# Oversight of the Rule of Law in the European Union: Opportunities and Challenges

## Programme

Mon 16 January 2017 16:00-19:00

Registration from 15.30

Followed by a drinks reception

Join the conversation @BinghamCentre #EURuleofLaw

Co-organised with

16:00 – Panel One

(Chair: Prof Dimitry Kochenov)

Prof Carlos Closa – *Introduction to mechanisms for rule of law oversight in the EU*

Prof Ernst Hirsch Ballin – *Peer review in Council*

Prof Kalypso Nicolaïdis – *The rule of law dilemma*

Natacha Kazatchkine – *The EU’s debate on the rule of law – Where do we stand? Perspectives from human rights NGOs*

*Q&A discussion*

17:15 – Tea and coffee break

17:45 – Panel Two

(Chair: Prof Carlos Closa)

Dr Petra Bárd – *Hungarian unorthodoxies or a schoolbook case of rule of law backsliding?*

Prof Laurent Pech – *The Commission's Rule of Law Framework: A new instrument which was bound to fail?* ****

Prof Tomasz Tadeusz Koncewicz *– Of constitutional capture, alienating constitutionalism and constitutional fidelity. Quo vadis Poland and … Europe?*

Prof Dimitry Kochenov – *Difficult times for the rule of law in the EU*

*Q&A discussion*

19:00 – Drinks reception

*The event is convened by* ***Prof Dimitry Kochenov*** *(University of Groningen, The Netherlands), and* ***Lucy Moxham*** *and* ***Justine Stefanelli*** *(Associate Senior Research Fellows at the Bingham Centre for the Rule of Law).*

## About the speakers

**Dr Petra Bárd (Central European University, Budapest, Hungary)**

Dr. Petra Bárd LL.M. SJD works as a researcher at the National Institute of Criminology. Since January 2010 she is Head of the Criminal Law Division of the National Institute of Criminology, Hungary. As a lecturer at the Central European University’s (CEU) Legal Studies Department she teaches EU constitutional law, EU criminal law, and selected issues in criminology and forensic sciences. At ELTE School of law she teaches criminology and data protection law. As researcher at the CEU Centre for Ethics and Law in Biomedicine (CELAB) she was participating in EU FP6 and FP7 projects investigating the legal framework of biobanks including their use for forensic purposes. She is the Vice-Chairperson of the Hungarian Europe Society since 2003. In her writings she primarily addresses European constitutionalism, human rights in the European Union, the rights of persons living with disabilities, and judicial and police cooperation in criminal matters.

Petra Bárd received her LL.M. in international business law in 2001, and was awarded her S.J.D. summa cum laude in the field of comparative constitutional law in 2008 nostrified as Ph.D in 2010.

**Prof Ernst Hirsch Ballin (Tilburg University; University of Amsterdam; and Former Minister of Justice and Interior Affairs, The Netherlands)**

Former Minister of Justice and Interior Affairs, Dr Ernst Hirsch Ballin, is a professor of Human Rights at the Faculty of Law of the University of Amsterdam (UvA). Dr Hirsch Ballin is also a professor of Dutch and European constitutional law at University of Tilburg.

From 1977 to 1981 Hirsch Ballin was senior officer at the Department of Public Law of the Ministry of Justice. He was a professor at Tilburg University (UvT) from 1981 to 1989 and from 1994 to 2006. In The Hague, he was, among other things, Minister of Justice (1989-1994), member of the Lower House (1994-1995), member of the Upper House (1995-2000), member - and from 2003 president - of the Advisory Division of the Council of State for the Kingdom (2000-2006), Minister of Justice (2006-2010) and Minister of the Interior and Kingdom Relations (February 2010-October 2010). Since 2005, Hirsch Ballin has been a member of the Royal Netherlands Academy of Sciences.

**Prof Carlos Closa (Institute for Public Goods and Policies (IPP) at the Spanish National Research Council, Madrid (Consejo Superior de Investigaciones Científicas (CSIC))**

Professor Carlos Closa holds a Ph. D. in Politics, Universitty of Hull (UK) (1993); M.A. in European Integration and Cooperation (1990) (U. Hull). He is also Diplomado en Ciencia Política y Derecho Constitucional, Centre for Political and Constitutional Studies (CEPC), Madrid (1988) and holds degrees in Sociology and Political Science (Universidad Complutense, UCM), Madrid, 1987.

