

Center for Constitutional Studies and Democratic Development

Igalo Series

Directed by Justin O. Frosini and Stevan Lilić



European Union and Legal Reform 2009

Edited by

Sara Pennicino



CLUEB

The Constitutional Divide: The United States and European High Courts' Diverging Interpretations of Constitutional Promises of Equality Under the Law and a Fair Trial as It Applies to Civil Cases Involving Fundamental Rights

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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).

Entry into the European Union is a clear goal articulated by leaders across Central, Eastern and South Eastern Europe yet, at present, European law is conceived by many of the jurists of these countries (except a very narrow circle of specialists) as having no direct impact on their legal systems and the reforms taking place. However, for true integration into the European Union, European law needs to penetrate every area of legislation and be perceived as part of domestic law by all those involved in the legal profession. In essence, economic and political reforms will continue to operate in a vacuum unless countries such as Serbia and Montenegro implement rules of law in

accordance with EU standards. 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 practitioners 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 peak of the Dinara mountain range and the mouth of one of the most beautiful bays in the world, the Bay of Kotor (Boka Kotorska).

As well as the CCSDD and the University of Belgrade, other partner institutions include the University of Podgorica, the University of West Bohemia (Pilsen, Czech Republic) and Birkbeck College (UK).

The institutions that funded the Summer School in 2009 include: the Fondazione Del Monte di Bologna e Ravenna, Coordinamento Adriatico, the Provincia di Ravenna, the University of Belgrade and the University of Bologna. Donors of previous editions include: Rockefeller Brothers Fund, Central European Initiative and the Fondazione Cassa di Risparmio in Bologna.

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August 14, 1996) was professor emeritus of Philosophy at Davidson College, N.C. Special thanks go to Sara Pennicino, Francesco Biagi and Matteo De Simone for without their invaluable help this book would never have gone to print.

Justin O. Frosini and Stevan Lilić

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