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Polish Constitutional Tribunal’s Judgement Regarding Supremacy of the Polish Constitution Over EU Law: The Next-Level Debate on the “Last Word”

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2021 judgement K 3/21 of Poland’s Constitutional Tribunal (*Trybunał Konstytucyjny*, hereinafter – the Tribunal) concerns compatibility of some norms of Treaty on European Union (TEU) with Polish constitution.

According to the Tribunal, contested norms of TEU are incompatible with relevant norms of the Polish constitution. It also suggested that Polish government institutions follow national constitutional rules in case of any conflicts.

In essence, the Tribunal ruled that Polish constitution shall supersede TEU in specific cases brought before the constitutional court.

This article aims to explore the contents of Tribunal’s judgement, analyse its legal rationale, reflect upon relationship between EU law and national constitutional laws from a broader legal and political perspective, and draw conclusions regarding the next steps.

Keywords: European Union law, Constitution, Constitutional Court, European Court of Justice.

Contents

<i>Introduction</i>	205
1. <i>Content of the Tribunal’s judgement</i>	205
1.1. <i>Prime Minister’s request to the Tribunal</i>	205
1.2. <i>Opinion and reasoning of the Tribunal</i>	206
2. <i>Legal rationale behind Tribunal’s reasoning</i>	207
3. <i>Poland’s Constitutional Tribunal judgement in a broader legal and political context of relationship between the European Union and national constitutional laws</i>	208
<i>Summary</i>	211
<i>Sources</i>	212
<i>Bibliography</i>	212
<i>Normative acts</i>	213
<i>Case law</i>	213

Introduction

Prime Minister of Poland requested the Tribunal to assess the conformity of some TEU norms and their interpretation with relevant provisions of the Polish constitution. The Tribunal's opinion on the request was that some TEU provisions were incompatible with relevant articles of the Polish constitution. The Tribunal's reasoning was based on two core assumptions, namely, that constitution of Poland has the supreme power over other laws, that it stands above any EU law or principal treaty in the legal hierarchy of Poland. And secondly, Tribunal's assumptions regarding Poland's European Union membership and legal implications. The issue, which now caused by the Tribunal, heated debate across the Union, but it is nothing new. The only difference is that the debate has now reached a new level. This article reflects upon relationship between EU law and national constitutional laws from a broader legal and political perspective.

1. Content of the Tribunal's judgement

1.1. Prime Minister's request to the Tribunal

Prime Minister of Poland requested the Tribunal to evaluate conformity of the following TEU norms and their interpretation with relevant provisions of the Polish constitution:

- 1) Article 1, first and second paragraphs¹, in conjunction with Article 4(3) of the Treaty on European Union – construed in the way that it enables and/or compels a law-applying authority (in Poland) to refrain from applying the Polish constitution or requires the said authority to apply provisions of law in the way that is inconsistent with the constitution – to Article 2,² Article 7,³ Article 8(1)⁴ in conjunction with Article 8(2), Article 90(1) and Article 91(2), as well as Article 178(1) of the Constitution of the Republic of Poland;
- 2) Article 19(1), second subparagraph⁵, in conjunction with Article 4(3) of the TEU – construed in the way that, for the purpose of ensuring the effective legal protection, a law-applying authority is competent and/or obliged to apply provisions in the way that is inconsistent with the Constitution, including a provision which has, on the basis of a ruling by the Constitutional Tribunal, ceased to have effect due to being inconsistent with the Constitution – to Article 2, Article 7, Article 8(1) in conjunction with Article 8(2) and Article 91(2), Article 90(1), Article 178(1) as well as Article 190(1) of the Constitution of the Republic of Poland;

¹ TEU Article 1: "By this Treaty, the high Contracting Parties establish among themselves a European Union, hereinafter called 'the Union', on which the Member States confer competences to attain objectives they have in common. This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen".

² Article 2 of the Polish constitution: "The Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice." Note. Since Polish constitution has not been officially translated into Latvian, all the references are based on its official English translation.

³ Article 7 of the Polish constitution: "The organs of public authority shall function on the basis of, and within the limits of, the law."

⁴ Article 8.1 of the Polish constitution: "The Constitution shall be the supreme law of the Republic of Poland."

⁵ TEU Article 19(1): "Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law."

