

# German-Greek Yearbook of Political Economy, Volume 2/2019

Edited by  
Manfred J. Holler  
George Tridimas



Verlag Holler, München

German-Greek Yearbook of Political Economy,  
Volume 2/2019

Cover: Katharina Kohl

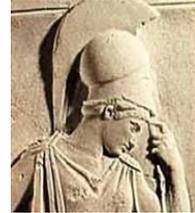
© 2019 Verlag Holler  
Gnesener Str. 1, D-81929 München, Germany  
[www.accedoverlag.de](http://www.accedoverlag.de), [info@accedoverlag.de](mailto:info@accedoverlag.de)  
Fax: +49 89 929 4109

Printed and bound by *Books on Demand GmbH*, Norderstedt

ISBN 978-3-88278-301-8

# German-Greek Yearbook of Political Economy, Volume 2/2019

|  |     |
|--|-----|
| <i>Introduction to the Volume</i>  | 1   |
| <i>George Tridimas</i> , The debate about the nature of the ancient Greek economy: 19 <sup>th</sup> century German scholarship and modern economic theory.                         | 3   |
| <i>Emmanouil-Marios L. Economou and Nicholas Kyriazis</i> , Byzantium and the Holy Roman Empire: German–Greek Relations during the Medieval Age.                                   | 27  |
| <i>Peter Schiffauer</i> , The Dimitris Tsatsos Institute for European Constitutional Sciences (DTIEV). A Place for Working out Unity in Diversity with Greek–German Roots.         | 49  |
| <i>George Tridimas</i> , A Note on Ioannis Capodistrias (1776-1831)  | 65  |
| <i>Nicholas Kyriazis and Emmanouil-Marios L. Economou</i> , Capodistrias and the German Federation.  | 71  |
| <i>Athanasios Gromitsaris</i> , The Historians, the Actors, and Strategic Thinking. A Comment on “Capodistrias and the German Federation”  | 87  |
| <i>Konstantinos Pilpilidis</i> , Ioannis Capodistrias: A Democratic Dictator.  | 117 |
| <i>Susan O. Shapiro</i> , Medea as Innocent Victim and Vengeful Killer: A Response to Barbara Klose-Ullmann's “Medea on Stage: Child Murderess or Abandoned Wife.”                 | 133 |
| <i>Emmanouil-Marios L. Economou and Nicholas Kyriazis</i> , The Social Position and the Rights of Women in Ancient Greece: A Response to Barbara Klose-Ullmann's “Medea on Stage.” | 143 |
| <i>Vesa Kannianen</i> , Why to kill your own children - Medea in the light of an evolutionary approach.  | 157 |
| <i>Manuela Clarin</i> , The Tale of Io.  | 161 |
| <i>Konstantinos Koulaouzidis</i> , <i>ARS COMBINATORIA v2.5 or: The 64 Ways of Order.</i>  | 165 |
| Information for Contributors   | 191 |



**The Dimitris Tsatsos Institute  
for European Constitutional Sciences  
(DTIEV).  
A Place for Working out Unity in  
Diversity with Greek-German Roots**

**Peter Schiffauer**

Honorary Professor at the *Faculty of Law*, Fernuniversität in Hagen, Germany, and Deputy Director of the Dimitris Tsatsos *Institute for European Constitutional Sciences*;  
peter.schiffauer@fernuni-hagen.de

**Abstract:** The contribution presents the Dimitris Tsatsos Institute for European Constitutional Sciences, an interdisciplinary research institute where historians, lawyers, political and social scientists are working together. In the spirit of its founder and *spiritus rector*, the Greek-German university teacher and politician Dimitris T. Tsatsos (1933-2010), the Institute privileges a transnational and intercultural approach. The author gives an overview on the institute's various branches of activity, notably publications, events, conferences and, in cooperation with the Tsatsos Foundation, Centre for European Constitutional Law Athens, the award of the Dimitris-Tsatsos Prize for outstanding achievements in the field of European constitutional sciences. The article illustrates the sources and results of the impact of German legal thinking on Greek law scholarship.

**Keywords:** Dimitris Tsatsos; European legal integration; Constitutional law; German legal thought; Greek legal tradition.