Between 2004 and 2008, he was Deputy Director of the Centro de Estudios Políticos y Constitucionales (Ministry of Presidency) and between 2005 and 2009, he was member of the Venice Commission for Democracy through Law (Council of Europe) representing Spain. He has been formerly professor at the University of Zaragoza, Complutense (Madrid) and tutor at the University of Hull. He has been Visiting Professor at the College of Europe (Bruges) and he has been Professor at the Instituto Universitario Ortega y Gasset (IUOG), Madrid since 1999. He was also Visiting Fellow at the Minda de Gunzburg Centre of Harvard University (2002) and Jean Monnet Fellow (1995-1996) and Salvador de Madariaga Fellow (2004) at the European University Institute (EUI, Florence), Senior Emile Nöel Fellow at New York University (NYU) (2010-2011) and Affiliated Scholar at the Global Governance Programme of the EUI (2010-) and Visiting Professor at the University of Groningen. He serves currently as Chair for RC3 (European Unification) of the International Political Science Association (IPSA).

He currently directs two research projects and he is member of a FVI project. The first directed project is a contract with the EU Commission to elaborate a Study on how the memory of crimes committed by totalitarian regimes in Europe is dealt with in the Member States. The second project has been recently awarded by the Spanish Innovation Ministry and it is entitled National institutions and European integration: The ratification of EU reform treaties. Carlos Closa participates also in a VI Framework Program Project: Reconstituting democracy in Europe (RECON).

He has published articles in English, Spanish, French and Italian on EU citizenship, the EU Constitutional structure, Europeanization and the EU relation with the member states. His main research interests are regional integration in Europe and Latin America with special attention to constitutional and institutional aspects; and politics of memory and transitional justice.

**Natacha Kazatchkine (Senior Policy Analyst, Open Society European Policy Institute)**

Natacha Kazatchkine is responsible for developing analysis and advocacy strategies on EU policies to protect and promote human rights and the rule of law within Europe. She joined the Open Society European Policy Institute in April 2015. Before joining the Open Society Foundations, Kazatchkine was senior executive officer at the European Office of Amnesty International in Brussels, responsible for advocacy on EU internal human rights policy, justice, nondiscrimination, and security. From September 2013, she coordinated the Human Rights and Democracy Network’s working group on the EU’s internal human rights policy. She also worked for the European Parliament, drafting its 2012 report on the CIA rendition and secret detention programs in Europe.

Kazatchkine holds an MA in European law and criminal policy from Paris Sorbonne University and has held academic posts as a lecturer and researcher. She also worked as a legal adviser for asylum seekers in the United Kingdom and as program coordinator on prison reform in Africa at Penal Reform International.

**Prof Dimitry Kochenov (Chair in EU Constitutional Law, University of Groningen, The Netherlands)**

Prof. Kochenov's research focuses on Comparative and EU Citizenship Law; Principles and Enforcement of EU Law with an emphasis on the Rule of Law; EU External Relations Law, and the Law of the EU's Overseas.

Prof. Kochenov consults governments and international institutions and organizations. He advised the Maltese Republic on citizenship; the government of the Kingdom of the Netherlands on the application of EU law in the Caribbean parts of the Kingdom; the European Parliament on the Rule of Law mechanisms; submitted writted evidence to the House of Lords (UK) and FCO's competences review; participated in informal expert discussions on the future of EU citizenship at the European Commission and Ecosoc's working group on the Future of Europe. He reviews manuscripts for Cambridge, Oxford, Hart, Routledge, Rowman & Littlefield and countless journals; assesses grant applications nationally and internationally. Dimitry participates as an expert in national and international litigation, including international commercial arbitration.

Prof. Kochenov held numerous fellowships and visiting professorships worldwide, including, most importantly, Crane Fellowship in Law and Public Affairs at the Woodrow Wilson School, Princeton University (2015-2016), which he combined with a Visiting Professorship at the Princeton University Center for Human Values, teaching a seminar on citizenship; Emile Noël Fellowship at the Jean Monnet Center, NYU School of Law (2010) Senior Clough Fellowship at Boston College Law School (2013), Visiting Chair in Private Law (Citizenship) at Università degli drudi di Torino; Osaka Graduate School of Law, York University (Toronto), UNAM Mexico, University of Ljubljana (Slovenija) etc. He also chairs the Investment Migration Council (IMC): the global association of residence and citizenship by investment professionals.

Dimitry graduated from CEU - the Central European University in Budapest.