- 3) Article 19(1), second subparagraph, in conjunction with Article 2 of the TEU – construed in the way that it authorises a court to review the independence of judges appointed by the President of the Republic of Poland as well as to review the National Council of the Judiciary’s resolution to refer a request to the President of the Republic to appoint a judge – to Article 8(1) in conjunction with Article 8(2), Article 90(1) and Article 91(2), Article 144(3)(17) as well Article 186(1) of the Constitution of the Republic of Poland.⁶

1.2. Opinion and reasoning of the Tribunal

The Tribunal’s opinion⁷ on all three requests was that these TEU provisions were incompatible with relevant articles of the Polish constitution. The main reasoning for Tribunal’s conclusions was, as follows:

- 1) European Union is an association of equal and sovereign states. According to Tribunal, paragraphs 1 and 2 of the TEU Article 1, i.e., provisions stating that “this Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe” based on EU law and case law of the Court of Justice of the European Union (CJEU), expand the mandate of EU institutions to “act outside the scope of the competences conferred upon them by the Republic of Poland in the Treaties”.

This is a blatant contradiction with aforementioned constitutional norms, which provide that Poland is a democratic country upholding the rule of law, and hierarchy of sources of law established by it gives constitution the highest power. This hierarchy also includes international treaties, such as the principal treaties⁸, which are placed after the constitution.

The Tribunal recognises CJEU’s exclusive right to interpret the EU law and underlines that it, in turn, holds similar exclusive power – the right to last word – over Polish constitutional norms, including assessment of conformity of principal treaties and their provisions, i.e., the norms described in those treaties (in their text) and interpreted by CJEU through its case law, with the Polish constitution.

Tribunal insists that European Union institutions, such as Court of Justice of the European Union, should act only in scope of competences conferred to them according to the principal treaties of the EU. Moreover, these conferred competences, *inter alia*, do not empower EU institutions to judge whether member state’s judicial systems are appropriate and how they should be run. EU is not entitled to assume any additional functions alongside those conferred upon it by the member states.

⁶ Press release of the Poland’s Constitutional Tribunal which explains the legal reasoning of the judgement. Available: <https://trybunal.gov.pl/en/news/press-releases/after-the-hearing/art/11664-ocena-zgodnosci-z-konstytucja-rp-wybranych-przepisow-tractatu-o-unii-europejskiej> [last viewed 29.05.2022].

⁷ See: <https://trybunal.gov.pl/en/hearings/judgments/art/11662-ocena-zgodnosci-z-konstytucja-rp-wybranych-przepisow-tractatu-o-unii-europejskiej> [last viewed 29.05.2022]. Press release of the Poland’s Constitutional Tribunal, which explains the legal reasoning of the judgement: <https://trybunal.gov.pl/en/news/press-releases/after-the-hearing/art/11664-ocena-zgodnosci-z-konstytucja-rp-wybranych-przepisow-tractatu-o-unii-europejskiej> [last viewed 29.05.2022]. Poland’s Constitutional Tribunal on the status of EU law: The Polish government got all the answers it needed from a court it controls: <https://europeanlawblog.eu/2021/10/21/polands-constitutional-tribunal-on-the-status-of-eu-law-the-polish-government-got-all-the-answers-it-needed-from-a-court-it-controls/> [last viewed 29.05.2022]. Complete English translation of the judgement was not available at the time of writing.

⁸ Principal treaties of the European Union, which lay down its constitutional principles (so-called primary laws) are Treaty on the European Union (TEU) and Treaty on the Functioning of the European Union (TFEU). Both treaties have been amended repeatedly since they originally came into force, most recently – by the Treaty of Lisbon in 2009.

- 2) Paragraphs 1 and 2 of Article 19(1) of the TEU, insofar as it concerns Polish courts' right to digress from the constitution of Poland or apply Polish laws revoked by the Tribunal, are in contradiction with the above constitutional principles, which state that Poland is a democratic country upholding the rule of law and its authorities should operate within confines of the law, with constitution being the supreme law of Poland.
- 3) Paragraphs 1 and 2 of Article 19(1) and Article 19(2) of the TEU, insofar as they concern Polish courts' right to review the legality of the procedure for appointing a judge, are in contradiction with constitutional principles, which state that Poland is a democratic country upholding the rule of law, with constitution being the supreme law of Poland.

