

Tradition, Constitution, Identity and European Integration

EDITORIAL

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On 23–24 September 2021 the Institute for Legal Studies of the Centre for Social Sciences and the French Institute, supported by the French and the Dutch Embassies in Hungary, organised an international conference entitled *Tradition, Constitution and European Integration* on the concept and the practice of protecting European constitutional identities.

The 27 Member States of the European Union each have their own constitutions or basic laws. In addition to that, the EU is governed by founding treaties of constitutional value. The national and the European legal orders interact constantly and, apart from developing the domestic legal systems, they form a complex, integrated legal system as well.

Because of their particularities (historic, geographic, political, linguistic, etc.), States (just like individuals) have their own unique identities. The essential elements of these identities are protected in the constitution of each State, explicitly or implicitly, codified or elaborated by constitutional courts. This is the so called Constitutional Identity, which is in the focus of heated scholarly discussions with regard to its content and the related competence and procedural issues. The Court of Justice of the EU is responsible for harmonising and ensuring the effective enforcement of EU law in all the Member States (in compliance with the principle of supremacy) in harmony with the national constitutional traditions. The EU must respect the constitutional identities of the Member States, while the EU must also build its own community identity, inspired by its values (nominally shared by the Member States), which also prevail both in the founding treaties and in each and every Member State constitutions. This idea is expected to be present in the interpretation practice of the Court of Justice of the European Union.

What is Constitutional Identity in the EU law and in the Member States' constitutional orders? How do these concepts relate to each other? What is the relationship between EU law and the individual national constitutional traditions? What are the perspectives of the different Member States and of the EU as a whole? What does the dialogue between CJEU and the national constitutional courts entail?

Building on and encouraging the in-depth study of the concept of Constitutional Identity while also analysing the perspectives of the Member States and the EU, the conference brought together Hungarian, French, Dutch, German and Polish experts. Constitutional identity can only ever be a meaningful legal concept if it is based in an equal measure on knowledge about legal traditions, domestic law and of EU integration based on the rule of law. The special issue of the Hungarian Journal of Legal Studies – *Acta Juridica Hungarica* 2022/1 and 2022/2 will further contribute to this knowledge by publishing the articles of the most acknowledged scholars of this field.

After considering the theoretical approach to the concept of constitutional identity, in the context of EU law, the national perspectives of constitutional identity and their relation to the EU legal order will be discussed. Finally, in-depth discussion of the relationship between EU law and the constitutional identity of Member States and of the jurisprudence of the Court of Justice of the European Union will be offered to the readers.

Zoltán Szente argues against constitutional identity as a normative constitutional concept, while Marie-Elisabeth Baudoin calls constitutional identity the new Babel of Law. Alain Delcamp raises the question whether the constitutional identity of Member States is a false self-evident fact or constitutive element of the new legal architecture of the European Union? To give a positive account, Laurianne Allezard talks about constitutional identity as a guarantor of a system of identities in European Constitutional Laws.

As to the domestic accounts, Lencka Popravka describes the construction of constitutional identity constrained by the Identity of the Union in Romania and in Bulgaria and Ernő Várnay writes about The Hungarian Sabre of Constitutional Identity, analysing the related Hungarian constitutional texts in EU law context. A comparative approach to Constitutional Identity across Europe is given by François-Xavier Millet. Finally, Endre Orbán discusses constitutional identity within the jurisprudence of the Court of Justice of the European Union.

As editor of the special issue, I would like to thank Manon Coue, Governance, Legal and Institutional Cooperation Officer for her extremely important organising work in this project as co-organiser on behalf of the French Institute and Alexis Rusinek, attaché of scientific and university cooperation, Anita Koncsik Senior Legal and Political Officer at the Dutch Embassy and last but not least the Centre for Social Sciences and the members of the Responsiveness of the Hungarian Legal System 2010–2020 project (FK 129018), supported by the National Research, Development and Innovation Office, for its generous support.

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