# Center for Constitutional Studies and Democratic Development



## **Igalo Series**

Directed by Justin O. Frosini Stevan Lilić

European Union and Legal Reform 2011

Edited by

Čarna Pištan



#### © 2013 by CLUEB Cooperativa Libraria Universitaria Editrice Bologna

Le fotocopie per uso personale del lettore possono essere effettuate nei limiti del 15% di ciascun volume/fascicolo di periodico dietro pagamento alla SIAE del compenso previsto dall'art. 68, commi 4 e 5, della legge 22 aprile 1941 n. 633.



Le fotocopie effettuate per finalità di carattere professionale, economico o commerciale o comunque per uso diverso da quello personale possono essere effettuate a seguito di specifica autorizzazione rilasciata da CLEARedi, Centro Licenze e Autorizzazioni per le Riproduzioni Editoriali, Corso di Porta Romana 108, 20122 Milano, e-mail autorizzazioni@clearedi.org e sito web www.clearedi.org.

Center for Constitutional Studies and Democratic Development (CCSDD) Via San Giacomo, 9/2 – Bologna – 051.42.10.371 www.ccsdd.org

La traduzione, l'adattamento totale o parziale, la riproduzione con qualsiasi mezzo (compresi i film, i microfilm, le fotocopie), nonché la memorizzazione elettronica, sono riservati per tutti i paesi

ISBN 978-88-491-3771-2

CLUEB
Cooperativa Libraria Universitaria Editrice Bologna
40126 Bologna - Via Marsala 31
Tel. 051 220736 - Fax 051 237758
www.clueb.com
Finito di stampare nel mese di marzo 2013
da Studio Rabbi – Bologna

### TABLE OF CONTENTS

Preface	VII
Introduction	1
List of Contributors	3
Enlargement of the European Union: costs, benefits and Turkey's case	
Federico Ticchi	5
How is it possible to create an European society? Do Europe's people have the deception of being "European" and citizens of an Area of Freedom Security and Justice?	
Antonia Corini	23
Recognition of the independence of Kosovo by the MS (or Right to self-determination in the European legal framework)?	
Alena Zhydovich	37
Minority rights A false or true problem for Europe? Patricia Casandra Papuc	47
Old from new, new from old? The new Fundamental	
Law of Hungary	Mar
Ákos Magyari	67
The Hungarian Constitution: a comparative analysis Giulia Heuser	95
Olulia Heusel	85

### Preface

The «Igalo Series» gathers together contributions written by students that attended the *European Union and Legal Reform* Summer School organised annually by the Center for Constitutional Studies and Democratic Development (CCSDD) and the Law Faculty of the University of Belgrade. The CCSDD is a partnership between the Faculty of Law of the University of Bologna and the Johns Hopkins University Paul H. Nitze School of Advanced International Studies (SAIS). The CCSDD carries out research and training in the field of comparative constitutional law with particular focus on countries undergoing a democratisation process. The Faculty of Law, University of Belgrade is one of the oldest Law faculties in South Eastern Europe with a long tradition of legal research and teaching.

The Summer School brings together students and academics from various countries in Central, Eastern and South Eastern Europe. During the week-long program, students and faculty discuss the constitutional implications of EU enlargement and the lessons that can be learnt from the founding members of the European Economic Community (EEC).

Besides the heavy financial crisis, which is affecting almost every European country, the European Union is actually facing difficult and important challenges. First of all, it is having to deal with the challenge of a new enlargement. In fact, after a long and quite problematic process of integration, Croatia is expected to become the 28<sup>th</sup> member state of the European Union in July 2013. Moreover, one should not forget that there are five recognised candidates for membership: Iceland, Macedonia, Montenegro, Serbia and Turkey. Secondly, the European Commission is also carefully following the political, insti-

tutional and legal developments in Hungary. In fact, part of the new 2012 Constitution and a number of cardinal lawsfailed to comply with EU law.

To harmonise the current Eastern, Central and South Eastern European legal systems with EU countries and cultivate ground-breaking legal thinking it is essential to train a new generation of legal practioners and academics. This is the very reason why we try to recruit Ph.D students as well as young practicing judges and lawyers. The one-week Summer School takes place every year at the end of July and is open to final-year undergraduate students and graduate students in Law and Political Science.

As an official Summer School of the University of Bologna, it assigns 7 European ECTS credits to participants who successfully complete the course. The School is organised in Igalo (Herzeg-Novi), Montenegro, which is located in a very attractive spot between Orjen, the highest peek of the Dinara mountain range and the mouth of one of the most beautiful bays in the world, the Bay of Kotor (Boka Kotorska).

The institutions that funded the Summer School in 2010 included: Robert J. Abernethy, Sonja Valtasaari McHugh Seminar and Scholarship Program, the University of Bologna and Coordinamento Adriatico. Donors of previous editions include: Rockefeller Brothers Fund, Central European Initiative, Provincia di Ravenna and the Fondazione Cassa di Risparmio in Bologna.

These essays were published with the support of the George Lawrence Abernethy Endowment, a fund established in 2008 by Robert J. Abernethy (Johns Hopkins University alumnus and Trustee as well as Bologna Center Advisory Council since 1993; founder and president of American Standard Development Company in Los Angeles, CA) to honour the memory of his father. Dr. George Lawrence Abernethy (August 23, 1910-

August 14, 1996) was professor emeritus of Philosophy at Davidson College, N.C.

Special thanks go to Čarna Pištan and Sylvia Staneva without their invaluable help this book would never have gone to print.

Justin O. Frosini and Stevan Lilić

### The publications of the Center for Constitutional Studies and Democratic Development are available at:

LIBRERIA CLUEB Via Belle Arti 5b 40126 Bologna http://www.clueb.com

Contact CLUEB at the address below:

Via Marsala 31 - 40126 Bologna Tel. +39 051 220736 Fax +39 051 237758 info@clueb.com