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BOOK REVIEWS

Michael Hein, Verfassungskonflikte zwischen Politik und Recht in Südosteuropa. Bulgarien und Rumänien nach 1989 im Vergleich, Baden-Baden: Nomos, 2013, 517 pp., ISBN 978-3-8329-7755-9, € 92.00

After 1989, one of the greatest challenges facing the new democracies of Eastern and Southeastern Europe was their transformed political and judicial institutions. After the fall of communism, the judiciary has rarely been a legitimate third power in these nations (complementing executive and legislative power), or a self-determining actor on the political stage. Still, the situation has evolved considerably in terms of separation of powers.

In his book, Michael Hein focuses on the tensions of transition in this regard. The study depicts the legal struggle between politics and the judiciary by comparing the case studies of Bulgaria and Romania. His careful, precise, and comprehensive study is convincing in both its content and methodology. He gives astute responses to two fundamental questions: What institutional activities have addressed the conflicts between politics and the law? And what have been the consequences of such conflicts on the political and legal systems, on democracy, and on the rule of law?

Hein examines all such institutional conflicts that have played out in Bulgaria and Romania since 1989, involving not only judicial reform and the fight against political corruption but also the constitutional court's objectivity and various government attempts to resist the judiciary. He investi-

gates ten constitutional conflicts in Bulgaria and three in Romania. Romania and Bulgaria both became EU members in 2007, and both experienced several serious legal conflicts after 1989. They are thus readily comparable. Their constitutional conflicts have not only been at the centre of destructive crises but can also be considered to be 'drivers of consolidation' (35).

Hein defines a constitutional conflict as a conflict 'in which either one or more players claim the same constitutional authority, or in which one or several actor(s) are denied a certain constitutional competence' (47). He regards the drafting of a constitution after 1989 as a 'constitutional process' taking place in parallel to democratisation, conversion to the rule of law, and the institution of changes in property and other forms of economic ownership. In Bulgaria, there were evident legal conflicts soon after the transition process began. In Romania, such conflicts emerged only after 1996, when actual reforms took effect and the former *nomenklatura* resisted the changes to the legal regime that had been put in place.

The 'new socialists' of both nations were able to maintain influence on politics, law, and finance. Both countries, strikingly, have shown the deep divisions characteristic of extremely politicised societies, and these rifts have manifested themselves in attempts to instrumentalise the judiciary, as Hein convincingly argues. There were enormous political fusions in both countries that brought together leading bureaucrats from their respective communist regimes and members of illegal groups. The maintenance of old terminologies at-

test that communist-era actors have been prevalent and important in both the political and judicial fields.

Hein explains the transition in Romania by using the concept of 'patrimonialism', manifested in a 'highly personalised, authoritarian, or semi-authoritarian regime' (324). In both Romania and Bulgaria, Hein observes how the judicial institutions at all levels were constantly subject to political interventions, and yet the new constitutional practice was nevertheless continuous, thanks to the adherence to the law by some of the relevant actors. He grants that the political organization in Bulgaria was more stable than in conflict-ridden Romania.

Progressively, in both cases, the impetus to effect essential changes manifested itself in the desire to join the EU. For both nations, the author offers a careful account of the legal struggles against the political background of each country, showing how their constitutional expansions reflected broader political contexts. Hein points out that in the constitutional developments of both countries, foreign consultants exerted a significant effect to ensure the rule of law and the independence of the judiciary, particularly in view of EU membership conditions during the accession process.

In light of certain proceedings that many today would prefer to forget, the transformation of power in Romania in 2004 and the election of Băsescu as president meant a break with the enormous politicisation of the judiciary by the Iliescu government between 2000 and 2004. Minister of Justice Stănoiu replaced almost all of the prosecutors assigned to investigating corruption and the events of December 1989; he suspended the implementation of verdicts against former army generals with regard to the order to shoot in December 1989; and he cancelled rulings related to the return of property. Judicial salaries were frozen in

order to intimidate members of the apparatus, resulting in increased susceptibility to corruption.

PSD Prime Minister Năstase publicly called for a pro-government law that completely shut down the legal fight against corruption. Hein refers to 'a comprehensive re-politicisation of law enforcement, judicial and self-management activities of the judiciary'. He calls this phase the obscurest era of the judiciary in postcommunist Romania (358).

The issue of the 'suspicion of self-promotion of the political elite' (445) after 1990 is discussed again and again. Hein convincingly concludes that in both countries the 'efficiency and consistent independence of the judiciary institutions remain precarious' (462).

The author presents a content-rich study that is analytically, argumentatively, and stylistically of the first order, which would merit publication in Romanian and Bulgarian as well. Indeed, this is one of the first thorough, knowledgeable, and balanced presentations of intertwined legal and political developments in postsocialist Eastern Europe.

Andreas Raffener (Bozen/Bolzano)

Michaela Schäuble, *Narrating Victimhood. Gender, Religion and the Making of Place in Post-War Croatia*, New York/Oxford: Berghahn, 2014 (Space and Place, 11). XVII, 374 pp., ISBN 978-178-2382-60-7, \$ 120.00

The book under review is the result of a longer field study which took the author to the Dalmatian hinterland in Croatia a number of times between 2003 and 2012. Schäuble was especially interested in the small city of Sinj near the Bosnian-Herzegovina border.