

Harald Eberhard

Comparative constitutional Law – Papers in honour of Theo Öhlinger

On June 22th of this year, Prof. Theo Öhlinger, one of the most famous constitutional scholars in Austria, celebrated his 70th birthday. According to his modest attitude towards official celebrations concerning this great day, he had forbidden all such events so far.

Naturally, we – his students – accept this wish. However, this issue of the ICL Journal tries to make a compromise in this point insofar as it is dedicated to Theo Öhlinger and focuses on one his favourite scientific fields of interest, comparative and international constitutional law.

Theo Öhlinger was born in 1939 in Ried im Innkreis (Upper Austria). He passed his studies at the Universities of Innsbruck and Vienna. In Innsbruck, he started his academic career. From 1967 up to 1972 he worked at the Constitutional Service of the Austrian Federal Chancellory. In 1972 he finished his habilitation at the University of Innsbruck about the implementation of international public law treaties in domestic law. There, he built up the section of European law at the Department of Public Law of this University from 1972 to 1973. Finally, in 1974 he got the chair of constitutional and administrative law at the Department of Public Law of the University of Vienna Law School which he held up to his retirement in autumn 2007. From 1995 to 2005 he had been also the director of this department. His retirement, naturally, had made no cut to his overwhelming and impressing scientific activities: Since 2008, he has been working as legal adviser of the President of the National Council, the first chamber of the Austrian Parliament.

In his almost 330 publications, Theo Öhlinger treated all relevant fields of constitutional law and administrative law as well as the crossroads of both disciplines to international public law as well as European Community law. His books about constitutional law and the crossroads of European law and domestic law have long been highly appreciated standard works in all public law libraries.

Theo Öhlinger has ever been a demanding and very active academic teacher not only for me but for many others of his scholars. His ever constructive critical remarks and all the valuable and sophisticated discussions triggered our understanding of these scientific fields. We learned very much from him and appreciated his humanity as well his professional knowledge. For all these activities and all of his help in supporting to find our own ways within the public law trails it is a strong wish to say our sincere and deep-rooted thanks!

A special point of interest of Theo Öhlinger – far from the beginning of his scientific treatment in the 1960s – was the international perspective of constitutional law, especially with regard to the EC law. All this had taken place at a point of time when nobody in Austria had thought it possible that Austria will

ever be a member state of the European Community. Given this background, it does not take wonder that his chair at the University of Vienna had been dedicated also to comparative constitutional law. In his 35 years at the University of Vienna, he was several times a guest professor, inter alia at the Dickinson School of Law in Carlisle, USA, and at the Universities of Paris X and Aix-en-Provence as well as the University of Fribourg. He also held a professorship at the University of Law in Bratislava (Slovakia). From 1977 to 1989, Theo Öhlinger was also an alternative member of the Austrian Constitutional Court. From 1989 to 1995, he was the director of the Federal Administrative Academy which organizes the training of the public servants in Austria.

The disciplines academically nominated as "comparative constitutionalism", "comparative constitutional law" or "constitutional comparison" have touched the strong and serious interest of Theo Öhlinger far from the beginning of his career.

This interest had also important consequences for Theo Öhlinger's activities beyond his rich academic employment. From 1984 to 1990, he was member of the "Committee of Independent Experts" of the European Social Charter (ESC). Since 1990 he has been member of the scientific advisory board of the "European Institute of Public Administration". Last but not least, from 1992 to 2004 he was member of the executive board of the "International Association of Constitutional Law" (IACL). It takes wonder that Theo Öhlinger – in spite of these activities – spent a respectable amount of time in a field besides all legal and scientific activities, that of the fine arts. Since 1999, he has crowned this interest with his function of the alternative director of the board of trustees of the Vienna "Kunsthistorisches Museum" (KHM) which is one of the most important art institutions all over the world.

The following papers intend to give both traditional and new insights into this highly interesting and recent legal discipline. We strongly hope that they will also meet with Theo Öhlinger's approval.

For the future, it is our strong and hearty wish for Theo Öhlinger to stay active and healthy in the way he did it in the last years! Alongside, he shall enjoy his leisure time with his family including by now two lovely grandchildren. He can look back to a rich oeuvre which still is far from being completed!

Ad multos annos!

- *Harald Eberhard works as scientific collaborator at the Austrian Constitutional Court and teaches constitutional and administrative law at the University of Vienna.*