**1. Towards a Constitution for Europe**

Following the elaboration of the *Constitution of the United States of America* in 1787 the practice of conceiving the basic ordinance of a polity

in the form of a legal text was increasingly applied in Europe, beginning with the late eighteenth century and then spreading throughout the world. It has now become a general feature to the extent that observance of the constitution is warranted even there where it has never been considered appropriate to lay down the constitution in writing. Thus the UK Supreme Court was legitimately clarifying in its judgement of 24 January 2017<sup>1</sup> the UK Parliament's prerogatives with regard to the issuing of a notice of withdrawal from the EU under Art. 50 of the Treaty on European Union.

All the more astonishing were the concerns raised in the academic literature [for Germany, see, e.g., Grimm (1995, 2016) and the opposed view of Habermas (2011)] when, shortly after the turn of the millennium, the European Union endeavoured to enshrine in a formal constitutional document its arrangements for jointly exercising certain of its Member States' sovereign rights. At the Laeken summit on 14/15 December 2001 (SN 300/1/01 REV 1) the European Union's Heads of State or Government for the first time embraced the idea of a "Constitution for Europe," which had long been propagated by federalist European movements. They were thus launching a process leading to the (never ratified) Constitutional Treaty (EU Official Journal C 310, 16.12.2004) and finally to the Treaty of Lisbon that presently shapes the European Union (a consolidated version reproducing the provisions presently in force is available in EU Official Journal C 326, 26.10.2012).

## **2. The Dimitris Tsatsos Institute for European Constitutional Sciences**

Already in 1989, a colloquium held at the Fernuniversität Hagen on the occasion of the 40th anniversary of the German Basic Law had identified good reasons for broadening the scientific basis of the European constitutional debate (Battis 1990). In that context, the Greek-German university teacher and politician Dimitris T. Tsatsos considered it desirable and appropriate to set up for the said task a new scholarly body that would cooperate with the Athens Themistocles-and-Dimitris-Tsatsos Foundation/Center for European Constitutional Law (CECL). On his initiative, in 2003, the Fernuniversität in Hagen established at the Faculty of Law, to which Tsatsos belonged as professor emeritus for German and foreign

---

<sup>1</sup> [R (on the application of Miller and another) (Respondents) v Secretary of State

constitutional law and theory, and at the Faculty of Cultural and Social Sciences a joint interdisciplinary institute for European constitutional sciences: the *Institut für Europäische Verfassungswissenschaften* (IEV).<sup>2</sup> Since then historians, lawyers, political and social scientists have been working together in this place with a view to deepening the knowledge about the coming into being of constitutions, their functioning and their decay. Under the direction of the historian Peter Brandt (until November 2017) and since then of Andreas Haratsch, professor for public law and European law, the Institute provided numerous and manifold contributions in the form of lectures, symposia, publications and award ceremonies thus acting in the spirit of its founder who from the very beginning shaped and enriched the work of the Institute as a member of the board and from March 2009 until his death on April 24, 2010 as its honorary director. As from 2011 to the honour of his founder and *spiritus rector* the Institute is bearing his name.

### 3. Dimitris Tsatsos' Ideas and Work

Dimitris Tsatsos' ideas and work were rooted in a plurality of worlds (Schiffauer 2008). A few human beings are granted the fortune to look into some of the worlds shaped by humanity. Dimitris Tsatsos not only had insight into several of these worlds, but was also able to have an impact on them as creator, framer and teacher. This is true for the European legal culture, notably the Greek and German one, which are akin and yet so different, but also for the English and French speaking countries. This may also be true for the worlds of science and politics, which are frequently in opposition to each other, but are also interdependent and often they need each other. Dimitris Tsatsos again and again succeeded in connecting people coming from these different worlds through dialogue, setting impulses for making their interaction fruitful.

Dimitris Tsatsos was the scion of an eminent Greek family with close

---

for Exiting the European Union (Appellant)]

<sup>2</sup> The Institute's language policy privileges working in German language both at events or for publications while English may exceptionally be used. Conference themes and titles of publications mentioned in the following text therefore mostly are translations by the author from the original German version. Where appropriate the latter is reproduced in *italics*. The bibliography is exclusively referring to the original titles.

ties to Germany. His father Themistocles Demetriou Tsatsos and his uncle Konstantin Tsatsos were both lawyers and philosophers who had studied both in Athens and in Heidelberg. The latter held several times a ministerial office and was from 1975 to 1980 President of the Greek Republic. The father was the Greek ambassador in Bonn after the Second World War and subsequently taught at the Law Faculty of the University of Heidelberg. His most important writings in German are available in the volume "Peri politeias: Staatstheoretische Studien" (Athenäum 1972). Coming from this spiritual environment and having grown up partly in Greece and Germany, after studying law and obtaining the doctorate in Athens, Dimitris Tsatsos worked at the Law Faculty and at the Max Planck Institute in Heidelberg, at the University of Mainz, was assistant professor and accomplished a habilitation both at the Universities of Athens and Bonn.

