

## MODERN FOREIGN CONSTITUTIONALISM: MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW

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The European vector of modern Ukrainian politics involves a broad and thorough acquaintance with the latest achievements of European and world legal thought. Domestic jurisprudence, which has been developing for many years in line with the orthodox Marxist methodology, overcomes not only ideological isolation, but also produces a new research culture based on the study and understanding of modern trends in foreign jurisprudence. It is necessary to emphasize that this process is only unfolding and is not always implemented in specific studies, in particular, dissertation studies, where the use of works by foreign authors on the studied issues is often absent, and, therefore, the latest methodological approaches and theoretical and doctrinal developments of the world's leading experts are not taken into account. As before, little information is published in domestic legal periodicals about foreign research centers and schools in various fields of law, activities of foreign legal scholars, academic publishing houses and authoritative periodicals. All this fully applies to our science of constitutional law, which encourages us to more actively cover the study of constitutional law in foreign countries, publishing activity and activities of scientific centers related to the problems of constitutional law.

One of the internationally recognized centers of modern constitutional studies is the Max Planck Institute of Comparative Public Law and International Law (Heidelberg, Germany). His research in many respects sets the tone and determines the direction of modern constitutional and legal investigations. The article provides a detailed description of the work of the Institute, which is built on the principles of theoretical and methodological pluralism, individual projects are specifically directed to the use of different methodological approaches. It is noted that the research is conducted in two forms: 1) doctrinal and theoretical analysis - problem-oriented fundamental research that seeks to reveal the structures, development and regularities of constitutional and international law; 2) systematic analysis and comparison of legal norms in order to solve current legal problems or carry out reforms. The relatively low level of abstraction of such studies is explained by the need to provide specific recommendations to officials or practicing lawyers. The institute strives for broad relations with the public. It is noted that the Institute occupies a leading position in world constitutionalism in terms of the volume of research conducted, the wide coverage of topics and the depth of theoretical analysis. His achievements must be taken into account by the domestic science of constitutional law.

### References

1. Max-Planck-Gesellschaft. Facts and Figures. Available at: <https://www.mpg.de/facts-and-figures>
2. Oellers-Frahm K., Bernhardt R. (2018). Das Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht: Geschichte und Entwicklung von 1949 bis 2013. Berlin: Springer. 344 p.
3. Doctoral Training at the MPIL. Available at: <https://www.mpil.de/en/pub/research-interaction/doctoral-training.cfm>

