documents from websites and how to turn these PDF into plain.text format so that we feed them into our computer programmes.

Dyevre (appointed in the meantime as associate professor of legal theory at KU Leuven) continued to work on the application of computer-based methods to the analysis of legal discourse. In March 2014, he was invited to present a paper entitled “The Promise and Pitfalls of Text-Scaling Techniques for the Analysis of Judicial Opinions” at the London School of Economics and Political Science. The paper discusses the potential and limitations of existing text-scaling algorithms for the study of judicial discourse. In addition to outlining a theory of judicial communication, which is characterised as a specialised form of political communication, the paper assesses the performances of two text-scaling approaches, namely Wordscores and Wordfish, using a corpus comprising all German Federal Constitutional Court decisions on European integration. Position estimates are then compared to the accounts found in German EU law textbooks and other doctrinal accounts of the German Court’s jurisprudence.

- 2) Difficulty with UK respondents: the status of the UK constitution is a touchy subject even among British constitutional scholars. While giving widely varying responses to the questionnaire (suggesting little agreement on what the British Constitution is and entails), they often expressed the fear that the UK be dismissed as a country without constitution.

5. Other activities

5.1 German Law Journal special issue

As the first major published result of the project, we published our German Law Journal special issue on Constitutional Reasoning (2013/8, co-edited by the two members of the Schumpeter Team). The preface to the special issue has been written by Andreas Voßkuhle, president of the German Federal Constitutional Court. The two members of the Schumpeter Team wrote an introductory essay to the special issue (“Foreword: Understanding Constitutional Reasoning” *German Law Journal* 2013/8. pp. 983-1015), and András Jakab wrote an essay on the conceptual frame of constitutional reasoning which also served as the codebook of the edited volume part (sub-project 2) of the CONREASON project (“Judicial Reasoning in Constitutional Courts. A European Perspective” *German Law Journal* 2013/8. pp. 1215-1278). The contributions can be downloaded here: <http://www.germanlawjournal.com/volume-14-no-08/>.

5.2 Constitutional Crisis in Europe (Oxford University Press volume)

A very current and topical issue in European constitutional reasoning, especially triggered by the recent Hungarian events is how far the language of national sovereignty can be used in order to defy European legal obligations. This touches upon the CONREASON project, even if not directly included in it. In order to inquire this question, András Jakab organised an international conference in Budapest (21.05.2013, Hungarian Academy of Sciences) on “The Enforcement of EU Law against Member States” where *inter alia* Arthur Dyevre presented a lecture on judicial conflicts within the European Union. The manuscripts for an edited volume concerning these issues were submitted and accepted for publication by Oxford University Press with the title “The Enforcement of EU Law and Values. Methods against Member States’ Defiance” (co-editor: Dimitry Kochenov, expected publication: February 2017). For more details, see: <https://global.oup.com/academic/product/the-enforcement-of-eu-law-and-values-9780198746560>.

5.3 Conference Presentations During Project Employment

1. Jakab, András, Budapest (Hungary), 24 June 2016, presentation of “Balázs Fekete / Zoltán Fleck (eds), *Tanulmányok a kortárs jogelméletről* (Studies on Contemporary Legal Theory)” at the yearly book presentation of ELTE Faculty of Law
2. Jakab, András, Kiev (Ukraine), 23 June 2016, presentation on “Constitution-Making Procedures” at the conference of the Ukrainian Academy of Sciences and the Organization for Security and Co-operation in Europe on “Constitutional Change”
3. Jakab, András, Budapest (Hungary), 3 June 2016, lecture on “Jogi érvelések és dogmatikai jellegzetességek összehasonlítása számokkal – jogösszehasonlítás, matematika, jogfilozófia” (Comparing Legal Reasoning and Doctrinal Features with Numbers – Comparative Law, Mathematics, Legal Philosophy) at the conference of the BME (Budapest University of Technology and Economics) on “Jogi érvelés és érvelélmélet” (Legal Reasoning and Argumentative Theory)
4. Jakab, András, Debrecen (Hungary), 27 May 2016, plenary opening Marton Géza Lecture on “A jogállamiság mérése indexekkel” (Measuring the Rule of Law with

