

Between a Rock and a Hard Place: The Possible Roles of Eternity Clauses in the Member States of the European Union

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Abstract : Several constitutions have explicit or implicit eternity clauses in the European Union, their classic roles were analyzed so far, albeit there are new possibilities emerging in relation to the identity of the constitutions of the Member States. The aim of the study is to look at the practice of the Constitutional Courts of the Member States in detail regarding eternity clauses where limiting constitutional amendment has practical bearing, and to examine the influence of such practice on Europeanization. There are some states that apply explicit eternity clauses embedded in the text of the constitution, e.g., Italy, Germany, and Romania. In other states, the Constitutional Court 'unearthed' the implicit eternity clauses from the text of the basic law, e.g., Slovakia and Croatia. By using comparative analysis to examine the explicit or implicit clauses of the concerned constitutions, taking into consideration the new trends of the judicial opinions of the Member States and the fresh scientific studies, the main questions are: How to wield the double-edged sword of eternity clauses? To support European Integration or to support the sovereignty of the Member State? To help Europeanization or to act against it? Eternity clauses can easily find themselves between a rock and a hard place, the law of the European Union and the law of a Member State, with more possible interpretations. As more and more Constitutional Courts started to declare elements of their Member States' constitutional identities, these began to interfere with the eternity clauses. Will this trend eventually work against Europeanization? As a result of the research, it can be stated that a lowest common denominator exists in the practice of European Constitutional Courts regarding eternity clauses. The chance of a European model and the possibility of this model influencing the status quo between the European Union and the Member States will be examined by looking at the answers these courts have found so far.

Keywords : constitutional court, constitutional identity, eternity clause, European Integration

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