

CHAPTER I

THE PROTECTION OF STATE AND NATIONAL SYMBOLS ACROSS EUROPE: AN OVERVIEW OF CONSTITUTIONAL LAW AND CRIMINAL LAW REGULATIONS



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1. The development of the system of state symbols

The common meaning of symbol is an “image, object, etc., that suggests or refers to something else.”¹ With semiological accuracy:

A sign is a stimulus—that is, a perceptible substance—the mental image of which is associated in our minds with that of another stimulus. The function of the former stimulus is to evoke the latter with a view to communication.²

1 Cowie, 1989, p. 1304. The term is defined similarly by the *Cambridge Dictionary*: A symbol is “a sign, shape, or object that is used to represent something else” (Cambridge Dictionary online: <https://dictionary.cambridge.org/dictionary/english/symbol>). The definitions related to the sociopolitical use of the term was collected by Lindmark. These—in addition to “ringing together of ideas and objects”—place an emphasis on cultural definition (being determined by tradition) (Lindmark, 1971, pp. 64–68).

2 Guiraud, 1978, p. 22. A sign, therefore, reveals the intention of communication, that is, it is always the result of a voluntary activity. So, this “definition excludes natural indications” (Ibid.), that is, the indications associated with the operation of causal inferences (e.g., smoke cannot be a sign of fire, clouds cannot be a sign of rain, etc.).

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The sign, at least in the traditional Saussurean terminology,³ is a relationship between two phenomena: a signifier and a signified.⁴ In this sense, symbol is a signifier, referring to an independent signified. Thus, in the ordinary sense, a symbol is a sign whose function may simply be the communication of information (in this sense, a sign is a signal).

However, it may have a deeper and more abstract meaning. That is, it may represent ideas or objects of value.⁵ The white flag (“parley flag”), for instance, is a *signal*, to the extent that it communicates the *information* that those waving it are surrendering. A yellow flag on a ship signals an outbreak or quarantine. In its representative function, a flag may be a state flag *representing* the state and its sovereignty, or a royal flag representing the ruler or their personal power, etc.⁶ This reveals that a symbol is more than a simple signal for communicating information. A symbol is a sign depicting or expressing some sort of moral substrate, and, at the same time, it compels us to establish a certain approach toward itself⁷ (to identify with it or honor it, or, on the contrary, to resist or disavow it).⁸ If a sign refers to individual or group identity (this is the case with state and national symbols), then, in a semiological sense, it is an insignia.⁹

Symbols have been used from very early in the human story; they were present even in the first written historical sources. Initially, in antiquity and in the Middle Ages, their use was primarily military; from the second half of the Middle Ages, they were already used as symbols of power in Europe. From that same time on, signs began to fulfill the need for a symbolic expression of the identity of a given person, family, or even a broader community (town, county, or followers of a specific religion, etc.). Those signs not only expressed, in an abstract way, the identity

3 Barthes, 1977, p. 35.

4 Guiraud, 1978, p. 25.

5 Firth, 1973, pp. 332 and 334–335; O’Grady et al., 1996, pp. 627–631. Similarly: “A sign is straightforward in its function....Signs give us a simple message that is of immediate momentary relevance.

A symbol, on the other hand, is a visual image or sign representing an idea” (Hennessy, 2019, p. 6).

6 Firth, 1973, pp. 332–336. To put it in another way: the former is a *code*, “a system of explicit social conventions,” while the latter means *hermeneutics* (Guiraud, 1978, p. 41).

7 Smith, 1975, p. 7.

8 As Firth put it: “a symbol has instrumental value”; “symbols [can be] instruments of expression, of communication, of knowledge and of control.” (Firth, 1973, pp. 76–77.) “The instrumental nature of a symbol as a means of expression is especially clear with political and religious symbols. Flag, national anthem...can evoke powerful emotions of identification with a group and be used as rallying points for group action.” (Firth, 1973, p. 77). “[I]n facilitating communication...performance of a symbolic act allows ideas to be shared and reformulated without use of words....” (Firth, 1973, p. 79.) “A proposition that symbols are instruments of knowledge raises epistemological issues” (Firth, 1973, p. 82); while “[s]ymbols as instruments of control, or...as instruments of power...can be a powerful means of affecting someone else’s behavior.” (Firth, 1973, 83–84.)

9 “Insignia are marks which indicate the adherence of an individual to a social group. Their function is to express the organization of society and the relation between individuals and groups.” (Guiraud, 1978, p. 84.)

of the concerned person or community, or the values or characteristics they found important,¹⁰ but also provided an opportunity for emotional bonding.

Community symbols were already used by ancient peoples: in Egypt, as well as among the Persians, Medes, and Parthians, flag-like symbols (insignia) or banners were used, made of several different materials (metal, cloth, leather, etc.).¹¹ These insignia were of spiritual origin; symbolized the connection between the community and otherworldly powers; and were usually set at the top of a pole or mast, and thus became general symbols of victory and self-assertion.¹² According to Firth, the first such symbols were Asian inventions and were transmitted to Europe later, probably by the Saracens.¹³ According to a multi-edition publication launched by the UK-based Flag Institute, “The earliest known flags were used in China, to indicate different parts of the army.”¹⁴ The oldest such objectified insignia was a metal standard from Iran, made about five thousand years ago.¹⁵ Thus, banners and flags¹⁶ were invented outside Europe and arrived there during the Roman Empire,¹⁷ while the first coats of arms were created in medieval Europe.

Suits of armor appeared in the eleventh and twelfth centuries, and spread by the end of the twelfth and the beginning of the thirteenth century, replacing coats of plates. The plate of armor appeared after that and became dominant by the fourteenth century. During this development process, the knights’ armors gradually became heavier and covered more of the body (helms, which appeared in the twelfth century, covered the entire head, and removing them was a lengthy procedure). Due to that, recognizing armored knights became difficult, and it was no longer

10 Firth, 1973, p. 336.

11 Smith, 1975, p. 38.

12 Cirlot, 1984, p. 108.

13 Firth, 1973, p. 330.

14 Wills, 2008, p. 5.

15 Smith, 1975, p. 34.

16 The use of terms varies; the terms flag, standard, banner, pennant, and ensign were used in a different manner in each community, geographical region, and age; thus, it is not possible to introduce terminological uniformity (at least in terms of the past and historical aspects) (cf. Smith, 1975, p. 12). However, from among the two main terms used today (flag, ensign), in a narrower sense, “flag” is generally applied to a use on land (state flag, war flag), while ensign is rather applied for use at sea (state ensign, war ensign, naval ensign) (cf. e.g., Smith, 1980, p. 11; Znamierowski, 2001, p. 32). In a broader sense, the word “ensign” is also used as a synonym for “flag,” and in the broadest sense, it represents the collective term for all state symbols, representing a sort of moral highness.

17 According to our historical knowledge, squared flags (vexilla) were first used by the Roman cavalry; they also represent the origin of the name of the discipline dealing with flags today (vexillology) (Barker, 2015, p. 16) Symbols similar to vexilla (carved animals attached to poles, stylized sculptures of various mythical animals, or other forms with or without a flag) were used also elsewhere, both before and after the Roman vexillum, mostly outside Europe. The first depiction resembling a vexillum is from Egypt 3400 BC, and was detected on pottery of the Gerzean period (Znamierowski, 2001, p. 9). These are called vexilloids, as distinguished from the Roman vexillum itself (Smith, 1975, pp. 30, 34).

possible to identify individuals in a battle.¹⁸ In addition, the use of the cross on banners became common in Europe, and this made it even more difficult to determine whether a person in armor was friend or foe.¹⁹ For knights or soldiers on the same side to recognize one another, they began to use unique distinguishing marks from the eleventh and twelfth centuries onwards.²⁰ These were attached to a surcoat worn over the armor (hence the term “coat of arms”) or (later) to their shield. The use of these distinguishing marks was initially not subject to any provisions, and neither state nor customary law norms regulated it. However, the display of such symbols pursued not only practical goals, but over time it became accepted proof that the person wearing the symbols was a member of the nobility—being someone who maintains an “army” or controls subordinate knights. Therefore, the overlords of the twelfth and thirteenth centuries had similar symbols made for themselves for reasons of prestige—even if they otherwise never went into battle. These overlords had several vassals who also created their own coats of arms, which could not be identical to one another.²¹

The regulation of coats of arms were improved by tournaments, a means for knights to keep themselves entertained in times when no wars were fought. (The institution of herald was also created then, as the person who kept register of the coats of arms of the knights participating in the tournaments. That function later expanded and changed to serving a certain noble and carrying his messages or forwarding his commands in battle, resulting in a social ascent of heralds to nobles).²² Also, the noble symbol at issue was placed in a more “due” place compared to a cloak: it began to be applied to the shield, more often not in the form of a painting rather than a piece of cloth. By the thirteenth and the fourteenth centuries, as opposed to arbitrary reservation, the order of the royal donation of coats of arms developed²³ and became one of the rights of the sovereign. The symbols also became more and more complex, and the intention was for them to express more and more things, until the possibilities provided by the shape and size of the shield proved to be insufficient, so the shield itself (and the figure on it) formed nothing more but the central part of a much more detailed, solemn (and ornate) symbol system in terms of

18 The Bayeux Tapestry depicts the Battle of Hastings of 1066, where William I (“the Conqueror”), the then-Duke of Normandy, triumphed over the Anglo-Saxon armies. The turning point of this battle was that even though the Normans believed their leader to be dead, he lifted his helmet so that everyone could identify him and realize that he was alive. After that, the Normans turned the outcome of the battle. This would not have been possible a century later, due to the appearance of the heavy armour and the accompanying great helm (cf. Slater, 2018, pp. 12, 14).

19 Znamierowski, 2001, p. 14.

20 Slater, 2018, p. 12.

21 The reasons for that were not merely practical, but—due to the authority symbolized by the coat of arms—factors of prestige also played a role. For example, the Court of Chivalry was established to resolve these disputes in the fourteenth-century England (Slater, 2018, p. 43).