- Indexes) at the Debrecen University Faculty of Law yearly conference for doctoral students
5. Jakab, András, Brussels (Belgium), 23 February 2016, presentation on “The application of the EU Charter of Fundamental Rights in purely domestic cases” at the Public Hearing of the European Parliament Committee on Petitions on “Taking Citizens’ concerns seriously: broadening the scope of the EU Charter on Fundamental Rights (Article 51)?”
 6. Jakab, András, Miskolc (Hungary), 8 January 2016, presentation on “A jogi érvelés mérése számokkal” (Measuring Legal Reasoning with Numbers) at Miskolc University at the Celebration of the 65th Anniversary of Prof. Mikós Szabó
 7. Jakab, András, Budapest (Hungary), 20 November 2015, presentation on “Kisebbségi jogok és a nép fogalma. Kisebbség és többség” (Minority Rights and the Construction of Demos. Minority and Majority) at the Congress of the Hungarian Society of Sociology (ELTE TáTK)
 8. Jakab, András, Budapest (Hungary), 4 September 2015, lecture on “A jogállamiság mérése indexek segítségével” (Measuring the Rule of Law with the Help of Indexes) at the conference “Competition of Legal Systems” at the Catholic University Pázmány Péter
 9. Jakab, András, Budapest (Hungary), 10 June 2015, lecture on “Kutatási módszerek a jogtudományban” (Research Methods in Legal Scholarship) at the Hungarian Judicial Academy (MIA)
 10. Jakab, András, Vienna (Austria), 27 May 2015, lecture on “Full Parliamentarisation of the European Union” at the EuDEM 2015 conference at the Diplomatic Academy Vienna
 11. Jakab, András, Budapest (Hungary), 25 February 2015, lecture on “Der ‘German Approach’ – Staatsrechtslehre im Wissenschaftsvergleich” (The German Approach -- Constitutional Doctrine in Comparison) at the workshop of the Budapest Research Group on Constitutional Theory
 12. Jakab, András, Budapest (Hungary), 7 January 2015, presentation on “A magyar Alkotmánybíróság alkotmányjogi érvelése” (Constitutional Reasoning in the Hungarian Constitutional Court) (with Johanna Fröhlich)
 13. Jakab, András, Debrecen (Hungary), 7 November 2014, presentation on “A magyar jogi oktatás megújításához szükséges lépések” (Steps Necessary to Reform Hungarian Legal Education) at the Centenary of Legal Education in Debrecen
 14. Jakab, András, Düsseldorf (Germany), 1 October 2014, presentation on “Der ‘German Approach’ – Staatsrechtslehre im Wissenschaftsvergleich” (The German Approach -- Constitutional Doctrine in Comparison) at the *Staatsrechtslehrertagung* (Yearly Congress of the German Society of Constitutional Lawyers)
 15. Jakab, András, Tallinn (Estonia), 18 September 2014, presentation on “The Ombudsman as an Independent Institution” at the International Ombudsman Institute’s conference on “Ombudsman’s Role in a Democracy”
 16. Jakab, András, Berlin (Germany), 9 July 2014, presentation on “The Application of the Charter in Purely Domestic Cases” at the conference on “Enforcement of EU Law against Recalcitrant Member States” at the Social Science Research Center Berlin (WZB)
 17. Jakab, András, Bielefeld (Germany), 10 June 2014, presentation at the conference “Index Building in Socio-Legal Scholarship” on “The CONREASON Project”
 18. Jakab, András, Budapest (Hungary), 25 April 2014, presentation at the conference “Model Institutions for a Sustainable Future” on “Sustainability as a Constitutional Principle: Ever-Growing Pension Systems in Constitutional Democracies”