In 1969, his appointment to a chair of public law at the University of Thessaloniki was obstructed by the military dictatorship. He suffered arrest and imprisonment in a military prison because of his participation in protest actions against the colonel regime. He was freed with the help of his German friends, notably his colleague Günter Bemann (professor of criminal law, with whom he was closely connected since his Heidelberg times) and with political support, e.g., by Hans-Dietrich Genscher who later served as German Foreign Minister. Following the overthrow of the military junta, he served as deputy-minister for higher education. He was responsible for removing university teachers who had compromised themselves through allegiance to the military regime. From 1974-1975, he influenced the drafting of the new Greek constitution as shadow rapporteur of the parliamentary opposition. In 1975, he was finally appointed to the chair of public law in Thessaloniki. The appointment to the chair at the newly founded Fernuniversität in Hagen followed in 1980. He held this position until his retirement in 1998. In 1982, he acceded a professorship for public law at the Pantheon University in Athens. His early work in Hagen - besides assuming twice the Law Faculty's dean's office - focused on the foundation and direction of the Institute for German and Foreign Law on Political Parties, an institution unique in Europe. His monograph "Von der Würde des Staates zur Glaubwürdigkeit der Politik" (*From the Dignity of the State to the Credibility of Politics*, 1987) is an impressive testimony of an enlightened democratic culture in politics.

In Greece, he made his mark from 1988 to 1994 as chairman of the

Association of Greek Constitutional Scientists. In July 1994 Dimitris Tsatsos returned to active politics as a MEP elected in Greece under the banner of the socialist party PASOK. In the European Parliament he focused on the Committee on Legal Affairs and, above all, on the Committee on Constitutional Affairs, where until the end of his second term in 2004 he provided significant impetus for the European constitutional development. Among other tasks, he was one of co-rapporteurs on the Treaty of Amsterdam and one of the European Parliament's two representatives at the Nice Intergovernmental Conference. In doing so, he gave decisive impulses for the law on political parties at EU level that was slowly emerging since 2002. Especially he contributed to the clarification of some central categories of the EU constitutional order, e.g., identifying the dual nature of the EU as a union of states and of citizens, or by doing groundwork for the development of the Convention method that is now applied for working out major modifications of the EU treaties.

As an academic writer Dimitris Tsatsos enriched scholarly thinking about the European integration by his essay on "The European Symplolity – Towards a New Democratic Discourse (Brussels 2009). He showed remarkable foresight in leading the European constitutional discussion, e.g., by qualifying the constitutional quality of the European treaties since 1995 with the term "*Unionsgrundordnung*" (*Union Basic Ordinance*). This foresight became finally evident, when in 2005 the Treaty on a Constitution for Europe failed at the referendums in France and the Netherlands. The improvements to the basic ordinance that all Member States of the European Union wished to put in place before its enlargement to the East thus needed to be achieved once more through an amending treaty, the Treaty of Lisbon. That treaty nevertheless defines the present constitutional settlement, the Basic Ordinance of the European Union. After all, Dimitris Tsatsos had the gift of bringing people of different backgrounds and minds together and of discussing with them even controversial matters in a friendly atmosphere.

It is in the described historical and political context that the creation of the Institute for European Constitutional Sciences is to be understood. From the Laeken Summit in December 2001 to the referenda in May 2005, the adoption of a Constitution for the European Union was a serious political option. The question of whether and under what conditions the concept of "constitution" may be transferred from the level of the nation

state to the level of a transnational economic, monetary and political union was already answered positively by serious studies (e.g., Gerkrath 1997). Nonetheless the debates were conducted from the perspective of public law, European law, constitutional history, modern history, political science or sociology and revealed the limitations of the discourse caught within the confines of scientific disciplines. Until then, there had been no full examination of which elements of the European constitutional culture spanning several centuries (cf. Haeberle and Kotzur 2016) may be helpful and how they may be used for working out a basic ordinance at a transnational level.

