

A 389181

EU ENLARGEMENT  
THE CONSTITUTIONS OF  
CENTRAL AND  
EASTERN EUROPE



dandelion.com

© 2008 AGL Information Management Consultants  
May be used for personal purposes only or by  
libraries associated with the dandelion.com network.

ANNELI ALBI  
*University of Kent*



CAMBRIDGE  
UNIVERSITY PRESS

# CONTENTS

<i>List of tables</i>	page viii
<i>Series Editors' Preface</i>	ix
<i>Acknowledgements</i>	xi
<i>Table of cases</i>	xii
<i>Table of treaties, laws and other instruments</i>	xvii
<i>List of abbreviations</i>	xxxii
Introduction	1
1 Overview of the accession process	5
2 Constitutional adaptations in the 'old' Member States	9
Transfer of sovereign powers: main models	9
Other EU amendments	14
3 Some idiosyncrasies of CEE constitutions	18
Constitutional history of CEE countries	18
Prominence of the constitutions in CEE legal orders	22
'Souverainist' character	24
4 Constitutional issues in the pre-accession period	36
Europe Agreements in CEE legal orders	36
Extent of harmonisation and adoption of EU obligations	44
Judicial harmonisation	52
Pre-accession adaptations in the light of sovereignty and legitimacy	56
Issues of democratic deficit in the pre-accession adaptations	61
5 Revision of CEE constitutions for EU membership	67
Wider package of EU amendments	67
Slovakia	67
Czech Republic	70
Slovenia	72
Some common observations	75

Medium package of EU amendments	78
Poland	78
Hungary	82
Minimal EU amendments	87
Estonia	88
Latvia	94
Lithuania	98
Developments in Romania and Bulgaria	103
Romania	103
Bulgaria	107
Some overarching trends in the EU amendments	110
Assessment in the light of the rationale of a constitution	114
<b>6 Theoretical views of sovereignty and democratic legitimacy in CEE</b>	<b>122</b>
Delegating sovereignty, preserving independence?	122
Popular sovereignty: from an ethno-cultural to a post-national concept?	130
<b>7 Referendums</b>	<b>138</b>
Referendum experience: frequent and unsuccessful	138
Public opinion and euroscepticism	146
Accession referendums: procedural 'manoeuvres'	149
Implications for the EU treaty amendment procedure	159
<b>8 Membership of NATO and other international organisations</b>	<b>163</b>
NATO	163
Other international organisations	168
<b>9 Role of Constitutional Courts</b>	<b>170</b>
Ultimate arbiter debate and CEE Constitutional Courts	170
Towards a 'European constitutional order'?	175
<b>10 Implications of the European Constitution</b>	<b>179</b>
EU's constitutional reform and involvement of candidate countries	179
A constitution or a treaty?	182
National constitutional limits to integration	183
'Constitutional' elements of the European Constitution	186
Changes consolidating the position of Member States	193
National responses	194
Incremental transition towards sovereignty of 'the peoples of Europe'?	196

Epilogue: 'Taking constitutions seriously' in the process of European integration	206
<i>Bibliography</i>	211
<i>Appendix</i>	232
<i>Index</i>	248