19. Jakab, András, Budapest (Hungary), 9 April 2014, presentation on “Az új parlamenti jog” (The New Laws on the Parliament) at the Bibó Napok Conference at the ELTE University
20. Jakab, András, Budapest (Hungary), 7 April 2014, presentation on “The EU – Towards a more Credible and Effective Guardianship for Democracy?” at the conference of the Central European University School of Public Policy on “Rolling back the Rollback”
21. Jakab, András, Budapest (Hungary), 4 March 2014, lecture on “A kivételes jogrend alkotmányelméleti kérdései” (State of Emergency from the Perspective of Constitutional Theory) at the conference of the Hungarian Association of Military Law on “Védelem és Igazgatás” (Defence and Administration)
22. Jakab, András, Freiburg (Germany), 27 November 2013, lecture on “The Hungarian Basic Law 2011” at the Max Planck Institute for Comparative and International Criminal Law
23. Jakab, András, Berlin (Germany), 20 November 2013, *Rechtskulturen* lecture on “The CONREASON Project” at the Humboldt University
24. Jakab, András, Budapest (Hungary), 14 November 2013, lecture on “The Language of a Constitutional Discourse” at the international conference of PPKE BTK on “Constitutional Culture in Western and Central Europe”
25. Jakab, András, Budapest (Hungary), 2 October 2013, lecture on “Az általános választójog története” (The History of the Universal Suffrage) at the conference of the Association of European Election Officials in the Mathias Corvinus Collegium
26. Jakab, András, Budapest (Hungary), 24 September 2013, lecture on “Rights and Duties in Constitutions” at the Central European Policy Centre’s conference on “Constitutionalism – American and European ways. Fundamental rights and values in Anglo-Saxon and Continental Models”
27. Jakab, András, Belo Horizonte (Brazil), 22 July 2013, lecture on “Demographic Sustainability and Constitutional Law” at the IVR XXVIth World Congress of Philosophy of Law and Social Philosophy
28. Jakab, András, Hannover (Germany), 5 July 2013, lecture on “Constitutional Reasoning in Europe” at the VolkswagenStiftung Treffen der Geförderten
29. Jakab, András, Budapest (Hungary), 7 June 2013, lecture on the “Az új Alaptörvény rendelkezései a választási rendszerről” (The Rules on the Elections in the New Basic Law) at the conference of the National University of Public Service (NKE) and the Hungarian Lawyers Association (MJE) on “A magyar választási rendszer átalakulásának közjogi kihívásai” (Public Law Challenges of the Changes in the Electoral System)
30. Jakab, András, Budapest (Hungary), 3 June 2013, lecture on “Jogegységi határozatok normatani kérdései” (Quasi legislative acts of courts from the perspective of a theory of norms) at the Kúria (Hungarian Supreme Court)
31. Jakab, András, Szeged (Hungary), 31 May 2013, lecture on “Bírói jogértelmezés az Alaptörvény tükrében” (Judicial interpretation of laws in light of the [Hungarian] Basic Law) at the conference of the University of Szeged on “Law in Action”
32. Jakab, András, Siena (Italy), 24 April 2013, lecture at the University of Siena on “The New Hungarian Basic Law of 2011”
33. Jakab, András, Rome (Italy), 23 April 2013, lecture at the workshop on “Constitutional Change and Constitutional Review in Hungary. Recent Developments” at LUISS University
34. Jakab, András, Rome (Italy), 22 April 2013, lecture at the University Sapienza on “The New Constitution of Hungary”