For a personality having the charisma, the horizon of experience and foresight of Dimitris Tsatsos, it must have appeared of paramount importance that scholars of different disciplines, instead of fighting against each other, communicate, juxtapose their understanding and their positions to develop them further. As academic activities are unfortunately generally organised in a manner making interdisciplinary dialogue rather difficult than fostering it, the most promising way to set the desired interdisciplinary communication in motion was the setting up of a privileged place in the academic environment. The resolution was to create a Research Institute for European Constitutional Sciences, disposing of the freedom and resources necessary to develop an open discourse amongst lawyers, historians, political scientists and sociologists on the reality and potential of constitutional thinking and constitutional culture in Europe. Dimitris Tsatsos disposed of the network and force of persuasion needed for obtaining the establishment of an institute of this kind at the Fernuniversität in Hagen in 2003.

The mission of the Institute is to examine the historical and current development of national and European constitutional law, to theoretically and practically compare and analyse approaches in constitutional policy, and to work out solutions for practical constitutional issues. In addition to the desired inter-academic exchange the Institute is also seeking to establish contact and exchange with legal and political practitioners. After all, it is not surprising that, after the death of its founder and inspirer Dimitris Tsatsos, the Institute desired to bear his name and thus to testify the intention to continue in his spirit the academic efforts in European constitutional thinking, exploring and deepening the European constitutional culture, including possible paths towards a Constitution for Europe.

#### 4. About the Institute's Work

How does the work of the Institute look like in practice? In line with the link between research and teaching traditionally maintained at German universities, the Institute is not limited to its research mission, but also offers academic teaching under the specific didactic and communication conditions of a distance learning university. The Institute's output thus consists in its publications in conventional print or on-line, its monthly lectures and annual symposia and, finally, the award of a prize honouring outstanding achievements in the field of European constitutional sciences. Most events are recorded electronically, so that students and the interested public can follow them on the Institute's website or retrieve them at a later date.

The topics covered in the publications reflect the great diversity of the constitutional sciences. An inventory of the European constitutional development will be compiled in a comprehensive nine-volume Manual of European Constitutional History (*Handbuch der Europäischen Verfassungsgeschichte*) and the accompanying collections of sources. A series of four volumes will provide an unprecedented systematic and comparative presentation of European constitutional statehood from the late 18<sup>th</sup> century until World War I. Volume 1 covering the period "around 1800" was published in 2006 (the collection of relevant sources already 2004). Volume 2 covering the period 1815-1847 was published in 2012 (the relevant sources already in 2010). The publication of Volume 3 covering the period 1848-1870 is expected in 2019. (The relevant sources have been available on CD-ROM since 2015.) Another series of five volumes will deal with the European Constitutional History in the 20<sup>th</sup> century. Amongst them Volume 5 covering the period "after 1969" has been given priority. It is expected to be available in 2019.<sup>3</sup>

The manual "*Die Europäische Unionsgrundordnung*" (The European Union Basic Ordinance, 2010) is the last item personally published by Dimitris Tsatsos. It offers contributions by numerous authors from various academic disciplines as well as by institutional practitioners providing an institutional, political and legal stocktaking of the European Union on its

---

<sup>3</sup> More detailed information on the project is available under <https://www.fernuni->

path towards a constitution for Europe.

The Institute's own series of publications are edited by the *Berliner Wissenschaftsverlag* (BWV). The series comprise the results of several symposia organized by the Institute or of conferences supervised by its members as well as remarkable monographs created in the context of the Institute. The range of topics covered spans from European constitutionalism, basic issues and general perspectives as well as detailed aspects of the Union's basic ordinance, the "drifting semantics" of constitutional language, the roots of European integration and the appraisal of outstanding personalities in the history of the European Union, to social Europe, to the dealing with constitutional or economic crises and to scholarly advice for policy makers.

In addition, since 2009, a total of twenty-eight papers have been published in the Institute's series of online publications, most of which were presented at lectures or symposia. Here you will find, inter alia, texts by Peter Häberle on the category of constitutional culture in the constitutional sciences (*Verfassungskultur als Kategorie und Forschungsfeld in den Verfassungswissenschaften*) and appraising the academic and political work of Dimitris Tsatsos (*D.Th. Tsatsos als europäischer Wissenschaftler und Politiker*); Peter Brandt and Detlef Lehnert to honour the role of Hugo Preuss in German and European constitutional history (*Hugo Preuß in der europäischen Verfassungsgeschichte* and *Hugo Preuß – der Verfassungspatriot*); Dian Schefold and Cristina Fraenkel-Haerberle on Italian constitutional development (*Italiens Verfassungsentwicklung zwischen Regionalismus, Devolution und Föderalismus – Parallelen zu Deutschland?* and *Die italienische Verfassungsreform und die regionale Ordnung*); Michael Kotulla on the influence of the "Paulskirchenverfassung" (*Der Einfluss der Paulskirchenverfassung auf die späteren deutschen Verfassungen*); Volker Depkat on the perception of the "Old Reich" from a North American perspective (*Das Alte Reich in den Debatten des kolonialen Britisch Nordamerika und den USA, 1750-1788*); Peter Brandt on the policy for peace conducted by the German Social Democratic Party during the Republic of Weimar (*Die Europäische Friedenspolitik der Sozialdemokratie in der Weimarer Republik*); by Eckart Klein on the relationship between the EU Court of Justice and the