22 Slater, 2018, pp. 13, 36–37.

23 Rácz, 2002, p. 494.

which certain “heraldic” rules developed in the form of customary law.²⁴ The “coat of arms of coat of arms” was also created, as the rulers wanted to have not only their own coats of arms but also those of the conquered territories (regardless of whether that represented actual power or merely a claim in that regard). This later became the “greater coat of arms.”²⁵

Today’s modern flags (at least in Europe) originate in the colors and symbolics of the coats of arms. The shield or its colors were depicted on banners attached to poles.²⁶ These banners were elongated and thin, designed primarily for combat purposes. As peaceful means of identification, however, rectangular, nearly square shape flags (typically 1:2 and 2:3 scale), as we know them today, proved more practical. As a result of the emerging nation states, flags became national symbols, as opposed to royal symbols, which denoted less and less personal power but rather a territory or a group of people; such state symbols were adopted in several countries during the seventeenth to the nineteenth centuries (the earliest of which was the Dutch flag, created at the end of the sixteenth century, almost in the form known today, with plain stripes instead of heraldic devices (but with orange, white, and blue stripes instead of today’s red-white-and-blue ones)).²⁷

Among the threefold symbol system known today and used in almost all countries, the national and state anthems (where the latter mostly developed from the former, or independently of them in some cases) are the youngest, but perhaps they demonstrate the mindset of a nation best, not just through lyrics but also through the mood, tune, and beat of the music.²⁸ The word used in English (“anthem”) is misleading, as in most languages the term applied for the musical piece used as national/state symbol derives from the word “hymn,”²⁹ which at the same time refers to the ecclesiastical origin and initial religious content of such pieces. The first known anthem, the English “God save the King/Queen” was of the same nature. It was first performed publicly in 1745³⁰ with music composed by Thomas Arne (although the tune itself had most probably existed already in the seventeenth century). With the formation of nation states, each of the European nations had an anthem of their own, either as a result of an organic development, that is, by the acceptance of the people, or in an artificial way, with the express intention of creating an anthem (in certain cases,

24 Barker, 2015, pp. 17–19; Slater, 2018, pp. 52–69.

25 See, in more detail, for the history of heraldry: Slater, 2018, pp. 10–49; Smith, 1975, p. 43–44.

26 Smith, 1975, p. 44.

27 Znamierowski, 2001, p. 116; Smith, 1980, p. 151; Barker, 2015, p. 20.

28 “National anthems are official patriotic symbols—the musical equivalent of a country’s motto, crest, or flag. As such, they represent the nation’s identity or character—its mood, desires, and goals as put forth by those in power. Anthems...become a nation’s calling card. They are modern totems—signs by which nations distinguish themselves from one another or reaffirm their “identity” boundaries.” (Cerulo, 1989, p. 78.)

29 Cf. Boyd, 1980, p. 46, in pp. 46–75.

30 The melody of the *Wilhelmus*, the Dutch anthem, is older than that of the English anthem. The composition of the melody is dated between 1568 and 1572, but it was recognized as an anthem only in 1932.

based on an open competition for composers).³¹ The independent states, established as a result of the end of colonialism or the disintegration of otherwise artificially united countries, also followed this tradition, but here the artificial creation of anthems dominated, and musical pieces were typically composed by certain invited composers (and/or lyricists);³² in some cases, the anthem was instrumental, without lyrics.³³

2. The concept of nation and its effect on the “state” or “national” nature of the regulated symbols in a given country

The concept of “nation” (*natio*) existed in the Middle Ages and in early modern times, but not yet in its modern sense: “nation” meant an estate-based, territorial or regional, or language-based community. In the modern age, however, the industrial revolution resulting from the Enlightenment was associated with the disintegration of traditional rural communities based on large families. As a result, huge factories and modern industrial cities appeared and spread, and the new metropolitan lifestyle caused depersonalization, which gave rise to a need of new elements of identity. This is how the modern concept of “nation” came into being: this time it meant a group of people who belong to the same country (live there or want to live there), have the same economic interests, and share the same ethnicity (origin), culture, tradition, customs, language, and history

However, if we dig deep, this concept of nation actually entails two different expectations, and has two different implications: based on the differences in identity-forming criteria, *we can distinguish between the concepts of political nation and cultural nation*. On the one hand, the concept of “political nation” is the result of the monarchical form of state (which, almost without exception, prevailed at the time of the appearance of the modern concept of nation), since in these monarchies, a new community-forming force emerged and spread, ensuring the voluntary pursuit of the goals of the central power (so much that many states that had not existed before but simply developed, also adopted this centralized, monarchical form of government).³⁴

31 That is what occurred in Hungary (cf. Nettl, 1967, pp. 131–132), but similar competitions were launched also in Romania, New Zealand, and several other countries (Cerulo, 1989, p. 78).

32 Boyd distinguished five types of anthems. There are “hymns,” in which they pray to God, “marches,” which are of military origin; “operative anthems,” written in the style of nineteenth-century Italian opera; “folk anthems,” which are rooted in folk music; and “fanfares” (Boyd, 1980, p. 47).

33 One of the oldest anthems, the Spanish *Marcha Real* was composed without lyrics. Its melody, as it is known today, was recognized as a royal anthem in 1770 (and as the Spanish national anthem soon thereafter). In addition, the anthems of San Marino, Bosnia, and Herzegovina, and Kosovo are also instrumental. It is interesting that the anthem of the European Union, Beethoven’s “Ode to Joy,” also lacks lyrics (Farrington, 2019, pp. 525–533), thus expressing the equality and equivalence of countries (nations) in the EU.

34 Such as Greece, Belgium, or Romania.

The concept of “cultural nation,” on the other hand, developed in regions (and from there spread to others) where the so-called titular nation only had a narrow majority (or even a minority) in its own state, or where certain nations could not have a country of their own or a significant segment of their members remained outside their homeland. This occurred, for example, in Eastern and South-eastern Europe. Also, the concept of cultural nation was exploited in newly unified states whose peoples had belonged to separate states for a long time, but the memory of the common past was preserved and gained new meaning.³⁵

“Political nation” is nothing but the *people* itself, that is, the totality of *people of the same nationality, living in the same state* (living in a specific territory, under the same sovereign) (“state nation”). Accordingly, to pursue political unity, everyone belongs to the nation on whose territory they live. (Such a concept of nation has been developed and applied to this day in France and in the United States, where everyone is “French” or “American,” regardless of their origin, color, religion, mother tongue, etc.). The intention behind this principle is to prevent minority movements—so-called movements of nationalities—from breaking up the state by tearing territories or citizens from it. However, for the same reason, the “majority” does not intend to deny any minority political rights in France, and no citizen’s “Frenches” can be questioned by anybody in principle. Thus, citizens of the first, second, or third generation (whose roots usually go back to the present-day countries of the former French colonial empire), or even residents who do not even speak the language although their families have lived in France for centuries (e.g., Bretons or Corsicans) are considered part of the same body of the nation as any other citizens.

In the case of the *cultural nation*, the same ethnicity, culture, and language are the elements that define identity. With respect to the general concept of nation, “cultural nation” essentially means a *group of people with the same ethnicity, culture, tradition, custom, language, and history*. This is the situation in most European countries. An identity of cultural nation may develop spontaneously, in an organic manner (e.g., England), or in an artificial way, from the top to the bottom (e.g., Italy). Thus, the cultural nation does not include every citizen of a given country—only those who belong to the titular nation and share the same cultural identity—but includes all who are not citizens of the state to which the titular nation belongs and share the same language, culture, and tradition, due to which they declare a common identity. In addition, there are nations—in a cultural sense—that do not have countries of their own at all.

Of course, those two concepts of nation are not mutually exclusive but exist in parallel; however, one may be deemed dominant over the other in a given country. For example, in France, some support the concept of cultural nation and consider every non-French citizen to be French if they have French roots and identity, while they do not consider French those citizens whose traditions and customs are different from French traditions and customs. In fact, the two concepts of nation compete with each other—everywhere.

35 For example, that was the case in Italy or Germany.

For those reasons, we can see “national” symbols (too) among the symbols representing the community as a whole in those cases where a “titular” nation also exists, representing most of the citizens of a given state. However, this is not so in all such situations. If no titular nation exists or does not form an absolute majority in a country, then the symbols become “state” symbols (for example in Montenegro) or they are not regulated in the constitution at all (as in Switzerland). The practice of individual countries diverges most regarding the anthem (the anthem is “national” in most countries, but it is “state anthem” in many). The other two symbols (the flag, and particularly the coat of arms) are “state” symbols in most European countries.³⁶

Of course, there may be other state and national symbols beyond the aforesaid three main types. Perhaps the most famous example is the state maxim of France (“Liberty, Equality, Fraternity”),³⁷ but there may be significant figurative emblems

36 In the 43 European countries (see these and the criteria for determining the sample below) where the constitution regulates at least one of these symbols, the general rule is that the concerned symbols are considered “state” symbols by the constitution of the given state. This is expressed by the terms “state symbol,” “of the state,” “of the republic,” or “of the [name of the given state].” In 23 countries (Armenia, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Georgia, Germany, Hungary, Italy, Kazakhstan, Kosovo, Kyrgyzstan, Lithuania, Moldova, Montenegro, North Macedonia, Norway, Poland, Russia, Spain, Ukraine, and Uzbekistan) all symbols regulated in the constitution are “state” symbols. In 12 countries (Andorra, the Czech Republic, France, Liechtenstein, Monaco, Romania, Serbia, Slovakia, Slovenia, Tajikistan, Turkey, and Turkmenistan) there are both “state” and “national” symbols. The anthem is typically “national” (from among the examined countries, the anthem is “national” in each country—that is, in 10 countries—where it is regulated a symbol), the flag is considered “national” more rarely and other symbols more rarely still; the rest of the symbols are “state” symbols (the coat of arms is considered a state symbol in every country where it is regulated). In the Czech Republic, among the seven different symbols, only the anthem is considered national; in France, the “emblem,” that is the flag—the *Tricolour*—and the anthem are considered national symbols, while the maxim and the “principle” are state symbols; in Liechtenstein, from among the two regulated symbols, the coat of arms is a state symbol and the “colors” are national symbols; in Monaco, the flag is a state symbol and the coat of arms is associated with the ruler; in Romania, the flag, the coat of arms and the seal are considered state symbols, while the “National Day” and the national anthem are regulated in addition to those; in Serbia, the anthem is national, there is a separate state and a national flag, while the large and small coats of arms are state symbols; in Slovenia, the anthem is national, the coat of arms is a state symbol, and there is also a separate state and a national flag; in Tajikistan and Turkmenistan, from among the three classic symbols, only the anthem is considered national, while the coat of arms and the flag are state symbols; in Turkey, from among the two symbols mentioned in the constitution, the flag is state and the anthem is national symbol. In seven countries (Albania, Belarus, Estonia, Ireland, Latvia, Malta, and Portugal), the constitution only provides for “national” symbols (noting that the constitution of Malta does not define the nature of the George Cross); finally, Belgium is the only country whose constitution provides for symbols, but its wording does not clearly specify whether they are considered state or national symbols (“the Belgian nation adopts red, yellow and black colors, and as arms of the kingdom the Lion of Belgium with the motto: UNION IS STRENGTH”). The phrase “Belgian nation adopts” indicates the latter (even if the term “nation” here refers clearly to the concept of political nation, as opposed to cultural nation), and the expression “of the kingdom” indicates the former.