35. Jakab, András, Budapest (Hungary), 15 April 2013, lecture at the conference of the Andrassy University on “Verfassunggebung in konsolidierten Demokratien”; title of the lecture: “Wozu dient eine Verfassung?”
36. Jakab, András, Budapest (Hungary), 8 April 2013, lecture at the conference of the Research Institute for Hungarian Communities Abroad (NPKI) on “Territorial Autonomies in Europe: Solutions and Challenges”; title of the lecture: “Constitutional Visions of the Nation”
37. Jakab, András, Fehérvársurgó (Hungary), 9 March 2013, lecture at the conference of the Foundation Joseph Károlyi on “What is a Constitution Good For? Between National Differences and European Consensus”; title of the lecture: “The Constitution of Europe”
38. Jakab, András, Maastricht (Netherlands), 21 February 2013, invited comment on Viorelia Gasca’s “The Individual and Political Participation” (Eunacon Closing Conference)
39. Jakab, András, Budapest (Hungary), 20 September 2012, lecture at the Hungarian Academy for the Education of Judges (Magyar Bíróképző Akadémia) on “Az új Alaptörvény és a jogértelmezés” (New Hungarian Basic Law and the Judicial Interpretation of Statutes)
40. Jakab, András, Barcelona (Spain), 26 June 2012, lecture at Pompeu Fabra University on “Constitutional Visions of the Nation”
41. Jakab, András, Luxembourg (Luxembourg), 30 May 2012, lecture at the University of Luxembourg on “Continuity with Deficiencies: The New Hungarian Basic Law”
42. Jakab, András, Budapest (Hungary), 18 April 2012, lecture on “Judge Made Law in Hungarian Legal History” at the conference of the Opten Kft. on “Judge Made Law in Hungary” at the Pázmány Péter Catholic University
43. Dyevre, Arthur (June 2013), “Judicial Defiance in the European Union: A Political Economic Approach,” Amsterdam, 25-28 June 2013.
44. Dyevre, Arthur (June 2013), “Judicial Defiance in the European Union: A Political Economic Approach,” Rutgers University, 14-16 June 2013.
45. Dyevre, Arthur (May 2013), “A Strategic Approach to Judicial Non-Compliance in the EU,” Budapest, Hungarian Academy of Sciences, 21 May 2013.
46. Dyevre, Arthur (March 2012), “Judicial Non-Compliance in a Non-Hierarchical Legal Order: Isolated Accident or Omen of Judicial Armageddon?,” Seminar *Law and Methodology*, Sciences Po Law School, 4 April 2013, Paris.
47. Dyevre, Arthur (December 2012), “Conflicto horizontal y negociación vertical,” Iberian-American Conference *Dialogo sobre dialogos jurisdiccionales*, 3-4 December 2012, Max Planck Institute, Heidelberg, Germany.
48. Dyevre, Arthur (November 2012), “Judicial Non-Compliance in a Non-Hierarchical Legal Order: Isolated Accident or Omen of Judicial Armageddon?,” Workshop *The European Court of Justice and National Courts: New Theory and New Methods*, 29-30 November 2012, European University Institute, Florence, Italy.
49. Dyevre, Arthur (November 2012), “Outline of a Legal Realistic Approach to Legal Integration,” Conference *European Legal Method – Towards a New European Legal Realism?*, Copenhagen Business School, Copenhagen, 23 November 2012.
50. Dyevre, Arthur (November 2012), “Judicial Non-Compliance in a Non-Hierarchical Legal Order: Isolated Accident or Omen of Judicial Armageddon?,” Seminar, CEU San Pablo University, Madrid, 7 November 2012.
51. Dyevre, Arthur (October 2012), “Judicial Non-Compliance in a Non-Hierarchical Legal Order: Isolated Accident or Omen of Judicial Armageddon?,” Seminar (Prof.

Damian Chalmers), London School of Economics and Political Science, London, 11 October 2012.