European Court of Human Rights (*Scheitert der Beitritt der Europäischen Union zur EMRK?*); and by Thomas Matys, Stefanie Schmahl and Lina Papadopoulou on selected issues of Company, Criminal and European Union Law.

Contributions by Dieter Kugelmann and Heinz Theisen are dealing with issues of European external affairs policy. Various aspects of democratic self-determination at a transnational level are addressed by Jürgen Mittag, Arthur Benz, Werner Kirsch, Huub Spoorans, Izabela Jędrzejowska, Andreas Haratsch and Peter Schiffauer. Issues of living together in a multi-cultural Europe are dealt with in contributions by Artur Kuznetsov, Izabela Jędrzejowska and Peter Schiffauer.

Perhaps even stronger than through the output documented in publications, a research institute gains value through the lively dialogue when meeting important personalities of academic life and contemporary affairs. The Dimitris Tsatsos Institute is fortunate to count on the advice and support of many of today's recognized scholars and political personalities who are members of its "*Kuratorium*" (board of trustees). Among the latter are the former President of the European Parliament Klaus Hänsch, the former President of the European Court of Justice Vassilios Skouris, the Member and high-level representative of the European Parliament, long-time chairman of its Foreign Affairs Committee Elmar Brok or the former MEP and long-time Member of the German Bundestag Axel Schäfer. The family of the Institute's founder and the circle of his Greek disciples are represented in the board of trustees by Alexia Tsatsos, Xenophon Contiades, Maria Kaiafa-Gbandi and Dimitris Melissas. Amongst the academic teachers in the board of trustees there are the *Kuratorium*'s president, the political scientist Christine Landfried, and her deputies, the law professors Ulrich Battis and Manfred Stelzer, as well as the historians Hans Boldt and Detlef Lehnert, the law professor Thomas Fleiner from Switzerland, who had chaired the board of trustees for many years and was a close friend to Dimitris Tsatsos, the law professors Waldemar Hummer from Austria and Paolo Ridola from Italy, not to forget the German law professors Dian Schefold and Hans-Peter Schneider, who were close to Dimitris Tsatsos for many years, and other renowned academics like Eckart Klein, Ingolf Pernice and Hans Vorländer.

The regular lectures and symposia are providing opportunities to meet and exchange views. Their long series was launched on November 11,

2003 with a presentation by Dimitris Tsatsos on the theme: "Are we on the eve of a European Constitution?" In recent years, the Institute had the honour to host, among others, lectures by Christian Tomuschat on the protection of fundamental rights in the EU, by Dieter Grimm on the Union's basic ordinance following the Treaty of Lisbon, by Paul Kirchhof on the idea of freedom and current threats to it, by Eckart Klein on legal issues concerning the accession of the EU to the European Convention on Human Rights and by Josef Isensee on borders as essential elements and effects of the law. Again and again the Institute discussed current political issues, e.g., in June 2005, with Klaus Hänsch, the possibilities to continue the process of European integration, in May 2013 with the former German Minister of Justice Herta Däubler-Gmelin the European currency and the rescue of the euro, in December 2014 with the acting President of the European Parliament Martin Schulz, in March 2018 with the member of the German Bundestag Axel Schäfer and in May 2018 with the Polish political scientist Ireneusz Karolewski. A complete list of those events can be found on the website of the Institute under "*Veranstaltungsarchiv*." Since the end of 2014, the events have been recorded on video stream and are available on the Internet.