37 According to some, Art. 193 of the Belgian constitution also provides for a similar state motto regulated as an independent symbol; in fact, however—as we will see—the motto “Union is strength” is merely part of the description of the coat of arms, as opposed to a state symbol independent from the coat of arms.

also in the history of a given country (such as, the protection of the George Cross in Malta or regulation concerning other symbols). In this latter context, we should point out the protection of the so-called national colors, which is different from the protection of the flag or banner, as it reflects the independent protection of a combination of colors representing national identity.

3. The independence and correlation of state symbols

State symbols have now become the manifestation of statehood, basically fulfilling *two* functions: 1) in relation to other states, they express state sovereignty and independence, and distinguish the given state from others (*external or representative function*); 2) in relation to the citizens of the given state, they function as an expression of a sense of belonging (*internal or identification function*).³⁸ In addition, in the case of the so-called nation states, national symbols may also receive protection beside the state symbols, which express the unity of the nation (if any) providing that most of the citizens of the given country, regardless of whether the members of this—so-called cultural—nation live in the territory or are the citizens of the given state. In such cases, as it was mentioned before, most of the inhabitants of this country belong to the so-called titular nation. This is currently the case in nearly all European countries (and in all the Central and Eastern European countries analyzed during our research).

It is a requirement of international (customary) law for state symbols to be distinguishable from one another³⁹—however, in the case of flags, this sometimes only means a difference in color shade or in the ratio of the width and the length of the

38 Cf. Halász, 2014, pp. 31–38. (The same two functions can be construed also in terms of national symbols *par excellence*; cf. e.g., Schweitzer, 2019, pp. 211–218.)

39 It is also a requirement of customary law (although not prescribed by any international convention) that a state should at least have a flag to distinguish itself from other states, however, this cannot be enforced. Certain international conventions refer to state symbols indirectly. For example, Art. 20 of the Vienna Convention on Diplomatic Relations 1961 provides that “The mission and its head shall have the right to use the flag and emblem of the sending state on the premises of the mission, including the residence of the head of the mission, and on his means of transport.” That is, the Convention assumes that states usually have such symbols—although it does not directly stipulate that they are required to have them. (Similarly, Art. 29 para. 1. of the Vienna Convention on Consular Relations 1963 provides that “the sending state shall have the right to the use of its national flag and coat of arms in the receiving state in accordance with the provisions of this article”; para. 2. of the same article provides the following: “The national flag of the sending state may be flown and its coat of arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.” In addition, as part of the diplomatic customary law, the rules of etiquette applied in international state relations define in detail the order of the use of the flag, and, secondarily, that of the coat of arms and the anthem. As regards the latter, see Znamierowski, 2011, pp. 45–47.

flag.⁴⁰ At the time when the present form of international law was not yet developed, it was possible for political communities not in contact with one another (e.g., neither at war nor trading, due to the geographical distance between them) to have the same symbol (typically a flag). But in our globalizing world, that would cause several problems; therefore, international law customarily prohibits it for obvious reasons, or, rather, it “ensures” that states choose different symbols. There are, however, tradition-based frameworks with which (almost) all states comply.

The first such customary law requirement is that states should, at minimum, identify themselves and express the unity of their citizens with the threefold system of symbols a coat of arms, a flag, and an anthem.⁴¹ At the least, when a state becomes independent, that is, when a new sovereign comes into being (in the sense of international law and political science), it creates its own system of symbols, with most of them adopting or choosing from the symbols created during their existence as a non-independent political community, if they one. States that became independent during the colonial era in the twentieth century provide typical examples of this, as they had no coats of arms or anthems (or flag, as a matter of fact, as in many cases the territory that became independent did not cover a single people or tribe but was arbitrarily designated by the colonial powers), so they had to specifically create those at the beginning of their independent statehood. Of course, this is not unique to former colonial countries: for example, Slovenia declared its independence in 1991 and started to create a new symbol system after that, just like Bosnia and Herzegovina.⁴²

Customs and international legal traditions played the main role not only in the designation of such scope of symbols (that is, in the determination of what type of symbols were required), but also in the creation of specific symbols. For example, in the case of coats of arms, the rules of heraldry are decisive, so the (external) structure of the vast majority of state coats of arms are similar to each other (though

40 For example, the only difference between the flags of Romania and Chad are the shades of the colors; and only the ratio of length to width distinguish the flags of Monaco and Indonesia.

41 This applies almost without exception. Nonetheless, Turkey has no coat of arms or emblem; but to abide by the formalities of international law and international customs, Turkey uses the star-crescent image appearing in its flag as a non-official, *de facto* national emblem.

42 Between 1992 and 1998, Bosnia and Herzegovina took inspiration from the coat of arms of the Kotromanić dynasty, which ruled from the 14th to the 15th centuries. However, this historical symbol of six golden lilies (*fleurs-de-lis*) was not accepted by the non-Bosniak nationalities (Serbs and Croats). And since none of these three nations is in absolute majority in Bosnia and Herzegovina, new symbols had to be found that would break with the past completely. For example, due to the lack of majority support in the federal parliament, the flag was introduced single-handedly by Carlos Westendorp, UN High Representative for Bosnia and Herzegovina (the position was created after the conclusion of the Dayton Agreement in December 1995), at the beginning of 1998, as the relatively most-supported symbol of the three plans developed for the state flag. All this was done for a rather banal reason—there was simply no more time to spend on the issue, given that the Winter Olympics would begin in Nagano in February 1998, and it would have been awkward if the country’s athletes had attended the opening ceremony without a flag, or if it had not been possible to raise the flag of the country in honor of those achieving podium finishes (Kolstø, 2006, pp. 676–701).

perhaps some non-key elements might be missing).⁴³ However, some (many non-European and few European) states did not follow these rules; they created an emblem instead of a coat of arms.⁴⁴ (Coat of arms and emblems, and, in rare cases, the seal used instead of them,⁴⁵ are called “armorial bearings” or, in short, “armorials.”) A disadvantage of emblems (the name of which is misleading in that it is also applied for animals, plants, objects, or other motifs used to express statehood)⁴⁶ is that they render the pictorial symbol to be protected rather difficult to categorize; nonetheless, its obvious advantage is that it better expresses the specific worldview, mindset, and values of a given country (and/or of the people or nation constituting it, or any other group, such as a tribe). In the case of flags, the rectangular shape can also be considered traditional (the only exceptions being the flags of Switzerland and Nepal),⁴⁷

43 As regards the typical elements of coats of arms, see e.g., Wills, 2008, p. 7; as regards the heraldically regular arrangement possibilities (that is, metals and colors), partitions and ordinaries of the shield, see Smith, 1975, pp. 28–29.

44 Most of these states (but not all of them) gained their independence or their current form of government in the last hundred years: China, Indonesia, Thailand, India, the Maldives, Brunei, Nepal, Israel, Bhutan, Saudi Arabia, Pakistan, Sri Lanka, Yemen, Mongolia, Vietnam, North Korea, South Korea, Laos, Kuwait, Afghanistan (both before and after the Taliban takeover), Oman, Bangladesh, Iran, Algeria, Sudan, Angola, Somaliland, Mozambique, Cape Verde, Guinea-Bissau, Ethiopia, Eritrea, Djibouti, Papua New Guinea, Taiwan (Republic of China, which is not officially recognized by most countries, but is practically sovereign), Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Belarus, North Macedonia, and Italy.

45 For example, Myanmar, Mauritania, Ruanda, the Comoros, and Madagascar has no coat of arms or emblem but only a seal; in the era of the absolute monarchy, Japan also had an “imperial seal.”

46 For example, Canada (or more precisely, the king of England, who constitutes the Canadian head of state) has a coat of arms, but the “emblem” of Canada is the maple leaf, which can be seen also on its flag as a national symbol.