2. Legal rationale behind Tribunal's reasoning

The Tribunal's reasoning is based on two core assumptions. First: as Article 8 says, constitution of Poland has the supreme power over other laws. It stands above any EU law or principal treaty in the legal hierarchy of Poland. Second: Tribunal's assumptions regarding Poland's European Union membership and legal implications.

This is a purely constitutional interpretation of what Poland represents as a state. It ignores the fact that European Union is a *quasi-state*, a *sui generis* organisation, which maintains its own autonomous legal order for member states.⁹

First, the Tribunal establishes that Poland joined the EU in 2004 and thus agreed to confer part of its (universal) national competences. All of these competences are explicitly listed in Article 2–6 of the TFEU. The Tribunal does not contest the primacy of the EU law in these areas.

But then its reasoning starts to contradict the interpretation of CJEU. The Tribunal claims that Article 1 of the TEU, which says that “this Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe”, reinforced by *active* interpretations of the CJEU, leads to *creeping* expansion of EU competences at the expense of member states. Tribunal believes that CJEU is constantly *discovering* new EU competences in abstract legal constructs and values that are referred to in Article of TEU.

That is what the Tribunal thinks is happening. It believes that CJEU is using a very “creative” interpretation of Article 19(1) of TEU to seize these competences, although member state judicial systems, their governance structures and appointment of judges (their selection) are not in scope of EU competences according to the Article 2–6 of the TFEU. The Tribunal considers that CJEU has acted *ultra vires*.

CJEU, on the other hand, believes that TEU values and principles, including values and principles developed by CJEU over time through its case-law, give European Court of Justice the right to interpret competences mentioned in Article 2–6 of TFEU according to these principles and values, and thus ensure that EU's legal system is efficient, i.e., not hindered by 27 different national laws and regulations of member states. Similarly, principles of efficiency (*effet utile*) and EU law primacy¹⁰ are not explicitly defined either in principal treaties or in CJEU case law.

⁹ Comp.: Rosas, A., Armati, L. EU Constitutional Law. An Introduction. 2nd ed. Hart Publishing, Oxford 2012, p. 15.

¹⁰ Judgment of 15 July 1964 of the European Court of Justice in case 6/64 Costa/Enel (ECLI:EU:C:1964:66). Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61964CJ0006> [last viewed 29.05.2022].

The main source of dispute is *which* institution holds the right to establish *whether* CJEU has competence over the area in question.

EU's competences are listed *expressis verbis* in the TFEU, and CJEU has exclusive authority to interpret the EU law, including principal treaties, and CJEU believes that it is entitled to also interpret the competences conferred upon EU by this Treaty – in other words, establish the limits of such competences.

The Tribunal thinks otherwise. It finds it unfair that CJEU has the right to decide where its competence extends. The Tribunal basically doubts the CJEU's ability and will to assess the limits/extent of its competences in an impartial manner.

Confident that *widening* of EU competences will automatically narrow the national competences of member states (Article 4(1) of the TEU), Tribunal refers to its constitutional norms, which stipulate that Poland is a sovereign and democratic country upholding the rule of law, and constitution is its supreme law, and claims that it has the right and duty to check whether CJEU has acted *ultra vires*, i.e., overstepped its competence with regard to Poland.

3. Poland's Constitutional Tribunal judgement in a broader legal and political context of relationship between the European Union and national constitutional laws

The backdrop of the Tribunal's judgement is a dispute about whether Poland is capable of guaranteeing sufficient independence of judges through existing selection procedures, and the legitimacy of the Tribunal itself, which was hand-picked by the government in 2015 after a series of odd interpretations skewing the understanding of the existing laws. European Union declared Polish system for selection of judges incompatible with TEU provisions¹¹. Legitimacy of the current composition of the Tribunal has also been challenged by the European Court of Human Rights¹². On the domestic front, as well, the ruling parties/coalition are feuding with opposition about these legal dilemmas, and there are even conflicts between lawyers.¹³

However, the judgement itself, the judgement about the legitimacy of the Tribunal, does not address the core of the problem. It rejects the very idea of CJEU having any authority over it, instead claiming that any such acts should be construed as *ultra vires*.