The tradition of annual symposia, founded by Dimitris Tsatsos, built on the experience of the 1989 Colloquium. It provided opportunities for a circle of academics sharing similar interests to discuss on the basis of scholarly presentations selected items of European constitutional development and culture. In the course of time that circle grew and changed in composition. Representatives of the Athens Constitutional Law Center and also younger scholars from Greece and Germany were increasingly involved. The ground-breaking trend was set with the opening symposium of February 13, 2004, entitled: "The European Union as a constitutional order" (IEV 2004). Further significant impulses were given by the symposium of May 27, 2005 entitled "Constitutional Culture in Europe's History and in Contemporary Europe" (Haeberle 2009), the symposium of May 4, 2008 entitled "Perspectives of the Union's Basic Ordinance" (Brandt 2013), the symposium held on May 6-7, 2011 commemorating Dimitris Tsatsos on the occasion his 75th birthday, entitled "Constitution – Political Parties – Basic Ordinance of the Union" (Brandt et al. 2015), as well as by the symposia "Constitution and Crisis" (November 29-30, 2013, Brandt 2015), "Parliamentarisation and de-parliamentarisation of constitutional systems" (December 5-6, 2014, see Brandt (2016)) and

*Constitutional Moments* (April 13-14, 2018). The Institute's attachment to the Mediterranean area (in the sense of a 'Magna Grecia') was stressed at the symposium on "European Governance in the Crisis" (November 24-25, 2016, see Schiffauer (2017)), as it was organized in cooperation with the Università del Salento from Lecce (Italy).

## **5. The European Perspective**

Since the turn of the millennium a shift in sentiment seems to have spread in parts of the European population. It led to increasing questioning or even rejecting the usefulness and legitimacy of European integration. Such a development may lead to the conclusion that at least a part of the population is lacking a convincing narrative (cf. Haeberle and Kotzur 2016: Rn. 122 ff., 200 ff.) that makes the effort of transcending national horizons necessary and justifies any sacrifices that may be associated with it. European history has shown the risks of national hubris that typically emanate from nation-states. How may such risks be made aware to those who grew up only at a time after the major achievements of European integration were already in place?

Restrictions of intellectual and physical freedom under nationalist traditions were substantially overcome when the protagonists of European integration had succeeded to establish a transnational democratic polity with a directly elected Parliament. At the same time the political Europe was not sufficiently united to provide appropriate instruments and resources for facing the dangers and pitfalls of globalisation. But does this justify a return to nationalist narratives? Shouldn't present difficulties rather encourage to move forward? Only those who become aware of the human dimension of the struggles that were necessary for achieving the degrees of freedom they presently enjoy in the European Union and that many now take for granted will be able to tie in with the narratives of transnational integration. Therefore, it is important to wrest groundbreaking personalities and their struggles from oblivion, not for cultivating their personality for their own sake, but for keeping the memory of exemplary credibility, courage and measured judgment that may give an ever new impetus to fight for freedom and humane modes of behaviour within man-made political structures.

In order to keep the memory of such examples alive, be it the one of Dimitris Tsatsos himself or of others who were in the foremost sense

“European *citoyens*,” the Dimitris Tsatsos Institute, jointly with the Athens Center for Constitutional Law, awards every two years the Dimitris-Tsatsos Prize to personalities having outstanding merits for the European integration process. Since its creation in 2012, four winners have received this award: the former President of the European Court of Justice Vassilis Skouris, the Spanish politician, former Member of the European Parliament and Minister Iñigo Mendez de Vigo, the former President of the Italian Republic Giorgio Napolitano and the German historian Wolfgang Reinhardt. These four who offer proof of the highest personal integrity and, through their life's work, significantly contributed to the unification of Europe, in spite of all differences that may exist among them, share the close connection they had with the spirit and to the work of Dimitris Tsatsos.

In 2018, fifteen years after the Dimitris Tsatsos Institute was founded, concern is growing about the future of the European unification process. The Institute's forthcoming symposium on June 14-15, 2019 will address the threats that Europe is facing from the inside and from the outside. Are the life's work of the Institute's founder and the basis of the Institute's work in danger? Or did the additional dimension gained through the deepening of integration by Treaty of Lisbon and the expansion boost of 2004, followed by significant changes in the transatlantic relationship rather show that the European Union may no longer be ignored as a geopolitical actor?

