

## **Constitutional Pluralism: In Praise of Political Compromises**

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In the last decade, there have been numerous conflicts over jurisdictional claims in the European context. From *Landtová* to *Ajos*, from *PSPP* to *K 3/21*, national constitutional courts and the European Court of Justice clashed with varying degrees of intensity over the question of ultimate authority. Undoubtedly, these claims led to a *de facto* pluralism and conflict of real and much-wanted constitutional orders. Should these parallel universes somehow be reconciled, or is the existence of constitutional pluralism itself a desirable phenomenon that guarantees the survival of the EU? Drawing on the theoretical tenets of radical constitutional pluralism, on the one hand, and political realism, on the other, this paper argues normatively that political compromise rather than adversarial legalism has always been and should continue to be the right solution to the puzzle of European constitutionalism. Whereas radical constitutional pluralism implies that there are no – or, on the contrary, there are too many equally plausible – legal solutions to conflicts among the ECJ and national apex courts and, consequently, politics should step in to sort out competing constitutional claims, political realism further elaborates this normative argument and shows why the primacy of politics and political compromises should prevail in a pluralist legal order like the EU.

Political compromises among national political leaders and the involvement of national governments in judicially intractable conflicts over the supremacy of EU law have always been part of the DNA of the European integration process, but proponents of both full parliamentarization or judicialization of European politics want to diminish the role of the European Council and political compromises in European decision-making processes. By contrast, this paper presents normative arguments for maintaining or strengthening the role of the European Council and national governments in conflict resolution by political compromises – even at the expense of the (supra)national courts, or (supra)national parliament(s). To estimate the comparative advantages of the enhanced role of the EUCO in a pluralist legal order, we have to assess the deficiencies of the full judicialization and the full parliamentarization theses from the perspective of the legitimacy and efficacy – two most important factors in democratic decision-making processes. Normative intergovernmentalism, while being imperfect as all other proposals, has comparative advantages against full judicialization and full parliamentarization from the perspective of legitimacy and efficacy. To summarize our main normative argument in one sentence: *Chefsache* can only be decided by the Chefs' compromises, otherwise the danger of European disintegration will increase.