

YOUNG ACADEMICS

European
Legal Theory
3

Gürkan Çapar

Balancing Unconstitutional Constitutional Amendments



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Gürkan Çapar

Balancing Unconstitutional Constitutional Amendments

With a Foreword by Prof. Miodrag Jovanović

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Foreword

The material before the reader is the ultimate version of what used to be a successfully defended and subsequently awarded master thesis. In that respect, I might, somewhat unabashedly, infer that this is a final product of productive and collaborative work which I had with the author. In the process of writing a master thesis, Gürkan Çapar was not only willing to critically reflect upon all the comments and criticisms he was given, but he additionally improved his work with a devoted self-reflection, which was already back then a clear sign of scientific maturity. It is important to stress that his initial working plan had already been at a satisfactory stage, so all what was needed was persistent and meticulous development of the initial ideas. But this is often easier said than done. In the case of Gürkan Çapar, it turned for the better.

The author has opted for a topical and controversial research topic – theoretical grounding of unconstitutionality of constitutional amendments. This topic is at the crossroads of general legal theory, constitutional theory and political theory. At the same time, it is a constitutionally relevant topic, as the practice of several constitutional tribunals around the world demonstrates. In his monograph, the author successfully combines different methodological approaches. He starts with general problems of possible justification of one such doctrine. In doing so, he surveys the most relevant theoretical proposals in the field, highlighting both their strong and weak points. This is in the function of the development of the author's own, independent justificatory route. In the next step, he combines his approach with some of the tenets of Alexy's well-known Principles Theory. Finally, he successfully

tests his theoretical framework using the case study of two re-election cases of the Colombian Constitutional Court.

The monograph before the reader is a rock-solid piece of scientific work. It demonstrates not only the high academic and research potential of the author, which he subsequently confirmed by successfully defending a Ph.D. thesis under the supervision of the renowned Professor Gianluigi Palombella, but, more generally, it also testifies to the overall quality of the LL.M. program in legal theory of the European Academy of Legal Theory, conducted at the Goethe University, Frankfurt.

Belgrade, October 12, 2024

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