4. Institutional cooperation. Available at: <https://www.mpil.de/en/pub/research/institutional-cooperation.cfm>
5. Max Planck Institute for Comparative Public Law and International Law (MPIL). Research Paper Series. Available at: [https://papers.ssrn.com/sol3/JELJOUR\\_Results.cfm?form\\_name=journalbrowse&journal\\_id=2765113](https://papers.ssrn.com/sol3/JELJOUR_Results.cfm?form_name=journalbrowse&journal_id=2765113)
6. Veröffentlichungen des Max-Planck-Instituts für ausländisches öffentliches Recht und Völkerrecht. Begründet von Viktor Bruns. Available at: <https://www.mpil.de/en/pub/publications/periodic-publications/beitraege-zum-auslaendischen.cfm>
7. Beiträge zum ausländischen öffentlichen Recht und Völkerrecht. Veröffentlichungen des Max-Planck-Instituts für ausländisches öffentliches Recht und Völkerrecht. Available at: <https://link.springer.com/bookseries/556>
8. Scientific blogs as infrastructure for digital publishing and academic communication: expanding the model project “Volkerrechtsblog”. Available at: <https://www.mpil.de/en/pub/research/areas/public-international-law/scientific-blogs.cfm>
9. Publication by Our Researches. Available at: <https://www.mpil.de/en/pub/publications/publications-researcher.cfm>
10. Schumpeter Research Group “Constitutional Reasoning in Europe”. Available at: [https://www.mpil.de/en/pub/research/archive/schumpeter\\_forschungsgruppe.cfm](https://www.mpil.de/en/pub/research/archive/schumpeter_forschungsgruppe.cfm)
11. Research Profile. Available at: <https://www.mpil.de/en/pub/institute/the-institute/research-profile.cfm>
12. von Bogdandy A. (2008). Pluralism, Direct Effect and the Ultimate Say: on the Relationship Between International and Domestic Constitutional Law. *International Journal of Constitutional Law*. Vol.6, no. 3-4, pp. 397-413.
13. Global Constitutionalism and Global Governance. About the Project. Available at: <https://www.mpil.de/en/pub/research/areas/public-international-law/global-constitutionalism.cfm>
14. Bogdandy A. (2006). *Constitutionalism in International law: Comment on a proposal from Germany*. *Harvard international law journal*. Vol. 47, no. 1, pp. 223-242; Peters A. (2006). Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures. *Leiden Journal of International Law*. № 19. P. 579-610; Jan Klabbers, Anne Peters, Geir Ulfstein (eds). (2009). *The Constitutionalization of International Law* Oxford: Oxford University Press, 436 p.; Peters A. (2009). The Merits of Global Constitutionalism. *Indiana Journal of Global Legal Studies*. Vol. 16. pp. 397-411; Peters A. (2010). Rechtsordnungen und Konstitutionalisierung: Zur Neubestimmung der Verhältnisse. *Zeitschrift für öffentliches Recht*, no. 65. pp. 3-63; Peters A. (2012). Are we Moving towards Constitutionalization of the World Community? *Realizing Utopia: The Future of International Law* /Ed. by Antonio Cassese. Oxford University Press pp. 118-135; Peters A. (2009). Supremacy Lost: International Law Meets Domestic Constitutional Law. *Vienna Journal on International Constitutional Law*, no. 3, pp. 173-177; Les acteurs à l'ère du constitutionnalisme global – Actors in the age of global constitutionalism / Sous la direction de Anne Peters, Manuel Devers, Anne-Marie Thévenot-Werner et Patrizia Zbinden. Unité mixte de recherche de droit comparé de Paris (Université de Paris I. Volume 35. Editeur: Société de législation compare. Parution: 08/2014; Peters A. (2015). Immune against Constitutionalisation? *Immunities in the Age of Global Constitutionalism* / Ed. by Anne Peters, Evelyne Lagrange, Stefan Oeter, Christian Tomuschat. Leiden: Brill Nijhoff, pp. 1-19.
15. Peters A. (2015). Global Constitutionalism. Michael T. Gibbons (eds.). *The Encyclopedia of Political Thought*. London: Wiley-Blackwell. pp. 1484-1487.
16. Peters A. (2017). Constitutionalisation. *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper*, no. 2017-08. Available at: <https://ssrn.com/abstract=2941412>
17. Peters A. (2015). On the Interaction of Constitutionalization and Fragmentation in International Law. *Centre for Global Constitutionalism*. Working Paper 2. St Andrews. pp. 1-42; Peters A. (2016). Fragmentation and Constitutionalization. *The Oxford Handbook of the Theory of International Law* / Ed. by Anne Orford, Florian Hoffmann. Oxford; New York: Oxford University Press.
18. Peters A. (2017). Proportionality as a Global Constitutional Principle. *Handbook on Global*

*Constitutionalism/* Ed. by Anthony F. Lang Jr., Antje Wiener. Cheltenham, UK; Northampton, Massachusetts, US: Edward Elgar Publishing, pp. 248-264.

19. Peters A. (2017). Foreign Relations Law and Global Constitutionalism, *Symposium on Comparative Foreign Relations Law. AJIL Unbound*, 30 October 2017. Available at: <https://www.cambridge.org/core/journals/...>

20. Takao Suami, Mattias Kumm, Anne Peters, Dimitri Vanoverbeke (eds.). (2019). *Global Constitutionalism from European and East Asian Perspectives* Cambridge: Cambridge University Press. 622 p.

21. Peters A. (2018). Global Constitutionalism: The Social Dimension. Takao Suami, Mattias Kumm, Anne Peters, and Dimitri Vanoverbeke (eds.), *Global Constitutionalism from European and East Asian Perspectives* Cambridge: CUP; Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2017-25. Available at: <https://ssrn.com/abstract=3083578>

22. Atilgan A. (2018). *Global Constitutionalism. A Socio-legal Perspective*. Berlin/Heidelberg: Springer-Verlag. 314 p.

23. von Bogdandy A. (2000). The European Union as a Supranational Federation: A Conceptual Attempt in the Light of the Amsterdam Treaty. *Columbia Journal of European Law*. vol.6, issue 1, pp.27-54; von Bogdandy A. Neither an International Organization Nor A Nation State: The EU as a Supranational Federation. T Erik Jones, Anand Menon, and Stephen Weatherill (eds.). (2012). *he Oxford Handbook of the European Union*. Ed. by Erik Jones, Anand Menon, and Stephen Weatherill. Oxford: Oxford University Press.

24. Law of the European Union. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union.cfm>

25. von Bogdandy A. (2016). The Transformation of European Law: The Reformed Concept and Its Quest for Comparison. *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper*, no. 2016-14.