Is it surprising that at such a critical stage vested interests and forces arose seeking to prevent the political unification and strengthening of Europe in order to secure their own claims to dominance? The tools that adequately resourced actors may use to stir nationalist emotions in the population are well known and explored since the fascist experiences of the twentieth century. Unfortunately, the current state of the European Union is fraught with weaknesses where such tools can be used for the purpose of their destructive work. Unfettered global competition dominated by huge international corporations resulted in a growing gap in the distribution of wealth, with particular disadvantage for the younger generations. European states and peoples showed a lack of solidarity in coping with the consequences of globalisation, the misery of those fleeing war, violence and hunger, or the threat of global terrorism. The shocks suffered by the adoption of the common European currency increased awareness of the lack of a proper economic governance, since financial

operations could be carried out as an end in themselves no longer fulfilling any economic function, or because of the absence of appropriate financial transfers, which in an open market without internal borders would prevent the increasing impoverishment and over-indebtedness of less-developed areas. All these questions need to receive satisfactory answers when it comes to the question how Europe would need to be set up so as to constitute a sustainably viable political entity, under whatever institutional rules and legal forms it may ever be organized. Committed to the spirit of its founder the Dimitris Tsatsos Institute feels called upon to contribute to answer such questions offering a place with Greek-German roots for working out unity in diversity.

## **6. German-Greek Links of Legal Research and Practice**

The work of Dimitris Tsatsos exemplifies the mutual influence of the German and the Greek contribution to law and in particular to constitutional thinking, carried out via the question of European integration and of a European Constitution, and so does his life. The activities of the Institute bearing his name are prolonging such mutual influence into the future. The history of Greek law is showing quite strong a German influence in the course of the 19<sup>th</sup> and the 20<sup>th</sup> century.<sup>4</sup> German law importantly influenced the founding and institutionalisation of the Modern Greek State and German scholars exercised significant influence on academic discussions in Greece (cf. Σγουρίτσας 1965). In his writings in Greek language Dimitris Tsatsos himself has made Greek scholars acquainted with Konrad Hesse's doctrine of the state or with the ideas of Peter Haeberle.<sup>5</sup> More specifically in the field of civil law, from 1833 to 1945 German scholarly work dealing with Roman Law and notably the "pandect" served as a model for academic research, legislation and the judiciary in Greece. The Greek Civil Code enacted in 1946 was inspired by the model of the German Civil Code (*Bürgerliches Gesetzbuch*). In the field of administrative law, important influence was also exercised by the doctrine of French law. Greece's supreme administrative court was built on the model of the French Conseil d'État. Still there are influence lines of

---

<sup>4</sup> The author gratefully acknowledges precious information provided by Ilias Sofiotis, University of Thessalia, for drafting the present chapter.

<sup>5</sup> This information was kindly provided by Professor Dimitris Melissas, Athens.

German doctrine that may be noted in specific matters like, e.g., data protection law. More recently in the field of constitutional law the Greek constitution of 1975 was clearly influenced by the German *Grundgesetz* (see Iliopoulos-Strangas 1990, notably p. 263). The topical discussion on a planned revision of the Greek Constitution is about to prolong such close links through the idea to set up a Greek Constitutional Court following the model of the German Constitutional Court (*Bundesverfassungsgericht*).

While this kind of influence is on-going and likely to continue in future, the objective of the Dimitris Tsatsos Institute is rather to take advantage of contributions of eminent constitutional culture originating from Germany, Greece or other countries for building up what in the vision of Peter Haeberle is a European constitutional culture. In this vein the Institute highly appreciates contributions from Greek scholars like the recent highlighting of early Modern Greek constitutional thinking in the work of Rhigas Velestinlis (Sofiotis 2018). Greek scholars were frequently lecturing at the Institute, e.g., Maria Kaiafa-Gbandi, University of Thessaloniki, on European criminal law and the protection of fundamental rights (February 8, 2005), Triantafyllia (Lina) Papadopoulou, Aristoteles University Thessaloniki on primacy of EU law and the plurality of the sources of Law (March 1, 2010, published as IEV-Online Nr. 3/2010), Julia Iliopoulos-Strangas, Faculty of Law, University of Athens on the protection social achievements in Europe, having regard to the general interest and the protection of fundamental rights (October 1, 2012), and Ilias Sofiotis, University of Thessalia, on the Greek Council of State's current case law concerning the management of the debt-crisis (February 20, 2014) and on a Greek perspective on Europe's refugee-crisis (June 9, 2016).

At the occasion of a conference on "the crisis of the Rule of Law in the European Union," on November 13, 2018, organized in Athens by the National and Kapodistrian University, the Institute's director Andreas Haratsch held a lecture on the relationship between the rule of law and the democratic principle. The author of the present contribution was invited by the Tsatsos Foundation to lecture at a conference on European Deficits in Social and Fundamental Rights protection, held in Athens on May 12, 2014. Thus, the Dimitris Tsatsos Institute, rather than prolonging a mono-directional German influence on Greek constitutionalism, functions as a platform of dialogue to the benefit of all participants, ideally contributing to a European synthesis of the best of our national constitutional traditions.