52. Arthur Dyevre: Berlin Graduate School of Social Sciences, Berlin, 22-24 September 2011, lecture on “Revisiting the Case for Judicial Review: Constitutional Courts as Agents and as Trustees” at the conference on *Advocates or Notaries of Democracy? A Comparative Socio-legal Analysis of the Role of Constitutional Courts in Political Transformation Processes*
53. András Jakab: Ithaca NY (USA), 10 April 2012, Berger Lecture at Cornell Law School on “Judicial Reasoning in Constitutional Courts”
54. András Jakab: Belgrade (Serbia), 23 March 2012, lecture on “Constitutional Visions of the Nation” at the conference on “The Challenges of Multiculturalism”
55. András Jakab: Cluj (Romania), 29 February 2012, lecture at the Sapientia University on “The New Hungarian Basic Law”
56. András Jakab: Budapest (Hungary), 26 January 2012, lecture at Central European University Political Science Department on “Democratizing the European Union”
57. András Jakab: Milan (Italy), 11 December 2011, lecture at Bocconi University on “Constitutional Reasoning in Constitutional Courts – A European Perspective”
58. András Jakab: Budapest (Hungary), 28 November 2011, lecture held at the Hungarian Academy for the Education of Judges (Magyar Bíróképző Akadémia) on “Az új Alaptörvény bírói jogértelmezésre vonatkozó rendelkezései” (The Rules of Judicial Interpretation of Statutes According to the New Hungarian Basic Law)
59. András Jakab: Belgrade (Serbia), 26-27 November 2011, conference organised by the University of Belgrade on “Crisis and Quality of Democracy in South East European Countries”; title of the lecture: “What is a Constitution Good For? Lessons From the Hungarian Constitution-making Process”
60. András Jakab: Budapest (Hungary), 28 September 2011, conference organised by the Hungarian data protection commissioner on “Data Protection Commissioner 1995-2011”; title of the lecture: “A független intézmények értelme egy alkotmányos demokráciában” (The Reasons for Having Independent Institutions in a Constitutional Democracy)

5.4 Teaching During Project Employment

1. Jakab: courses on *Vergleichende Verfassungslehre* (in the first semester of the academic year 2011/2012), *Rechtsphilosophie* (in the second semester of the academic year 2011/2012)
2. Jakab: *Comparative Constitutional Law* at Heidelberg University (continuously as *Lehrbeauftragter* since 2012)
3. Dyevre: course on “Comparative Constitutional Law” in Master Programme at *Centro de Estudios Políticos y Constitucionales* (CEPC), Madrid (Spain) in November 2011
4. Dyevre: *Empirical Legal Studies: Courts in the Legal Integration Process*, August 2013 – Common Law Society Summer School, Krkonose, Czech Republic
5. Dyevre: *Colloquium: Empirical Legal Studies*, University of Heidelberg and Max Planck Institute, 3-5 July 2013, Heidelberg.
6. Dyevre: EU Law at Heidelberg University (SS 2013)
7. Dyevre: French Administrative Law at Heidelberg University (WS 2012-2013)

5.5 Publications

András Jakab:

Book, as author:

1. *European Constitutional Language* (Cambridge: Cambridge University Press 2016) pp. xviii + 511
2. *Az európai alkotmányjog nyelve* (European Constitutional Language) (Budapest: NKE 2016) pp. 453

Book, as editor

3. *Alkotmányozás Magyarországon 2010-2011* (Constitution-Making in Hungary 2010-2011) (Budapest – Pécs: Pázmány Press 2013) vols I-II, pp. 438 + 504 (co-editor: Tímea Drinóczi)
4. *Alkotmányozás Magyarországon és máshol* (Constitution-Making in Hungary and Elsewhere) (Budapest: MTA TKPTI 2012) pp. 309 (co-editor: András Körösenyi)

Law Journal Special Issue Guest Editorship

5. *Constitutional Reasoning* (special issue of the *German Law Journal* 2013/8, co-editors: András Jakab and Arthur Dyevre), available at www.germanlawjournal.com

Book chapters

6. “The EU Charter of Fundamental Rights as the Most Promising Way of Enforcing the Rule of Law against EU Member States” in: Carlos Close – Dmitry Kochenov (eds.): *Reinforcing the Rule of Law Oversight in the European Union* (Cambridge: Cambridge University Press 2016) pp. 187-205
7. “A jogforrási rendszer” (The System of the Sources of Law) in: László Trócsányi – Balázs Schanda (eds.): *Bevezetés az alkotmányjogba* (Introduction to Constitutional Law) (Budapest: HVG Orac 4th ed. 2015) pp. 121-179
8. “A különleges jogrend” (State of Emergency) in: László Trócsányi – Balázs Schanda (eds.): *Bevezetés az alkotmányjogba* (Introduction to Constitutional Law) (Budapest: HVG Orac 4th ed. 2015) pp. 479-503 (co-author: Szabolcs Till)
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