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JEAN MONNET VISITING LECTURE SERIES

THE EROSION OF CONSTITUTIONAL TOLERANCE

Signe Rehling Larsen

University of Warwick School of Law

Friday, 12 December 2025, at 12:00 h

*The lecture will be held at the
Faculty of Law – University of Zagreb
Trg RH 3, lecture room V (third floor)*

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ABSTRACT

Constitutional tolerance — the voluntary subordination of Member States to European Union (EU) law — was once the normative hallmark of the EU's constitutional order. This hallmark is now eroding: the subordination of the Member States to EU law is in question, and so is its voluntary character. Against this backdrop, the lecture revisits a long-neglected question: what are the foundations of constitutional tolerance in Europe? Drawing on federal theory, I argue that constitutional tolerance depends on a precarious federal balance between contradictory commitments to unity and diversity. The article argues that the Court of Justice is developing Article 2 TEU into a judicially enforceable guarantee clause as a means of governing this tension through the defence of a constitutional project shared by the Member States. However, this approach is associated with an often-overlooked challenge in the EU: the Member States are characterised by different varieties of constitutionalism, with radically different conceptions of the constitutional concepts set out in Article 2 TEU, including democracy and the rule of law. While the judicial enforcement of shared values may serve as a mechanism of constitutional defence, it also risks displacing the federal balance on which constitutional tolerance ultimately depends.

Signe Rehling Larsen is Associate Professor of Law at the University of Warwick and a Carlsberg Fellow at the Faculty of Law, University of Copenhagen. Previously, she was a Fellow by Examination in Law (Prize Fellow) at Magdalen College, Oxford. Before coming to Oxford, she was a Max Weber Fellow in Law at the European University Institute. She is educated in law, politics, and philosophy at the LSE, the New School for Social Research, Bard College Berlin, and the University of Copenhagen. She is the author of the monograph *The Constitutional Theory of the Federation and the European Union* (Oxford University Press 2021).



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