47 In addition, the flags have many similarities that make them comparable. The discipline of vexillology classifies the parts of the flags as follows. The staff is the pole itself from which the flag is flown (this does not constitute a part of the flag, but all the other parts of it are defined relative to it). The field is the basic area or background color of the flag (e.g., in the flag of Vietnam the base is red). A charge is the emblem placed on the field of the flag (e.g., in the Vietnamese flag, it is the yellow star in the middle). As regards the basic charges of the flags, see Znamierowski, 2001, p. 27. The hoist is the part of the flag closest to the staff, while the fly is the part placed farthest from it. In a broader sense, canton means any quarter of a flag divided into four parts; however, it is mostly used in a stricter sense, meaning the upper quarter nearest the staff (e.g., the miniature Union Jack in the flags of the sovereign countries that belong to the British Commonwealth is in this canton, as are many other important symbols and emblems in other countries). In addition, the ratio of the width to the length of the flag also plays a significant role (cf. Wills, 2008, p. 7; Znamierowski, 2001, p. 26). Moreover, several other similarities can be observed in the flags of different states, which can be divided into groups based on their visual content and appearance. The most important groups are the following: tricolor (the term originates from the three colors of the French flag—the *Tricolour*—blue, white, and red in a vertical arrangement, though the three or stripes may also be arranged horizontally); in a strict sense, the term is applied to flags with three classic equal stripes, but today, the term is also applied to flags with stripes of unequal width or divided diagonally into three parts (cf. Smith, 1975, p. 30); tribar (flags with three stripes but only two colors, e.g., the flag of Austria, Spain, or Nicaragua); bicolor (flags with two stripes, arranged vertically, horizontally, or diagonally, e.g., the flag of Poland); cross (where the cross is vertical, centrally placed, and extends to the whole flag, pl. Georgia); “Scandinavian cross” (a cross with upright set closer to the hoist than to the fly—unsurprisingly, typical of the flags of

as well as the commonly used colors,⁴⁸ while the customary requirement for anthems is that they expected to be a piece of music (whether of folk music or created by a specific composer) that can also be performed as a short orchestral work. (As we have seen above, the existence of lyrics is not such a criterion; nevertheless, with four exceptions, all state anthems have lyrics).

In addition, many states draw inspiration from the symbols of other states. The reason for this may also be that the given country intends to express a close emotional or cultural community with another state or its people; also, a country may use the symbols of other countries as a model simply for aesthetic (or even convenience) reasons when creating its own symbols. The latter represents the exception—for example, the melody of the British national anthem was previously adopted by many countries when creating their anthem—in fact, Liechtenstein still uses this melody with its own lyrics as its anthem—and the former is the general rule.⁴⁹ There are many examples of cultural or, indeed, economic, political or other practical influence (the stars-and-stripes American flag dating from 1777 influenced many countries in the world;⁵⁰ the British Union Jack had an effect on Commonwealth countries; the hammer-and-sickle had an impact on the former communist states (state socialist countries based their flag on that of the former Soviet Union); the star and crescent in the flags of Muslim states originally appeared on the Turkish flag;⁵¹ the use of Slavic colors is present in many Slavic countries, in different variations, based on the Russian model; the French tricolor influenced the choice of flag in countries sympathizing with the French revolutionary ideas and had an impact on the former French colonies, etc.).⁵²

Scandinavian countries, such as the flags of Denmark, Finland, Iceland, Norway, and Sweden); and “saltire” (a diagonal cross from corner to corner, e.g., the flag of the United Kingdom), cf. Wills, 2008, p. 6; Smith, 1975, p. 24.; “couped cross” (e.g., Switzerland); “bordered” (e.g., the Maldives, Grenada); “triangled” (e.g., the Czech Republic); “serrated” (e.g., Qatar); “fimbriated” (e.g., Guyana); and flags that do not fit into any traditional categories (e.g., North Macedonia, Brunei, Seychelles, Zambia, etc.).

48 For our analysis, white, black, and gray, which are lacking hue, are also considered colors; thus, we use the term “color” in its ordinary sense, applying it not only to chromatic but also to achromatic colors. Red, blue, white, yellow, green, and black are the colors used most often in flags. On the contrary, orange, brown (which is not applied as a livery color in any flag; it appears only in figures, e.g., in the coat of arms or emblem on the flag), grey and purple are rarely used, and there are colors that do not appear in flags at all (e.g., pink). For the indication of the so-called “livery colors,” an international code is applied, compiled by the International Federation of Vexillological Associations (Znamierowski, 2001, p. 28).

49 Cf. Nettl, 1967, pp. 39–47.

50 Among the flags still in use today, the flags of Liberia and Malaysia were inspired by the flag of the USA.

51 In addition, black (which may have been the color of Mohammed’s banner) and green (adopted by the Fatimid dynasty) are also typical colors in the flags of Muslim countries. (Cf. Firth, 1973, p. 336–337.)

52 Cf., e.g., Firth, 1973, pp. 336–338. These are the so-called flag families. (See, in more detail: Znamierowski, 2001, pp. 100–129.)

4. The constitutional regulation⁵³ of state and national symbols in European countries

In all countries of Europe, except for the United Kingdom, a so-called written constitution is in force, whose provisions can be examined as the constitutional regulation of a given state. The British Constitution is not enacted in the form of such a single public-law document, so we will dispense with its comparative analysis in the following, noting that there are, of course, symbols in the United Kingdom as well, but no separate laws were adopted on them.⁵⁴ In the following, we will review the countries of Europe, with the exception of the aforementioned United Kingdom, namely the constitutions of the following countries (using the common but unofficial name used in everyday communication): Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russia, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.

We drew up that list based on the geographic concept of Europe, but we modified (supplemented) it in certain cases, for cultural reasons or in consideration of the actual political situation. We also tried to involve those entities in the comparative legal analysis that have the (external and internal) features of statehood, even though this is not easy to clearly determine in certain cases. The inclusion of most of the

53 The sources of the text of the state constitutions examined are, partly, the OSCE/ODIHR database “Legislationline” (<https://legislationline.org/>), and, where it was necessary to be updated, the official websites of the given state’s parliament, government or constitutional court.

54 The United Kingdom does not have a separate national coat of arms, but the royal coat of arms is applied which took its current form in the nineteenth century (except in Scotland, where a modified form of that coat of arms is used). There are also no statutory requirements for its use; as to who can use it, apart from the queen/king, where and on what occasions (the government, government bodies, courts, etc.), only customary law provides guidance, which is of course constantly changes, as it is typical for the historic legal development of the entire English law. Originally (even after the conquest of Wales in the thirteenth century), the flag was the English Saint George Cross flag, which is still known today, from which a mixed flag of the English Saint George Cross flag and the Scottish Saint Andrew flag was created, as a symbolic representation of the personal union established between England and Scotland in 1601. Today’s flag, the so-called Union Jack was created as a result of the 1801 union between Ireland and Great Britain, by the unification of the motifs of the earlier flag and that of the Irish Saint Patrick flag, the use of which is also not regulated by law. Finally, there are no certain knowledge about the sources of the anthem, there are speculations and historical debate about its author; the first known time when it was publicly sung was in 1745 after a theatre performance, and it was first mentioned as the anthem in 1825. There has been no written legal regulation concerning its use ever since; even the part of its lyrics directed against the Scots was removed on the basis of customary law, and not by means of a statutory legal provision.

listed countries in the sample does not require any further explanation. All the states that can be considered as part of Europe in a geographical sense, and recognized by the vast majority of other European countries, were included in the analysis (including Kazakhstan, Georgia, and Azerbaijan, which have some European territory). We supplemented this with the members of the Council of Europe (having similar characteristics); that is how (the Republic of) Cyprus⁵⁵ and Armenia were included in the analysis, since even though they may not belong to Europe geographically, they most certainly do so in a cultural sense. As of March 16, 2022, the Russian Federation has not been a member of the European Council, and even though it is entitled to membership in principle, Kazakhstan is not (and has never been) a member; nonetheless, Russia (and Kazakhstan) are subjects of the comparative legal examination. Since many republics of the former Soviet Union, now independent states, are part of Europe in a geographical and cultural-political sense, including not only the Baltic states—Russia, Belarus, and Moldova—but also Armenia, Azerbaijan, and Georgia, and since Kazakhstan also has territory belonging to Europe (and, thus, we included it in the analysis), we saw no reason to omit Kyrgyzstan, Uzbekistan, Tajikistan, and Turkmenistan, which have similar political and legal system to the said countries (or to Russia itself, or to Belarus), and inherited a similar political heritage from the former Soviet Union. We omitted the *de facto* states lacking international recognition (that is, recognition by most European countries), for example, Transnistria, (the Turkish Republic of) Northern Cyprus, Abkhazia, Artsakh (the former Nagorno-Karabakh), and South Ossetia. We also have not examined the Vatican. However, Kosovo is part of the sample, since it is recognized by about two-thirds of the European states (that is, 34 countries) and many other UN member states as well, and it actually functions as a state in the Balkans. Finally, we did not consider the regulation of national symbols, the autonomy, etc. of the member states, cantons, or autonomous regions without independent state sovereignty, unless protection is provided to the concerned symbols by the constitution of the sovereign state, ensuring the given autonomy.

Turning now to the general European features of the constitutional regulation of state symbols, written constitutions of European countries usually regulate the state (and/or national) symbols (to which we will jointly refer as state symbols) at the beginning of the constitution, among the most important, fundamental provisions. The only exceptions are Bulgaria, Norway, and Russia. Moreover, the state symbols are most often regulated together with the official language or languages, and the capital (and sometimes the official state religion) of the given state. This, of course, does not mean that the latter ones are also “state symbols.”⁵⁶

55 Among the European countries (and UN member states) Cyprus is not recognized only by Turkey.

56 It should be noted that the regulation of the capital (or the indication of the name of the capital) is often discussed in literature among state symbols; although there is no doubt that the capital is a place of special importance for a given state (and its citizens), it cannot be considered a symbol in a sense we apply in our analysis. (More so, because the “insult” of the capital, the defamation of the name of the capital, or any similar offenses are not regulated by law in any European country; at

As regards the constitutional regulation, we can distinguish between states whose constitution regulate each of the three traditional symbol types (I); those whose constitution mention only two of them (II); those whose constitutional provisions concern only one of them (III); and those where reference to (any) symbol types is omitted in the constitution (IV) This classification is further refined by the fact that sometimes other state symbols are also regulated in the constitution of a given country.

Ad I). In the relatively most frequent type among the 53 examined countries (25 countries apply this type of regulation in total), each of the three classic state symbols (coat of arms, flag, and anthem) appears in the constitution.

