# Special Workshop 22

# Philosophical foundations of constitutional reasoning

## Convenors:

Bojan Spaić (University of Belgrade)

Jorge Alexander Portocarrero Quispe (University of Heidelberg)

Arnulfo Daniel Mateos Durán (University of Heidelberg)

## Description:

Constitutional adjudication has been understood and analyzed in diverging ways in different traditions of legal philosophy and constitutional theory. At times it has played the role of the final arbiter in state policy and legal matters, just as much as it has been reduced to a mere accessory of other branches of government. The question of constitutional adjudication has been addressed by legal philosophers and constitutional theorist rooted in different perspectives, ranging from political philosophy, theory of principles, decision theory, behavior of psychology, constitutional dogmatics, or philosophical traditions such as hermeneutics, pragmatism, deconstructionism, realism or phenomenology. The aim of the workshop is to bring all these perspectives into a productive dialog, that will lead to a lively discussion about the current positions and the perspectives in the field.

## Thursday, July 11th

14.00 - 14:30 David Duarte (University of Lisbon), On the Normativity of Constitutional Tautologies

14:30 - 15:00 Luis Pereira Coutinho (University of Lisbon’s School of Law – Lisbon Centre for Research in Public Law), Constitutional Adjudication as a Problem of Political Theory

15:00 - 15:30 Hüseyin Yidiz (University of Konstanz), Constitutional Review as a Remedy of Correctness

**13:30 - 16:00 Coffee Break**

16:00 - 16:30 Thomas Bustamante (Federal University of Minas Gerais), “Constitutional Enlightenment” and the Average Man: The Spurious Theory of Constitutional Adjudication of Justice Barroso

16:30 - 17:00 Damir Banovic (University of Sarajevo), Contextual contingencies and constitutional interpretation

17:00 - 17:30 Bojan Spaić (University of Lisbon), Legitimate and Illegitimate Constitutional Interpretation

## Friday 12th of July

09:00 - 09:30 Martin Borowski (University of Heidelberg), The Role of Positive Morality in Legal Balancing Judgments

09:30 - 10:00 Horacio Spector (University of San Diego School of Law, Universidad Torcuato di Tella), Proportionality as Scalar Deontology

10:00 - 10:30 Jorge Alexander Portocarrero Quispe (University of Heidelberg), The special character of constitutional provisions

**10:30 -11:00 Coffee break**

11:00 - 11:30 Charles-Maxime Panaccio (University of Ottawa), Norms, Reason and Argumentation in the Judicial Implementation of Constitutional Rights

11:30 -12:00 Hector Morales Zúñiga (University of Graz), Constitutional Interpretation, Intent, and Time

12:00 - 12:30 Miodrag Jovanović (University of Belgrade), Jus Cogens Norms: Constitutional Reasoning in International Law?

12:30 - 13:00 Arnulfo Daniel Mateos Duran (University of Heidelberg), Conflicts between International and Constitutional Fundamental Rights

**13:00 - 14:00 Lunch**

14:30 - 15:00 Martin Belov (Sofia University “St. Kliment Ohridski”), Constitutional Geometry as Explanatory and Ordering Paradigm in Constitutional Law

15:00 - 15:30 Szymon Mazurkiewicz (Jagiellonian University), Logical analysis in constitutional law - why the „judgment paradox” from the judgment of 09.03.2016 r. of the Polish Constitutional Tribunal (K 47/15) is not based on the Liar’s paradox? A study from Polish Constitutional Crisis

15:30 - 16:00 Marin Keršić (University of Split), Conflicts between fundamental rights as legal principles: the right to life vs. the right to private life. A review of a Croatian Constitutional Court case