**Prof Tomasz Tadeusz Koncewicz (Director of the Department of European and Comparative Law, University of Gdańsk, Poland)**

Professor of Law and Director of the Department of European and Comparative Law at the Faculty of Law and Administration, University of Gdansk. In the academic year 2015-2016 Fulbright Visiting Professor at the Berkeley Law School, University of California, where he co-taught comparative constitutional law with Professor Martin Shapiro. Took his law degrees from the University of Wroclaw and Edinburgh. Graduate of the Academy of European Law, (European University Institute, Florence, 2002, 2007) and the Europaische Rechts Akademie in Trier (2002-2004, Defense Counsel before the International Criminal Court). Attorney and Member of the Polish Bar. Tomasz’s legal office specializes in strategic litigation before supranational and constitutional courts. Among cases pleaded are test cases on: registered partnerships, Cod Total Allowable Catch Quota, property restitution, transitional justice, equality, right to freedom, right to privacy, right to court, right to family life, freedom of expression, non-retroactivity of the law, presumption of innocence, detention incommunicado and state aid. Served as the referendaire at the Court of the EU in Luxembourg and acted as the legal adviser to the Office of the Polish Constitutional Court. Writes extensively on constitutional law, constitutionalism, EU law, human rights, role of courts in the process of European integration and procedural law. Author of more than 200 papers and 9 books, His Most recent book is “Law with the Human Face”, (C.H. Beck, 2015). His Of institutions, democracy, constitutional self defence and the rule of law, has been published in (2016) 53 Common Market Law Review 1357

**Prof Kalypso Nicolaïdis (Professor of International Relations and Director of the Centre for International Studies, University of Oxford)**

Kalypso Nicolaïdis is Professor of International Relations and director of the Center for International Studies at the University of Oxford. She was previously associate professor at Harvard University’s Kennedy School of Government. She is chair of Southeastern European Studies at Oxford and Council member of the European Council of Foreign Relations. In 2012-2013, she was Emile Noel-Straus Senior Fellow at NYU Law School (2012-2013). In 2008-2010, she was a member of the Gonzales reflection group on the future of Europe 2030 set up by the European Council. She also served as advisor on European affairs to George Papandreou in the 90s and early 2000s, the Dutch government in 2004, the UK government, the European Parliament, the European Commission, OECD and UNCTAD. She has published widely on international relations, global governance, trade ethics, law and democracy promotion, as well as the internal and external aspects of European integration in numerous journals including *Foreign Affairs, Foreign Policy, The Journal of Common Market Studies, Journal of European Public Policy* and *International Organization.* Her last books are *Echoes of Empire: Memory, Identity and Colonial Legacies* (ed w/ Sebe and Maas, IB Tauris)*, Normative Power Europe Revisited* (ed w/ Whitman, Journal Conflict and Cooperation) and *European Stories: Intellectual Debates on Europe in National Context* (ed w/ Lacroix, OUP, 2010).  She is a graduate of Sciences-Po (1982) and received her PhD from Harvard in 1993.

**Prof Laurent Pech (Professor of European Law, Jean Monnet Chair of European Public Law (2014-17) and Head of the Law and Politics Department at Middlesex University London)**

Laurent Pech is Professor of European Law, Jean Monnet Chair of European Public Law (2014-17) and Head of the Law and Politics Department at Middlesex

University London. Laurent is also a Visiting Professor of Law at Bordeaux University. Prior to his appointment at Middlesex University, Laurent was Jean Monnet Lecturer in EU Public Law at the National University of Ireland Galway.

Prof. Pech specialises in EU Public Law and has lectured in a variety of subjects including EU Constitutional Law, EU Internal Market Law, EU Competition Law and EU Fundamental Rights Law.

Prof. Pech is currently a member of the editorial board of Hague Journal on the Rule of Law and his most recent publications focusing on the rule of law include: (with Prof. Kochenov), ‘Better late than never: On the European Commission’s Rule of Law Framework and its first activation (2016) 54(5) Journal of Common Market Studies 1062; ‘The EU as a Global ‘Rule of Law Promoter’: The Consistency and Effectiveness Challenges’ (2016) 14(1) Europe-Asia Journal 7; (with Profs Kochenov and Platon), ‘Ni panacée, ni gadget: Le nouveau cadre de l’Union europeenne pour renforcer l’Etat de droit’ (2015) 4 Revue Trimestrielle de Droit Européen 689; (With D. Kochenov), ‘Monitoring and Enforcement of the Rule of Law in the EU: Rhetoric and Reality’ (2015) 11(3) European Constitutional Law Review 512. Prof. Pech was also the lead author of a research report commissioned by the European Parliament on the establishment of an EU mechanism on Democracy, the Rule of Law and Fundamental Rights (PE 579.328, April 2016).