I/A). In 20 countries, these three symbols (and only those) are regulated in the constitution.⁵⁷ In most of them, that is, in 11 countries (the constitutions of Andorra, Belarus, Georgia, Kazakhstan, Kyrgyzstan, North Macedonia, Russian Federation, Serbia, Tajikistan, Turkmenistan, Uzbekistan), the symbols of the given state are merely mentioned, without a precise description of the coat of arms or flag, or without specifying the musical piece used as anthem. In addition, the constitutions of two states (Armenia and Moldova) determine the coat of arms and the flag, and merely mentions the anthem as an existing state symbol.⁵⁸ There are seven (typically Central Eastern and Central European) countries, where the main features of the appearance of all three main state symbols are defined in the constitution. (This is the case in Azerbaijan, Croatia, Hungary, Lithuania, Montenegro, Slovenia, and Ukraine).

As regards the flag, Azerbaijan and Slovenia deserve special attention, as the ratio of the width and length of the flag is also determined at a constitutional level.⁵⁹ The regulation of Hungary is unique to the extent that not only the colors of the flag (and their arrangement) are determined in the constitution but also the things

most, the illegal use of the name of the capital may be unlawful as an infringement of trademark or geographical indication.) Similarly, important historical figures, memorial sites, animals, plants, mythical creatures, fables, folk songs, etc., which are considered to be central elements of the respective folklore, cannot be considered “symbols” in a strict sense, or be discussed in connection with the legal regulation. Those are addressed by the scholarships of history, ethnography, literature, etc., their investigation from the aspect of legal science, in the context of the regulation of symbols is not justified, and it would stretch the framework of the current scope of analysis. Thus, other symbolic contents provided for in the constitutions are not “symbols” and other normative contents are not symbols of the “state” or the “nation” but should be deemed as the constitution’s (own) symbols. (Cf. Smuk, 2014, p. 1.)

57 Andorra (Art. 2), Armenia (Art. 21), Azerbaijan (Art. 23), Belarus (Art. 19), Croatia (Art. 11), Georgia (Art. 2), Hungary (Art. I), Kazakhstan (Art. 9), Kyrgyzstan (Art. 11), Lithuania (Art. 15–16), Moldova (Art. 12), Montenegro (Art. 4), North Macedonia (Art. 5) (only mentioned), Russian Federation (Art. 70), Serbia (Art. 7), Slovenia (Art. 6), Tajikistan (Art. 3), Turkmenistan (Art. 15), Ukraine (Art. 20), Uzbekistan (Art. 15).

58 Both expressly provide that this will be determined by a separate law.

59 “The ratio of the width to the length is one by two” (Constitution of Azerbaijan, Art. 23, para. II, sentence 4); “the ratio of the width of the flag to the length thereof is one to two” (Constitution of Slovenia, Art. 6, para. 2, sentence 2).

symbolized by each color.⁶⁰ The constitutions of Serbia and Slovenia mention that there is a difference between the state flag and the national flag,⁶¹ and the constitution of Ukraine includes a similar reference regarding the anthem.⁶² Moreover, in Serbia and in Ukraine, the small and large state coat of arms are also distinguished⁶³ (as well as in the Czech Republic).⁶⁴

I/B). There are five countries (Albania, Bulgaria, the Czech Republic, Romania, and Slovakia) where other symbols also exist in addition to the above standard threefold symbol system.⁶⁵ The most frequent among such additional symbols is the state seal, recognized as a state symbol by the constitutions of all five countries.⁶⁶ (It is interesting that the state seal is recognized as a state symbol in the constitutions of only two additional European countries, namely in Austria and Kosovo. This means that apart from Austria and Kosovo, the seal is only regulated in countries where all three of the traditional symbols are provided for in the constitution.)⁶⁷ In Romania, beyond the anthem, flag, coat of arms and the state's seal, there is another special symbol, "National Day," which is December 1 in the constitution.⁶⁸ Finally, the Czech Republic has the most complex state symbol system regulated at a constitutional level (not only among the said five countries but all the countries in Europe). In

60 "The flag of Hungary shall feature three horizontal bands of equal width colored red, white and green from top to bottom as the symbols of strength, loyalty and hope, respectively" (Constitution of Hungary, Art. I, para. 2).

61 "The flag of the Republic of Serbia shall exist and be used as the national flag and state flag" (Constitution of Serbia, Art. 7, para. 3); "the flag of Slovenia is the white-blue-red Slovene national flag with the coat of arms of Slovenia." (Constitution of Slovenia, Art. 6, para. 2).

62 "The state Anthem of Ukraine is the national anthem set to the music of M. Verbytskyi..." (Constitution of Ukraine, Art. 20, para. 5).

63 "The coat of arms of the Republic of Serbia shall be used in the form of the Large Coat of Arms and Small Coat of Arms." (Constitution of Serbia, Art. 7, para. 2); "the Great state Coat of Arms of Ukraine shall be established with the consideration of the Small state Coat of Arms of Ukraine and the Coat of Arms of the Zaporozhian Host..." (Constitution of Ukraine, Art. 20, para. 3).

64 Constitution of the Czech Republic, Art. 14, para. 1. (For more detail, see below.)

65 Albania (Art. 14), Bulgaria (Art. 164–167), the Czech Republic (Art. 14), Romania (Art. 12), Slovakia (Art. 9).

66 "The seal of the Republic of Albania is a red shield with a black, two-headed eagle in the center. At the top of the shield, in gold, is the helmet of Skanderbeg" (Constitution of Albania, Art. 14, para. 3); "the state seal shall depict the coat of arms of the Republic of Bulgaria" and "The rules for the placing of the state seal and the display of the national flag shall be established by law. The rules for the placing of the state seal and the display of the national flag shall be established by law" (Constitution of Bulgaria, Art. 165 and 167); "The state seal of the Slovak Republic is formed by the state emblem of the Slovak Republic encircled by the inscription "Slovenská republika" [the Slovak Republic]." (Constitution of Slovakia, Art. 12, para. 3). In addition, Art. 14 para. 1 of the constitution of the Czech Republic and Art. 12 para. 4 of the constitution of Romania mention the seal.

67 In Austria, in addition to the state colors, the flag and the coat of arms, there is only one reference to the role of the seal as the subject of further legislation: "Detailed provisions, in particular as to safeguard of the colors, the coat of arms, and the seal of the Republic, are settled by Federal law" (Constitution of Austria, Art. 8a, para. 3). In Kosovo, the seal is explicitly included among the indicted state emblems (in addition to the flag and the anthem), but a detailed definition of its appearance is, again, absent (Constitution of Kosovo, Art. 6, para. 1).

68 Constitution of Romania, Art. 12, para. 2.

addition to the traditional three symbols, the so-called small and large coat of arms are distinguished, indicated as “small and large state emblems” by the constitution. Moreover, the constitution identifies the state seal, the “state colors” and “the flag of the president of the Republic” as symbols.⁶⁹

Ad II). The second large group consists of nine countries where only two of the three traditional symbols (anthem, flag, and coat of arms) are identified as state symbols (and some of them provide for further special symbols as well).⁷⁰

II/A). The first sub-category of this group consists of those five countries where only the flag and the anthem are regulated (but not the coat of arms). Portugal and Turkey belong to this subcategory, where only these two symbols are indicated at a constitutional level, as well as France, Kosovo, and Malta, where additional special state symbols are also provided for. The regulation adopted in France is unique in Europe for several reasons. First, the “national emblem” is the flag itself, that is, the tricolor, instead of the coat of arms. Second, and this is unique in Europe, the “maxim” rooted in the French Revolution (“Liberty, Equality, Fraternity”) is also a state symbol. Third, there is a “principle of the Republic,” saying “government of the people, by the people, and for the people.” Although this is not a “symbol” (nor is the French official state language governed by the same article), but has a role equivalent to a symbol. In Kosovo, the seal is identified as a (traditional) state symbol in addition to the flag and the anthem,⁷¹ just like the George Cross in Malta, which has a significant role also as an emblem depicted on the flag.

II/B). The second sub-category is characterized by the fact that only the flag and the coat of arms are regulated in the constitution (but not the anthem). This is the case in three states: in Monaco (where the state coat of arms is also the coat of arms of the prince and it is regulated as such),⁷² in Austria (where, in addition, the “state colors” are regulated and the seal is mentioned as a state symbol), and in Estonia (where the “national colors” are regulated in addition). It is interesting that in Estonia, not only the flag but also the coat of arms is “national,” and not “state” symbol, which differs from European practice (the coat of arms is typically “state,” and not “national” symbol in European countries).

69 “The small and large state emblem, the state colors, the state flag, the flag of the president of the Republic, the state seal, and the national anthem are the state symbols of the Czech Republic.” (Constitution of the Czech Republic, Art. 14, para. 1.) Moreover, even more national symbols exist at the level of regular statutes: a military emblem, national distinctive emblem, and emblem of the president’s Castle Guard (cf. Knoll, 2011, p. 1–4).

70 Austria (Art. 8a), Estonia (Art. 7), France (Art. 2), Kosovo (Art. 6), Malta (Art. 3–4), Monaco (Art. 7), Poland (Art. 28), Portugal (Art. 11), Turkey (Art. 3).

71 These two symbols are only mentioned in the constitution of Kosovo, with reference to separate legal regulation. A separate law regulates the appearance, display and protection of state symbols, distinguishing national symbols, which are not regulated in the constitution, and state symbols, and refers the regulation of the protection of the former to a separate law.

72 “The Standard of the Prince consists of the coat of arms of the House of Grimaldi upon a white ground” (Constitution of Monaco, Art. 7, para. 1).

II/C). Finally, the third sub-category of the second group of countries encompasses the states that regulate at the constitutional level only the coat of arms and the anthem (but not the flag). There is only one such country in Europe, namely Poland, which, however, expressly provides for the “national colors” (instead of the flag) as an additional symbol.

