



SOLANGE 50TH ANNIVERSARY CONFERENCE

CONSTITUTIONALISM BEYOND THE STATE AND THE ROLE OF DOMESTIC CONSTITUTIONAL COURTS

MAY 30 / 31, 2024 -
WZB CONFERENCE ROOM A 300

Thursday, May 30

1:00 pm	Welcome Address	
1:30 pm	Historical analysis of <i>Solange I</i> and its historical context	
	<p>This panel invites to a fresh historical analysis of the content and context of the <i>Solange I</i> decision. As the Europeanization of public law scholarship has contributed to transforming the decision into a symbol for a new era of domestic constitutional court engagement beyond the state in Europe and to turning it into a focal point for decades of scholarly discourse and imagination, <i>Solange I</i> is ripe for historicization.</p>	
	<i>Andrej Lang</i> (Halle/Saale)	<p><i>Solange I</i> in the Mirror of Time: Building European Constitutionalism from the bottom-up</p>
	TBC	<p><i>Lang's</i> presentation provides a detailed historical analysis of the reasoning and the context of the decision. It argues that the disagreement between the justices and the judicial deliberations and reflections it triggered proved productive as the decision formulated a modern understanding for its time of the relationship between EC law and national law.</p>
	<i>Niels Graaf</i> (Amsterdam)	<p>'Solange', 'Fintantoché', 'Tant que'. The use of a canonical German decision in French and Italian constitutional debates</p>
	(TBC)	<p><i>Graaf</i> analyzes the extensive scholarly uses of the <i>Solange</i> judgment in Italian, French and Dutch public law scholarship, showing that <i>Solange</i> operated as a glue that pasted together divergent constitutional communities.</p>
3:00 pm	Coffee Break	
3:30 pm	Block I: The Legacy of <i>Solange</i> in light of alternative approaches to transnational constitutional engagement	

	<p>The two panels on the legacy of <i>Solange</i> discuss the competing interpretations and narratives of the decision and how it relates to alternative approaches and to subsequent case-law in the broader context of European constitutional heritage. They examine, amongst others, whether the <i>Solange</i> legacy is one of a narrow-minded resistance to European integration that is ultimately premised on the idea of national constitutional supremacy or one of constructive transnational engagement and a plea to extend constitutionalism from its traditional nation state setting to the European constitutional space.</p>		
	<p><i>Mattias Kumm</i> (NYU & WZB Berlin)</p>	<p>The conditionality of <i>Solange</i></p>	<p><i>Kumm</i> shows in his presentation that one of the virtues of the <i>Solange</i> decision is the type of conditionality it exemplifies, contrasting this approach with other strands of resistance to EU primacy tied to the idea of constitutional identity, which he deems untenable in the EU context.</p>
	<p><i>Daniel Halberstam</i> (Michigan)</p>	<p>The Promise and Peril of the German Rights Tradition in Europe: <i>Solange I</i> and Beyond</p>	<p>Situating <i>Solange I</i> in the landscape of fundamental rights traditions in Europe, <i>Halberstam</i> suggests that the decision, on the one hand, laid the foundation for a productive relationship to the Court of Justice, but, on the other hand, enabled the potential for divisive disagreement over fundamental rights and values in Europe.</p>
	<p><i>Julian Scholtes</i>, (Glasgow)</p>	<p>Constitutional identity and political closure</p>	<p><i>Scholtes</i> contrasts the concept of constitutional identity laid down by the German Constitutional Court in <i>Solange I</i> with the concept later construed in the Lisbon judgment, arguing that <i>Solange I</i> set forth a better, more democratic, way of constructing constitutional identity.</p>
	<p><i>Anna-Bettina Kaiser</i> (Humboldt Univ. zu Berlin)</p>	<p>Moderator</p>	
5:00 pm	<p>Coffee Break</p>		
5:30 pm	<p>Block II: The Legacy of <i>Solange</i> in light of alternative approaches to transnational constitutional engagement</p>		
	<p><i>Monica Claes</i> (Maastricht)</p>	<p><i>Solange</i> what?</p>	<p>In her presentation, <i>Claes</i> compares and contrasts the various approaches of national courts in Europe that are considered to be inspired by <i>Solange</i>, analyzing these varieties and their effects on European integration.</p>
	<p><i>Matej Avbelj</i> (New University, Ljubljana)</p>	<p><i>Solange I</i> between Constitutional Mimesis and Originality</p>	<p><i>Avbelj</i> evaluates in his presentation if there is something in the <i>Solange I</i>-decision and its aftermath that is (still) worth celebrating and preserving, both in intellectual and institutional terms, in Europe and beyond.</p>
	<p><i>Jakob Gašperin Wischhoff</i></p>	<p>So Long, Disputed Legacy of <i>Solange</i></p>	<p><i>Wischhoff</i> explores the (dis)continuity of the often-assumed coherent trajectory of national judicial resistance in the EU set into</p>

	(Humboldt Univ. zu Berlin)		motion by <i>Solange I</i> based on a three-fold normative framework that asks i) what the justificatory reasons of the resistance are; what the scope of judicial resistance is; and what the consequences are.
	<i>TBC</i>	Moderator	

Friday, May 31

9:00 am	The role of constitutional courts beyond the state in turbulent times		
	The rise of populist authoritarian nationalism, the disintegration of the European Union, and the backlash against international institutions bring into question whether the theory of constitutional pluralism and doctrinal approaches to constitutional engagement beyond the state such as <i>Solange</i> , ultra vires, and constitutional identity are suitable mechanisms for domestic constitutional courts in turbulent times like ours. This panel evaluates these recent political and legal developments and their impact on the role of domestic constitutional courts.		
	<i>Karen Alter</i> (Northwestern)	How to protect constitutional democracy in an age of globalization	<i>Alter</i> explains in her presentation how the German Constitutional Court missed the true mark in its case-law by focusing on the EU and CJEU, failing to notice that greater forces are at work and that the real culprit in violating German citizen's democratic and fundamental rights was globalization.
	<i>Anuscheh Farahat & Teresa Violante</i> (FAU Erlangen-Nürnberg)	The role of domestic constitutional courts in promoting European Constitutionalism: Ambivalences from <i>Solange I</i> to <i>Solange IV</i>	<i>Farahat</i> and <i>Violante</i> examine in their presentation how the new approach pursued by the Federal Constitutional Court in <i>Solange IV</i> ("Right to be Forgotten II") may transform the role of domestic constitutional courts in promoting EU constitutional law and whether it may show more transformational potential than the approach laid down in <i>Solange I</i> .
	<i>Eyal Benvenisti</i> (Cambridge)	The Model of the Other-Regarding Constitutional Courts	Benvenisti's presentation analyzes <i>Solange's</i> effects beyond national jurisdiction, discussing whether domestic constitutional courts should take the interests of disregarded strangers into account, provide strangers with voice in the adjudicative process, and develop substantive and procedural duties to protect strangers.
	<i>Paulina Starski</i> (Freiburg)	Moderator	
10:30 am	Coffee Break		

11:00 am	Final Panel	
Panelists	Doris König (Vice-President of the Federal Constitutional Court)	Short presentation & Discussion
	Susanne Baer (Former Member of the Federal Constitutional Court, Professor at Humboldt University) (TBC)	Short presentation & Discussion
	Juliane Kokott (Advocate General at the Court of Justice of the European Union)	Short presentation & Discussion
12:30 pm	End of Conference	

Optional:

2-3 p.m. Tour of the “Neue Nationalgalerie” (entrance fee not covered)