In his address to the members of the European Parliament in Strasbourg on 18 October 2021, Polish premier gave unequivocal position of Poland on the EU, claiming that it is not a state itself, it is a union of sovereign states that have delegated some of their competences to it,¹⁴ and “if the institutions established by the Treaties

¹¹ Judgment of 2 March 2021 of the European Court of Justice in case C-824/18 A.B. and Others (ECLI:EU:C:2021:153), para. 150, 167. Available: <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-824/18> [last viewed 29.05.2022], in reaction to which Polish prime minister requested Poland's Constitutional Tribunal to assess the above conditions, which are analysed here through Tribunal's judgement of 7 October 2021.

¹² Judgment of 7 May 2021 of the European Court of Human Rights in case Xero Flor w Polsch sp. zo.o. v. Poland, No. 4907/18, para. 174–291. Available: <https://www.coe.int/en/web/cdcj/caselaw-4907-18> [last viewed 29.05.2022].

¹³ See: *Koncewicz, T. T.* From Constitutional to Political Justice: The Tragic Trajectories of the Polish Constitutional Court. *Verfassungsblog*, 27 February 2019. Available: <https://verfassungsblog.de/from-constitutional-to-political-justice-the-tragic-trajectories-of-the-polish-constitutional-court/> [last viewed 29.05.2022].

¹⁴ See: <https://www.gov.pl/web/primeminister/statement-by-prime-minister-mateusz-morawiecki-in-the-european-parliament> [last viewed 29.05.2022].

exceed their powers – Member States must have the instruments to react”. In Poland’s opinion, it is their constitution that serves as such instrument, which can be applied in areas that are delegated to the EU and shall supersede the EU law. According to Polish premier, this is one of the national sovereignty safeguards that member states can use against EU institutions, especially the CJEU, to prevent them from seizing more and more new functions.

The issue, which has now caused a heated debate across the Union, is nothing new. The only difference is that the debate has now reached a new level.

From early days of the European Union, up until late 1990s, Court of Justice of the EU (at the time – European Community) served as a kind of a “motor” for the EU¹⁵, filling principal treaties with legal constructs and evolving them, including the principle of precedence. There was very little opposition to that among the member states.

However, theoretical doubts about a rather “one-sided” interpretation of the principle of primacy began to emerge and grow stronger through legal writings and case law of the national supreme and constitutional courts of early 1990s. Different doctrines were developed, of which *ultra vires*¹⁶ was one of the most popular, giving national courts the “last word” under specific circumstances.¹⁷

German Federal Constitutional Court was one of the frontrunners with its 12 October 1993 judgement known as the Maastricht judgement,¹⁸ announcing that it shall *reserve* the right to check whether CJEU has operated within the scope of competences conferred to it by a member state. A number of other national constitutional courts have made similar claims.

Judgement of the Constitutional Court of Latvia of 7 April 2009 in the case 2008-35-01 (Paragraph 17) also points out that the conferral of competences to EU shall not extend to where it

*contradicts the fundamental principles of independent, sovereign and democratic republic based on respect for rule of law and basic rights. It shall not interfere with citizens’ right to decide issues fundamental for the functioning of a democratic state. Article 2 of Satversme (constitution of Latvia) not only stipulates the right to ‘last word’ but it also provides an obligation to assess the guiding principles of international organisations.*¹⁹

Judgement of the Constitutional Court of Latvia essentially provides *expressis verbis* that Latvia (Constitutional Court of Latvia) reserves the right to “last word”. This

¹⁵ Horsley, T. Reflections on the role of the Court of Justice as the “motor” of European integration: Legal limits to judicial lawmaking. *Common Market Law Review*, Vol. 50, issue 4, 2013, p. 931.

¹⁶ In addition to *ultra vires*, national identity doctrine was widely accepted. According to Paragraph 2 of the Article 4 of the TEU, European Union must respect the *national identity* of member states. There are, however, contradicting views as to which institution should determine these national identities – CJEU or national constitutional courts. Comp.: *Von Bogdandy, A., Schill, S. Overcoming Absolute Primacy: Respect for National Identity under the Lisbon Treaty*. *Common Market Law Review*, Vol. 48, 2011, p. 1417. Judgement of Poland’s Constitutional Tribunal analysed here is based on *ultra vires* doctrine.

¹⁷ *Craig, P. The ECJ and ultra vires action: A conceptual analysis*. *Common Market Law Review*. Vol. 48, Issue 2, 2011, p. 395.