Ad III). There are nine countries where only one of the three main state or national symbols are identified at a constitutional level.⁷³ The vast majority of these countries (seven out of the nine) regulates the flag (but not the anthem and the coat of arms), and two of them regulate the coat of arms (but not the flag and the anthem). The constitutions of Cyprus, Germany, Ireland, Italy, Latvia, Norway, and Spain (*III/A*) only provide for the flag and no other additional or special symbols. Two of those countries have particularly intriguing constitutional regulations. The first one is Cyprus, the constitution of which, on the one hand, does not describe the appearance of the flag, nor does it authorize any separate laws to do so, but merely says the following: “The Republic shall have its own flag of neutral design and color, chosen jointly by the president and the vice president of the Republic.”⁷⁴ On the other hand, it includes detailed provisions on the use of the flag of Cyprus, as well as the use of the Greek and Turkish flags along with it (or, for private persons, even separately).⁷⁵ The second one is Spain; the Spanish constitution allows certain self-governing communities to use their own flags or banners (also along with the Spanish flag).⁷⁶ Finally (*III/B*), the constitution of Liechtenstein and Belgium regulate exclusively the coat of arms as state symbol (but not the anthem and the flag). However, instead of providing for the flag, both regulate the “national colors.”⁷⁷ (There is no state in Europe that regulates the anthem as a single symbol.)

73 Belgium (Art. 193), Cyprus (Art. 5), Germany (Art. 22), Ireland (Art. 7), Italy (Art. 12), Latvia (Art. 4), Liechtenstein (Art. 5), Norway (Art. 120), Spain (Art. 4).

74 Constitution of Cyprus, Art. 4, para. 1.

75 Constitution of Cyprus, Art. 4: “...2. The authorities of the Republic and any public corporation or public utility body created by or under the laws of the Republic shall fly the flag of the Republic and they shall have the right to fly on holidays together with the flag of the Republic both the Greek and the Turkish flags at the same time. 3. The Communal authorities and institutions shall have the right to fly on holidays together with the flag of the Republic either the Greek or the Turkish flag at the same time. 4. Any citizen of the Republic or any body, corporate or unincorporate other than public, whose members are citizens of the Republic, shall have the right to fly on their premises the flag of the Republic or the Greek or the Turkish flag without any restriction.”

76 “The Statutes may recognize flags and ensigns of the Self-governing Communities. These shall be used together with the flag of Spain on their public buildings and in their official ceremonies” (Constitution of Spain, Art. 4, para. 2).

77 The constitutional regulation of Belgium is particularly interesting, since it does not explicitly specify that the “national colors” would be red, yellow, and black colors, and it does not explicitly indicate that the coat of arms of Belgium would be the official state coat of arms of Belgium; instead, the constitution only says that the “Belgian nation” “adopts” them. To quote it: “The Belgian nation adopts red, yellow and black colors, and as arms of the kingdom the Lion of Belgium with the motto: UNION IS STRENGTH.” (One might think of asking whether the motto is an official state symbol in Belgium, as, for example, in France; however, in Belgium, the constitution does not refer to it as

Ad IV). Finally, in the constitutions of 10 European countries (Bosnia and Herzegovina,⁷⁸ Denmark, Finland, Greece, Iceland, Luxembourg, the Netherlands, San Marino, Sweden, and Switzerland), there are no references to state (or national) symbols at all.

Overall, at a constitutional level, in most of the 53 European countries with written constitutions examined according to the above approach, the constitution indicates the name of the state (and/or national) symbols. Forty-three European countries provide for at least one such symbol, and the constitution of only 10 countries include no reference to state symbols. In 25 of the countries, all three classical symbols can be found (supplemented with a few additional symbols in five of them). Only two symbols are provided for in nine countries (in a diversity of variations), and only one in nine others. If we separately examine how specifically the constitutions of these 43 countries define the symbols, we will see that their description or designation can be considered typical (for example, the indication of the specific song or musical piece that serves as the anthem). Only 13 countries have constitutional regulations that merely mention the relevant symbol(s),⁷⁹ and in three others, some types of symbols are not described or otherwise defined in the constitution itself.⁸⁰

However, regardless of whether these symbols are simply mentioned in the constitution or whether it also gives their definition or description, it is also typical that constitutions often refer the symbols for further detailed regulation. This type of express statutory delegation occurs in most of the constitutions of the 43 countries that at least mention symbols at a constitutional level; to be precise, it occurs in 24 European countries.⁸¹ Another interesting fact is that there are

an independent symbol, but merely as part of the description of the state coat of arms, so, unlike in France, we do not consider it an independent state symbol (that is, independent of the coat of arms).

78 Among the said 10 countries, only the constitution of Bosnia and Herzegovina includes at least a reference to the state symbols, when providing that “Bosnia and Herzegovina shall have such symbols as are decided by its Parliamentary Assembly and approved by the Presidency” (Art. I, para. 6).

79 Andorra (Art. 2), Belarus (Art. 19), Georgia (Art. 2), Kazakhstan (Art. 9), Kosovo (Art. 6), Kyrgyzstan (Art. 11), North Macedonia (Art. 5), Norway (Art. 120—only in the case of the flag, as there are no other symbols in the constitution), Russian Federation (Art. 70), Serbia (Art. 7), Tajikistan (Art. 4), Turkmenistan (Art. 15), and Uzbekistan (Art. 15).

80 Moldova (Art. 12—only the anthem is mentioned, the rest is regulated), Romania (Art. 12—only the coat of arms and the seal is mentioned, the rest is regulated), Armenia (Art. 21—the anthem is only mentioned).

81 Albania (Art. 14), Armenia (Art. 21), Austria (Art. 8a), Azerbaijan (Art. 23), Bulgaria (Art. 167—but only on the “use” of the symbols, not on their determination), Croatia (Art. 11), Czech Republic (Art. 14), Georgia (Art. 2), Hungary (Art. I), Kazakhstan (Art. 9), Kosovo (Art. 6), Kyrgyzstan (Art. 11), Lithuania (Art. 15—only in the case of the flag and the coat of arms), Moldova (Art. 12), North Macedonia (Art. 5), Norway (Art. 120—only in the case of the flag, there are no other symbols in the constitution), Poland (Art. 28), Russian Federation (Art. 70), Serbia (Art. 7), Slovakia (Art. 9), Slovenia (Art. 6—but only on the “use” of the symbols, not on their determination), Turkey [Art. 3—but only in the case of the flag, as regards its detailed description, but not in the case of the anthem (and the coat of arms is not even mentioned in the constitution)], Turkmenistan (Art. 15), Ukraine (Art. 20).

12 countries whose constitutions contain special procedural provisions for the determination of state symbols. Most of these require the regulation of a statute adopted in a special way (usually with a qualified majority) compared to the regular legislative process (“constitutional law,” “organic law,” “cardinal act,” etc.),⁸² but some of the constitutions define special procedural provisions themselves (e.g., the constitution of Bosnia and Herzegovina⁸³ or Ukraine,⁸⁴ as well as the constitution of Cyprus⁸⁵). The most extraordinary, however, appears to be the Turkish constitution, since it includes an eternity clause concerning the regulated state symbols, namely the flag and the anthem (and concerning also the capital, Ankara, provided for in the same article, and two other articles on the republic as the form of state and its essential features). The eternity clause stipulates that these provisions are unchangeable, as they “shall not be amended, nor shall their amendment be proposed.”⁸⁶

It is also interesting that, in addition to or instead of the national flag, some (six, to be precise) constitutions, as already mentioned above for these countries, provide for national colors as an explicit national symbol.⁸⁷ That occurs in Austria,⁸⁸ the Czech Republic,⁸⁹ Estonia⁹⁰ (in these constitutions, the flag and the colors are regulated parallelly, as separate symbols), as well as in Liechtenstein,⁹¹

82 Azerbaijan (Art. 21), Georgia (Art. 2), Hungary (Art. I), Kazakhstan (Art. 9), North Macedonia (Art. 5), Romania (Art. 12), Russian Federation (Art. 70). The constitution of Monaco prescribes that “the use of these standard and flag is governed by the provisions of the *sovereign ordinance* dated April 4, 1881” (Art. 7).

83 “Bosnia and Herzegovina shall have such symbols as are decided by its Parliamentary Assembly and approved by the Presidency” (Constitution of Bosnia and Herzegovina, Art. I, para. 6).

84 “The Great state Coat of Arms of Ukraine shall be established...by the law adopted by no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine” (Constitution of Ukraine, Art. 20, para. 3). “The description of the state symbols of Ukraine and the procedure for their use shall be established by the law adopted by no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine.” (Constitution of Ukraine, Art. 20, para. 6).

85 “The Republic shall have its own flag of neutral design and color, chosen jointly by the president and the Vice-president of the Republic” (Constitution of Cyprus, Art. 4, para. 1).

86 Constitution of Turkey, Art. 4.

87 This greatly facilitates the identification of cases of flag desecration, as it enables action to be taken against acts that desecrate the ideological content carried by the national symbol, and not only an object. (Another possible solution, of course, is if the legislature or the bodies applying the law abandon the often-hopeless attempts to delimit the conducts of flag desecration, that is, to distinguish them from other acts that do not violate the flag itself. The objective problems of this sort of practical distinction are highlighted, e.g., by Levinson, as he draws attention to the fact that it would be impossible to precisely define the actions that can be committed against the different media depicting the flag or its colors in various forms and visual images (cf. Levinson, 1993, pp. xv–xx).

88 “Colors of the Republic of Austria” (cf. Constitution of Austria, Art. 8a, para. 1).

89 “State colors” (cf. Constitution of the Czech Republic, Art. 14, Art. 1).

90 “National colors of Estonia” (cf. Constitution of Estonia, Art. 7).

91 “National colors” (cf. Constitution of Liechtenstein, Art. 5).