## References

- Battis, U. Mahrenholz, E. G., and D. Tsatsos (ed.) (1990), *Das Grundgesetz im internationalen Wirkungszusammenhang der Verfassungen. 40 Jahre Grundgesetz*, Berlin: Verlag Duncker und Humblot.
- Brandt, P. (ed. 2013), *Perspektiven der Unionsgrundordnung*, Band 12 der DTIEV-Schriftenreihe, Berlin: Berliner Wissenschaftsverlag.
- Brandt, P. (ed. 2015), *Verfassung und Krise*, Band 16 der DTIEV-Schriftenreihe, Berlin: Berliner Wissenschaftsverlag
- Brandt, P., Haratsch, A., and H-R. Schmidt (ed. 2015), *Verfassung - Parteien - Unionsgrundordnung, Gedenksymposion für Dimitris Th. Tsatsos, Erträge des Symposions des Dimitris-Tsatsos-Instituts für Europäische Verfassungswissenschaften an der FernUniversität in Hagen am 6. und 7. Mai 2011*, Band 15 der DTIEV-Schriftenreihe, Berlin: Berliner Wissenschaftsverlag
- Brandt, P. (ed. 2016), *Parlamentarisierung und Entparlamentarisierung von Verfassungssystemen*, Band 17 der DTIEV-Schriftenreihe, Berlin: Berliner Wissenschaftsverlag
- Gerkrath, J. (1997), *L'émergence d'un droit constitutionnel européen. Modes de formation et sources d'inspiration de la Constitution des Communautés et de l'Union européennes*, Bruxelles: Editions de l'Université de Bruxelles.
- Grimm, D. (1995), *Braucht Europa eine Verfassung?* München: Carl Friedrich von Siemens Stiftung.
- Grimm, D. (2016), *Europa ja – aber welches?* München: Verlag Beck.
- Habermas, J. (2011), *Zur Verfassung Europas: Ein Essay*, Frankfurt/M.: Suhrkamp-Verlag.
- Häberle, P. (2009), „*Verfassungskultur*“ als Kategorie und Forschungsfeld der Verfassungswissenschaften, Hagen: IEV-Online Nr. 3/2009.
- Häberle, P./Kotzur, M. (2016): *Europäische Verfassungslehre*, 8<sup>th</sup> ed., Baden-Baden: Nomos Verlag.
- Iliopoulos-Strangas J. (1990), “Der Einfluss des Grundgesetzes auf die griechische Verfassung,” in: Stern K. (ed.), *40 Jahre Grundgesetz, Entstehung, Bewährung und internationale Ausstrahlung.*, München: Verlag Beck, pp. 259 ff.
- IEV 2004: Institut für Europäische Verfassungswissenschaften (ed.), *Die Europäische Union als Verfassungsordnung*, Erträge des Eröffnungssymposions des Instituts für Europäische Verfassungswissenschaften

- an der FernUniversität Hagen am 13. Februar 2004, (Band 1 der Schriftenreihe des Instituts), Berlin: Berliner Wissenschaftsverlag.
- Schiffauer, P. (2008), *Verfassung und Politik der Europäischen Union im Werk von Dimitris Th. Tsatsos*, EuGRZ 2008, 452-457.
- Schiffauer, P. (ed. 2018), *A Single Model of Governance or Tailored Responses? Historical, Economic and Legal Aspects of European Governance in the Crisis*, *Erträge des Symposions des Dimitris-Tsatsos-Instituts für Europäische Verfassungswissenschaften an der FernUniversität in Hagen am 24. und 25. November 2016*, Berlin: Berliner Wissenschaftsverlag.
- Sofiotis, I. (2018), *Die Staats- und Grundrechtslehre von Rhigas Veles-tinlis – Übernationaler Menschenrechtskonstitutionalismus im Europa des 18. Jahrhunderts*, Berlin: Verlag Peter Lang.
- Σγουρίτσας Χρ. (1966), *Συνταγματικό Δίκαιον*, Αθήναι, τ. I 1965, τ. II.
- Tsatsos D. (ed. 2010), *Die Europäische Unionsgrundordnung – Handbuch zur Europäischen Verfassung*, Berlin: Berliner Wissenschaftsverlag.
- Tsatsos D. (1987), *Von der Würde des Staates zur Glaubwürdigkeit der Politik*, Berlin: Verlag Duncker und Humblot.