¹⁸ Judgement of the German Federal Constitutional Court in cases 2 BvR 2134/92, 2 BvR 2159/92. Available: <https://iow.eu.eu/wp-content/uploads/sites/18/2013/04/06-Von-Bogdandy-German-Federal-Constitutional-Court.pdf> [last viewed 29.05.2022].

¹⁹ Judgment of the Constitutional Court of the Republic of Latvia of 7 April 2009 in case No. 2008-35-01. *Latvijas Vēstnesis*, No. 56, 09.04.2009.

concept was later integrated into the concept of the inviolable core of the constitution (*Satversme*)²⁰, and later, in 2014, included in the Preamble.

Member state national courts, however, have resorted to this theoretical reservation only a few times because triggering it would automatically put them at odds with CJEU. Still, most of the cases in question have resulted in refusal to follow the edict of the European Court of Justice. Some of the better known cases include Czech Constitutional Court judgement of 12 January 2012 in the case *Landtová*²¹, Denmark's Supreme Court judgement of 6 December 2016 in the case *Ajos*²², and German Federal Constitutional Court judgement (the most extensive argumentation) of 5 May 2020 in the case *PSP*.²³ The last of these examples in particular has come under heavy criticism for ruining the EU's legal system.²⁴

However, there is an essential difference between the judgements of the Polish Constitutional Tribunal and German Federal Constitutional Court, which has a lot more consistency and reaches a lot further in many respects:²⁵

Firstly, while judgement of the German Federal Constitutional Court generally accepts the supremacy of the EU law over its laws, including constitution, and states that CJEU has acted *ultra vires* only with respect to specific norms of secondary acts, whereas Polish judgement states that primary laws of the EU (Article 1 and Article 19 of TEU) have contradicted the Polish constitution, which makes Poland's position towards infringement of its rights on the part of CJEU more "aggressive" than that of the German Federal Constitutional Court.

Secondly, while Germany's judgement is "closed", i.e., concerns specific case, which has taken place in the past, Polish ruling is "open-ended" and attempts to establish a precedent for the future, i.e., it seeks to prevent EU from applying the provisions of Article 1 and Article 19 of TEU (specific to the particular circumstances) to any other potential future conflict involving Poland. Strictly speaking, this would mean that Poland would from now on be exempted from these TEU provisions and would figuratively exit the EU's common legal space.

Thirdly, while German judgement concerned the actions of only one of EU's institutions, the Court of Justice of the European Union, judgement of the Polish Constitutional Tribunal was intended for all EU institutions whose actions would henceforth be reviewed by it.

²⁰ See: Opinion of the Constitutional Law Committee on Latvia's constitutional foundations and the inviolable constitutional core. Riga, 17 September 2012. *Latvijas Vēstnesis* (Official Journal), 2012, p. 27 and further.

²¹ See: https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Decisions/pdf/Pl%20US%205-12.pdf [last viewed 30.05.2022].

²² See: <https://europeanlawblog.eu/wp-content/uploads/2020/05/Judgment-15-2014-Danish-Constitutional-Court-DI-Final-Judgment.pdf> [last viewed 30.05.2022].

²³ See https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200505_2bvr085915en.html [last viewed 30.05.2022].

²⁴ National Courts Cannot Override CJEU Judgments. A Joint Statement in Defense of the EU Legal Order. *Verfassungsblog*, 26 May 2020. Available: <https://verfassungsblog.de/national-courts-cannot-override-cjeu-judgments/> [last viewed 30.05.2022].

²⁵ Comp.: *Dafnis*, T. Some thoughts on Poland's top court ruling. *CESI*, 15.10.2021. Available: <https://www.cesi.org/posts/some-thoughts-on-polands-top-court-ruling/> [last viewed 30.05.2022].

Summary

Judgement of Poland's Constitutional Tribunal has stirred up a harsh reaction of the European Commission²⁶ and CJEU has awarded Poland the biggest penalty ever applied to any of EU's member states.²⁷ This has only deepened the general crisis in the Union.²⁸

Legal scholars have been debating the principle of "last word" for decades now. There is no reason to believe that this dilemma can be solved simply by applying a legal solution or financial penalties.²⁹ It is a part of an inherent problem in the structure of the European Union. On the one hand, Union consists of sovereign member states. On the other hand, it is a common legal space with autonomous system of laws, where EU law supersedes national laws. That is how the Union functions.³⁰

Judgement in the case *Costa/Enel*³¹ gives a very clear justification for the precedence principle:

By contrast with ordinary international treaties, the EEC Treaty³² has created its own legal system, which [...] became an integral part of the legal systems of the member states and which their courts are bound to apply. [...]. The integration into the laws of each member state of provisions which derive from the community and more generally the terms and the spirit of the treaty, make it impossible for the states, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on a basis of reciprocity. Such a measure cannot therefore be inconsistent with that legal system.