Belgium, and Poland⁹² (where the constitution provides for national colors instead of the state or national flag). We also mentioned above that, as an additional, constitution-level state symbol, the seal is regulated in a few European countries (Albania,⁹³ Austria,⁹⁴ Bulgaria,⁹⁵ the Czech Republic,⁹⁶ Kosovo,⁹⁷ Romania⁹⁸ and Slovakia⁹⁹), while, respectively, one constitution provides for the flag of the president of the Republic (Czech Republic),¹⁰⁰ for a “National Day” (Romania),¹⁰¹ for a maxim (France),¹⁰² a principle (France),¹⁰³ and a certain specific emblem (the “George Cross” in Malta¹⁰⁴). There are additional distinctions in a few certain countries: between the small and the large state coat of arms in the Czech Republic,¹⁰⁵ Serbia,¹⁰⁶ and Ukraine;¹⁰⁷ the state and the national flag in Serbia¹⁰⁸ and Slovenia;¹⁰⁹ the state and the national anthem in Ukraine;¹¹⁰ and the distinction between the state symbols and the national symbols in Kosovo (where the latter are not regulated in the constitution).¹¹¹ Finally, with regard to the flag, it should be noted that there are only two countries (Azerbaijan and Slovenia) that provide for the ratio of the width and the length of the flag,¹¹² and only one (Hungary) whose constitution presents the symbolism behind the colors of the flag, that is, the meaning of each color.

92 “Colors of the Republic of Poland” (cf. Constitution of Poland, Art. 28, para. 2).

93 Constitution of Albania, Art. 14.

94 Constitution of Austria, Art. 8a.

95 Constitution of Bulgaria, Art. 165.

96 Constitution of the Czech Republic, Art. 14, para. 1.

97 Constitution of Kosovo, Art. 6, para. 1.

98 Constitution of Romania, Art. 12, para. 4.

99 Constitution of Slovakia, Art. 9, para. 3.

100 Constitution of the Czech Republic, Art. 14, para. 1.

101 Constitution of Romania, Art. 12, para. 2.

102 Constitution of France, Art. 2, para. 4.

103 Constitution of France, Art. 2, para. 5.

104 Constitution of Malta, Art. 3, para. 2.

105 Constitution of the Czech Republic, Art. 14, para. 1.

106 Constitution of Serbia, Art. 7, para. 2.

107 Constitution of Ukraine, Art. 20, paras. 3–4.

108 Constitution of Serbia, Art. 7, para. 3.

109 “The flag of Slovenia is the white-blue-red Slovene national flag with the coat of arms of Slovenia.” (Constitution of Slovenia, Art. 6, para. 2)

110 Constitution of Ukraine, Art. 20, para. 5.

111 “The appearance, display and protection of the flag and other state symbols shall be regulated by law. The display and protection of the national symbols shall be regulated by law” (Constitution of Kosovo, Art. 6, para. 2).

112 Constitution of Azerbaijan, Art. 23, para 2; Constitution of Slovenia, Art. 6, para. 2.

5. Criminal law protection¹¹³ of the state and national symbols in Europe

5.1. Theoretical aspects of the protection of symbols under criminal law

The legislative decision on the punishability of the violation of state symbols is based on the political evaluation on the collision of two values worth being protected. On the one hand, there exists the dignity of the national community and the state (which, in most cases, embodies the titular nation and/or the totality of its citizens), the protection of which is essentially the protection of the dignity of the individuals who make up the community. On the other hand, one of the most important fundamental rights is freedom of expression, which protects the communication of one's ideas in whatever form. In the jurisprudential thinking, three modes of justification have been elaborated to protect freedom of expression. This protection can serve 1) searching for the truth, 2) democracy, and 3) personal liberty. The service of truth and the service of democracy can be called the instrumental or collective or utilitarian justification of freedom of expression, whereas the principle of individual autonomy can be called the constitutive or individual or deontological justification thereof.

From a historical point of view, initially John Stuart Mill's argument for searching for the truth became the key concept that grounded theoretical conceptualization. According to Mill, there are three cases in which an opinion can be suppressed, and all three of them have negative implications for society as a whole; hence, the persecution of opinions is incorrect from a utilitarian perspective.

The first case is when the opinion is true. No matter how uncomfortable or harmful an opinion is, it may nevertheless be true; not even the majority can state that they possess the ultimate truth or that they are infallible. Suppressing an opinion that is true is wrong not because it is unjust, but because it leads society astray—in other words, it leads to bad decisions in practice.

The second case is when both the suppressed opinion and the majority opinion are partially true; in this case, the former can complete the latter; hence, the partially true opinion can contribute to the development of knowledge. In this case, it is not a problem (or it can even be an advantage, according to Mill) if the promoters of the suppressed, partially true opinion advocate it as an ultimate and perfect truth, because a radical opinion is much more likely to make the audience or the readers think.

Finally, the third case is if the suppressed minority opinion is false and the majority opinion is true. Many believe that banning a false opinion (sanctioned by the state) can be useful; however, this is not the case. A false (and harmful, immoral, shocking, etc.) opinion can be used to clash with both the truth and possible

¹¹³ The sources of the text of the criminal codes analyzed are the OSCE/ODIHR Legislationline database (<https://legislationline.org/>) or other official websites (except for Greece—see below).

counterarguments, hence the majority, true opinion can be reinforced by reacting to the false arguments. If we do not allow an opinion to be challenged, then the “truth” will be degraded to pure prejudice or dogma. (These latter are in fact two separate results—so, according to Mill, the abovementioned three possibilities are in fact four possibilities.)¹¹⁴

The second possible justification of freedom of expression is the service of democracy, which is likewise a utilitarian argument.¹¹⁵ According to this notion, freedom of expression is important, because a democracy cannot be imagined without it; the free debate in public affairs is in the interest of every member of the political community. People can only express their will in a given issue if they are aware of the underlying facts, arguments, and counterarguments; if people are precluded from gaining knowledge in public affairs, then they are virtually denied the right to make responsible and informed decisions.

Finally, the argument of autonomy,¹¹⁶ that is, the constitutive justification of freedom of expression, protects free speech as the expression of personality, irrespective of any external social aim;¹¹⁷ therefore, with this approach, the protection of

114 In Mill’s own words: “We have now recognized the necessity to the mental well-being of [human-kind] (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds....First, if any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility. Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied. Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds and not only this, but, fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience” (Mill, 2001, pp. 49–50).

115 The first wording of this thought can be read in Meiklejohn’s book; cf. Meiklejohn, 1965, pp. 9–10. [It must be added that Meiklejohn kept in mind the model of municipal local self-government, so his views (e.g., the possibility of free participation and speaking at the “meeting”) can only be used to a limited extent at national level, and that speech is only meaningful to the public when it comes to political matters (i.e., public affairs); otherwise, it may be limited.]

116 However, autonomy can be not only the autonomy of the communicator but also of the recipient. According to Scanlon, for instance, the state can only address the rights of its citizens in so far as this state intervention leaves citizens with the opportunity to continue to regard themselves as “equal, autonomous, and rational agents” (cf. Scanlon, 1972, p. 215).

117 According to constitutive or moral justifications, freedom of speech is to be defended solely on the grounds (regardless of the consequences of the protection) that it is an essential feature of a just political community to regard all responsible members (responsible moral agents) as responsible persons, however, the justification of autonomy has two dimensions. On the one hand, any morally responsible individual has the right to be aware of opinions that convince him that his previous view was wrong; on the other hand, they also have the right to declare their own convictions, regardless of whether anybody else considers these convictions to be true or valuable (Dworkin, 1996, pp. 200–201).

free speech is an end in itself, and the expression of personality is an intrinsic value. In Ronald Dworkin's view, the search for truth and the service of democracy are two parts of the *instrumental justification* of freedom of expression, while the argument of individual autonomy (which ensures the self-expression and the deployment of the personality) is called the *constitutive justification* of freedom of expression.¹¹⁸

However, freedom of expression is not an unrestrainable right; the rights of individuals or the interests of communities can be legitimate aims and reasons for limitation. This aspect is reflected (as it will be shown) in the legislation of most of the European states, and justifies the protection (including criminal protection) of symbols expressing the unity of the community under constitutional provisions.

The protection of state symbols (including also national symbols protected by the state) may appear at several different levels in the countries of the world. Regardless of whether the constitution provides for the state symbols, they exist in (almost) every country. In almost every case, a country has (at least) its own flag, anthem, and coat of arms, in terms of which provisions may be prescribed in several different branches of law. Also, these provisions may be rather diverse, depending on how strong the natural community cohesion is in the given country, or how they intend to create it on a political basis. For example, in the USA the Pledge of Allegiance to the flag held at the beginning of a school day serves to express and create patriotic feelings.¹¹⁹ However, at the same time, as a sign of respect for political opinion (and of the fact that freedom of speech has a prominent social value), speech related to national symbols (as long as it does not pose a "clear and present danger" to society, that is, it does not incite hatred and violent acts) is not punishable.¹²⁰

In the United States, as opposed to most of the European countries, the desecration of state symbols (especially the most common case in practice, flag desecration) is supposed to be, virtually, an admissible form of political expression, including political dissent, which usually means resentment against a state symbolized by any state symbols (typically the flag) or protest against a specific state measure, and is basically related to the freedom of expression.¹²¹ Flag burning or other forms of desecration of the flag or other symbols is an act falling into the scope of political and public speech (permitted or prohibited, depending on the given country). As it is well known to everyone, it is allowed in the United States, because due to the right to free speech (the freedom of political expression), and the classical liberal political philosophy behind it, a more important social interest is related to the dissemination of ideas and the possibility of influencing public opinion than to the protection of the ideological content embodied in a symbol (which can be disputed in terms of its

118 Cf. Dworkin, 2009, pp. v–ix.

119 Cf. Kolstø, 2006, p. 677.

120 For the history of the test of "clear and present danger": its development from its first appearance in 1919 in the *Schenck* case (and the *Frohwerk* and *Debs* cases decided in parallel) to the so-called *Brandenburg* test as it is used today, elaborated in 1969, and its impact outside the US, cf. Barnum, 2006, pp. 263–292.

121 Cf. Duggal and Sridhar, 2006, p. 146.

essence in a democracy). However, this idea was enforced not by political legislation, but in several steps by the Supreme Court of the United States, which also has the right of judicial review.