26. Constitutional Crisis in the European Constitutional Space. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/constitutional-crisis.cfm>

27. Protecting EU Values in the Rule of Law Crisis. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/protecting-eu-values.cfm>

28. Conference Programme\_Protecting and Advancing the Rule of Law in Europe (PDF, 291.4 KB); Conference Programme\_Protecting European Union Values: Breaches of Article 2 TEU and their consequences (PDF, 2212.3 KB). Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/protecting-eu-values.cfm>

29. On the Democratic Legitimacy of Europe's Judges. The Selection of the Strasbourg and Luxembourg Benches. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/democratic-legitimacy.cfm>

30. Systemic Deficiency in the Rule of Law. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/structuraldeficiencies.cfm>

31. Rule of Law and State Reform in Greece. Available at: <https://www.mpil.de/en/pub/research/areas/law-european-union/rule-of-law-and-state-reform.cfm>

32. von Bogdandy A., Kottmann M., Antpöhler C., Dickschen J., Hentrei S., Smrkol. (2012). M. Reverse Solange. Protecting the essence of fundamental rights against EU Member States. *Common Market Law Review*, vol.49, pp.489-519.

33. Reverse Solange – Protecting the Essence of Fundamental Rights Against EU Member States. About the Project. Available at: <https://www.mpil.de/en/pub/research/archive/reverse-solange.cfm>

34. The Individual in International Law. Available at: <https://www.mpil.de/en/pub/research/areas/human-rights/the-individual-in-int-law.cfm>

35. Peters A. (2016). *Beyond Human Rights. The Legal Status of the Individual in International Law*. Cambridge: Cambridge University Press. 602 p.

36. Human Rights and State Immunities. Available at: [https://www.mpil.de/en/pub/research/areas/public-international-law/human\\_rights\\_and\\_state\\_immunit.cfm](https://www.mpil.de/en/pub/research/areas/public-international-law/human_rights_and_state_immunit.cfm)

37. International Conference 'Remedies against Immunity? – Reconciling International and Domestic Law after the Italian Constitutional Court's Sentenza 238/2014. Available at: [https://www.mpil.de/en/pub/research/areas/public-international-law/human\\_rights\\_and\\_state\\_immunit/remedies-against-immunity.cfm](https://www.mpil.de/en/pub/research/areas/public-international-law/human_rights_and_state_immunit/remedies-against-immunity.cfm)

38. Constitutions of the Countries of the World. Available at: <https://www.mpil.de/en/pub/research/areas/comparative-public-law/constitutions-of-the-countries.cfm>

39. Ius Publicum Europaeum. Head of Section: Armin von Bogdandy. Available at: <https://www.mpil.de/en/pub/research/areas/comparative-public-law/ius-publicum-europaeum.cfm>

40. von Bogdandy A. (2017). The Idea of European Public Law Today. *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper*, no. 4, 34 p.

41. Ius publicum-europaeum. Available at: <https://www.mpil.de/en/pub/research/areas/comparative-public-law/ius-publicum-europaeum/handbuch-ius-publicum-europaeu.cf>

42. Handbuch Ius Publicum Europaeum. Band 6. (2016). Verfassungsgerichtsbarkeit in Europa: Institutionen, hg. v. Bogdandy, Armin von/Grabenwarter, Christoph/Huber, Peter M. Müller, Heidelberg. 945 p.

43. Armin von Bogdandy, Peter Huber, Christoph Grabenwarter (eds.). (2020). The Max Planck Handbooks in European Public Law, vol. III: Constitutional Adjudication: Institutions. Oxford: Oxford University Press. 976 p.

44. Ius Constitutionale Commune en America Latina. Available at: <https://www.mpil.de/en/pub/research/areas/comparative-public-law/ius-constitutionale-commune.cfm>

45. von Bogdandy A. Ius Constitutionale Commune en América Latina: una mirada a un constitucionalismo transformado. Available at: <https://revistas.uexternado.edu.co/index.php/derest/article/view/4198/4643>

46. Armin von Bogdandy, Eduardo Ferrer Mac-Gregor, Mariela Morales Antoniazzi, Flávia Piovesan, and Ximena Soley (eds.). (2017). Transformative Constitutionalism in Latin America. The Emergence of a New Ius Commune. Oxford: Oxford University Press. 464 p.

47. Jus Constitutional Commune en Derechos Humanos para America Latina. Available at: <https://www.mpil.de/de/pub/forschung/nach-rechtsgebieten/oeffentliches-recht/iusconstitutionale-commune/ius-constitutionale-commune-en.cfm>

48. Manual de la Justicia Constitucional Latinoamericana. Available at: <https://www.mpil.de/en/pub/research/areas/comparative-public-law/ius-constitutionale-commune/manual-de-la-justicia-constitu.cfm>

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