We should, however, not forget that European Union is not a federal state and member states are still sovereign. At least the core principles and provisions (the core) of the national constitutions shall therefore supersede any other general legal provision. That is also a view shared by the Constitutional Court of Latvia as described earlier.

Dialogue – both the political, and legal – is the appropriate way to resolve these differences.

The "first order of business" is to establish whether the Polish Constitutional Tribunal's judgement restricting the national application of key principles of TEU

²⁶ Brussels vows to punish Poland for challenging supremacy of EU law. Financial Times, 19 October 2021. Available: <https://www.ft.com/content/fb7c2484-8923-446c-8328-51ca76175412> [last viewed 30.05.2022].

²⁷ See: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-10/cp210192en.pdf> [last viewed 30.05.2022].

²⁸ See: European Parliament resolution of 21 October 2021, which cites Poland's Constitutional tribunal composition legitimacy issues as the reason to challenge its right to interpret the Polish constitution, condemning its judgement. Available: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0439_EN.html [last viewed 30.05.2022].

²⁹ This is a view shared by German Chancellor Angela Merkel and other politicians who believe that this is an issue that requires a political agreement. See: Merkel says EU must resolve Polish problem in talks, not courts. Reuter, 15 October 2021. Available: <https://www.reuters.com/world/europe/eu-needs-resolve-differences-talks-rather-than-courts-merkel-says-2021-10-15/> [last viewed 30.05.2022].

³⁰ The EU as a community of law. Overview of the role of law in the Union. European Parliament, March 2017. Available: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599364/EPRS_BRI\(2017\)599364_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599364/EPRS_BRI(2017)599364_EN.pdf) [last viewed 29.05.2022].

³¹ Judgment of 15 July 1964 of the European Court of Justice in case 6/64 *Costa/Enel* (ECLI:EU:C:1964:66). Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61964CJ0006> [last viewed 29.05.2022].

³² Principal treaty of the time was Treaty establishing the European Economic Community (EEC Treaty).

is acceptable, as that would allow other member states to pursue the same course of action for their domestic goals, putting an end to EU as the common legal space.

However, it is equally questionable whether CJEU should be given exclusive right to unilaterally decide which national identity dimensions (Article 4(2) of the TEU) it should consider and how far its competence should extend (*ultra vires*). Such uncompromising view is almost incompatible with growing self-awareness and confidence of many national constitutional courts.

The author is confident that constitutional pluralism³³ is the way forward and should lead to the way out of the current deadlock. Everything depends on willingness of both sides to reach for the compromise, the good faith of parties in the name of the European project.³⁴

Latvia could play a great role in facilitating this dialogue, both at the political and legal science aspect. As far as legal science dialogue is concerned, it has already started to do just that with the first CJEU and national constitutional court conference held in Riga on 2–3 September 2021. Conference was conceived by the CJEU and Constitutional Court of Latvia. To put the European legal dialogue back on track towards fruitful cooperation, it needs to cover more areas of common legal space.

Meanwhile, politicians must focus on political solutions to this problem. No one wants to see the European Union divided.

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³³ *Bobić, A.* Constitutional Pluralism Is Not Dead: An Analysis of Interactions Between Constitutional Courts of Member States and the European Court of Justice. 6 March 2019. See: <https://www.cambridge.org/core/journals/german-law-journal/article/constitutional-pluralism-is-not-dead-an-analysis-of-interactions-between-constitutional-courts-of-member-states-and-the-european-court-of-justice/C4E3DAF6E78AA76AEF88057CE970E2E6> [last viewed 30.05.2022].

³⁴ See: Speech by the President of the Constitutional Court Ineta Ziemele at the conference “Constitutional EU identity 2019 unity in diversity – common and particular values”, 8 March 2019. Available: <https://www.satv.tiesa.gov.lv/en/runas-un-raksti/can-constitutional-courts-delimit-european-identity/> [last viewed 30.05.2022].

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