First, in *Stromberg v. State of California*,¹²² the Supreme Court created the possibility of extending the freedom of speech, protected by the First Amendment of the Constitution, from “pure speech” to “symbolic speech.” Many years later, in 1969, in *Street v. New York*¹²³ the Supreme Court annulled a court decision holding responsible a citizen for a misdemeanor who burned an American flag while protesting due the death of a civil rights activist,¹²⁴ yet without mentioning the relationship between political speech and flag burning or the constitutional aspects of their conflict; in *Texas v. Johnson*,¹²⁵ the Supreme Court specifically held that sanctioning flag burning as a means of political expression is unconstitutional.¹²⁶ Finally, in *United States v. Eichman*,¹²⁷ the Supreme Court annulled the federal Flag Protection Act 1989, which was adopted as a response of the US Congress; so, as a result of its case law protecting the freedom of speech, the US Supreme Court consolidated, to this day, the protection of political speech against the protection of national or state symbols.¹²⁸

On the contrary, in Germany, the *Bundesfervassungsgericht* (German Federal Constitutional Court), by its decisions rendered on the same day in 1990 in the so-called *German National Flag Case*¹²⁹ and *German National Anthem Case*,¹³⁰ recognized the criminal law protection of national symbols and the punishment of those who commit acts violating it—without any specific violent acts or any intention for incitement to violence—as constitutional. According to the *Bundesfervassungsgericht*, the freedom of speech cannot be exercised without limits, and these limits are set by the federal constitution (specifically by Art. 5 para. (2) and (3) thereof), even though it found that the sanctions imposed by the criminal courts in the specific cases for the conducts at issue (the act of a manager of a publisher, who displayed, on a cover of a book, a collage of a human torso urinating on a flag held aloft during a military oath ceremony, and the act of an editor who parodied the German anthem for sociopolitical reasons in a Nuremberg city magazine) were disproportionate for the protection of the freedom of expression and the right to artistic expression included in it as an independent partial right, and annulled those specific criminal court judgements.¹³¹

122 283 U.S. 359 (1931).

123 394 U.S. 576 (1969).

124 For details of the court decision, see Constitutional law, 1968, pp. 1041–1044.

125 491 U.S. 397 (1989).

126 See e.g., Dorsen, 2000, pp. 417–442; for the subsequent social outrage and legislative reactions, see Dorsen, 2000, pp. 424–427; see also Wood, 1989, pp. 375–380.

127 496 U.S. 310 (1990).

128 Dry, 1990, pp. 69–103; Darling, 2004, pp. 101–119; Dorsen, 2000, 428–430.

129 104, BverfGE 81 (1990).

130 105, BverfGE 81 (1990).

131 Cf. e.g., Krüdewagen, 2002, pp. 689–698; Bleise, 1992, pp. 471–477; Saunders, 2017, pp. 177–180.

In Europe as a whole, state (and/or national) symbols (or some of them) are typically regulated by norms of constitutional nature (but not necessarily included in the constitution). However, while the description of the state coat of arms and the flag is necessarily included in the domestic law (more so, because official contacts and events necessary for international relations could not take place in the absence of the regulation of these symbols), it sometimes occurs that the anthem is recognized purely on a “customary law” basis, that is, without being regulated by domestic state norms. And even if the anthem is provided for by such norms, it is usually not as detailed as the regulation of the coat of arms or the flag. This is understandable also because legal regulation, which typically applies linguistic, or very rarely pictorial, means, and appears in a written form, is less suitable for the complex, precise description of anthems and for the display of vocal symbols (thus, instead of describing the anthem itself, the law addresses the manner in which it should be played, but the necessity of that is questionable at best).

In addition to constitutional norms, the internal legal regulation may encompass administrative norms (typically, the determination of the details of the use of the symbol), civil law norms (for example, the possibilities of the depiction of the symbols to be registered as parts of trademarks or the regulation of the violation of personality rights related to symbols), as well as norms regulating misdemeanors and criminal law norms. Since the most important aspects of the protection of symbols are the possibilities of criminal law protection, and since the sources for research available also in English typically cover this area, in the following, we will review the criminal law regulations related to the protection of the state symbols of the 53 European countries under examination. Each of the 53 countries with written constitution has a separate criminal code, which includes the acts sanctionable under criminal law (or at least most of them),¹³² and on the basis of which the regulations related to the protection of symbols of the same countries can be analyzed. It should be noted that, in this regard, the reason the United Kingdom falls out of the scope of our analysis is not its lack of a written constitution but its lack of a single criminal code. Nevertheless, the situation of the United Kingdom should not be neglected, so, before examining the regulations of the 53 countries with single criminal codes, it must be highlighted that in the United Kingdom, just like in most of the countries following common law traditions, the violation of the state or national symbols is not punishable under criminal law.¹³³

132 Typically, offenses arising from the provisions of international criminal law, possibly committed under special legal order, or other so-called *extra ordinem* offenses (e.g., military or war crimes, or crimes against humanity) may remain outside of the regulation of the criminal code of a given state, but sometimes other special sanctionable acts (e.g., press policing misdemeanors) may also be regulated outside the criminal code.

133 As it will be discussed below, not even the range of national symbols is codified in the United Kingdom, so, *ab ovo*, no punishment may arise in relation to them. As it is well known, in the United States the freedom of speech expressly extends to the desecration of national symbols, developed by the case law of the US Supreme Court. In Australia, even though several proposals were made to

In the vast majority of the 53 analyzed European countries, the violation of state symbols is also sanctioned by criminal law means; freedom of speech extends to the desecration of official state (or other protected national) symbols in just a small number of countries.¹³⁴ About three-quarters of European countries, that is, 40 states, make the violation of at least one state symbol or its use as a means to commit other unlawful acts punishable by law;¹³⁵ while the criminal codes of the rest of the

protect at least the flag (most recently, in 2006, see Bronwyn Bishop: Protection of the Australian National Flag (Desecration of the Flag) Bill 2006. Explanatory Memorandum. The Parliament of the Commonwealth of Australia House of Representatives, 2005-2006. [https://www.legislation.gov.au/ComLaw/Legislation/Bills1.nsf/0/FD41445B3F4DCDB3CA257146002C4B7E/\\$file/06016em.pdf](https://www.legislation.gov.au/ComLaw/Legislation/Bills1.nsf/0/FD41445B3F4DCDB3CA257146002C4B7E/$file/06016em.pdf)), these were not adopted by the Australian legislature, thus, the violation of symbols is not punishable there either. (As regards the subtle Australian case law, see Meagher, 2008, pp. 73–102.) The only exception is New-Zealand, where desecration of the flag constitutes a criminal act under Art. 11, para. 1 of the Flags, Emblems, and Names Protection Act 1981 (Act no. 47 of 1981), which also declares the flag “the New Zealand Ensign.” (According to it, “Every person commits an offense against this act who, (a) without lawful authority, alters the New Zealand Flag by the placement thereon of any letter, emblem, or representation; (b) in or within view of any public place, uses, displays, destroys, or damages the New Zealand Flag in any manner with the intention of dishonoring it.”) Based on the division developed by René David (David, 1985, pp. 22–31), India is not considered a common law country, because its traditional and religious norms give it a rather different character (David, 1985, pp. 484–515); as it is usual in similar countries, the regulation in India protects the national symbols in a very conservative manner (cf. e.g., Kohli, 2010, pp. 215–228). It is an interesting fact that the Japanese legal system, which otherwise is strongly influenced by the law of the United States, does not favor the freedom of speech in this regard: a disciplinary measure (warning), which was applied against a school music teacher on the basis of an act from 1999 on the protection of the national anthem (National Anthem and Flag Law 1999—which was adopted somewhat late compared to other countries in the world) was found lawful by the Supreme Court of Japan. The sanction was imposed because the concerned teacher refused to play the Japanese anthem at a school festival, since she believed that it glorified the emperor (cf. Tsuji, 2019, pp. 751–776).

134 There is, of course, no international legal prohibition on this; it is not prohibited by the European Convention on Human Rights or the case law of the European Court of Human Rights, either. (The issue itself is a matter for state regulation, and the unconstitutionality of criminal law protection of state symbols has not been raised so far. The only case that has touched on this issue is the case of *Jehovah's Witnesses of Moscow v. Russia*, in which the ECtHR ruled in 2010 that the Russian ordinary courts’ reliance on the fact that the religious organization incited hatred against (among other things) state symbols as a reason for its dissolution does not follow from the facts of the case, i.e., it was unfounded. On this basis (and for many other reasons), therefore, the dissolution of the religious association was contrary to the Convention. [See *Jehovah's Witnesses of Moscow and Others v. Russia* (application no. 302/02), 10 June 2010, paras. 149–153.]

135 The countries that follow it are (with the articles of the criminal code of the given country that render the violation of a state symbol sanctionable in parentheses): Albania (Art. 268), Armenia (Art. 331), Austria (Art. 248), Azerbaijan (Art. 324), Belarus (Art. 370), Bulgaria (Art. 108), Croatia (Arts. 349, 356), Denmark (Art. 110 e), Estonia (Arts. 245, 249), France (Art. 433-5-1), Georgia (Art. 343), Germany (Art. 90a), Greece (Arts. 155, 191A), Hungary (Art. 334), Iceland (Art. 95), Kazakhstan (Art. 372), Kosovo (Art. 141), Kyrgyzstan (Art. 352), Italy (Arts. 292–293, 299), Latvia (Art. 93), Liechtenstein (Arts. 248, 317), Lithuania (Arts. 127, 128), Luxembourg (Art. 232 *bis*), Moldova (Art. 347), Montenegro (Arts. 198, 200), North Macedonia (Arts. 319, 178, 181), Norway (Arts. 165, 166), Poland (Art. 137), Russian Federation (Art. 329), San Marino (Arts. 338, 407), Serbia (Arts. 317, 173 and 175), Slovakia (Art. 364), Slovenia (Art. 297), Spain (Art. 543), Switzerland (Arts. 270, 298),

examined countries, that is, 13 countries, lack such sanctionable acts.¹³⁶ (If we add the United Kingdom, which does not have a separate criminal code, then there are a total of 14 states in Europe that allow for free speech in that regard.)¹³⁷

Ad I. Looking at the countries that do *not* render the violation of state symbols punishable (Andorra, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Finland, Ireland, Malta, Monaco, Netherlands, Portugal, Romania, and Sweden), we can see that they provide a rather diverse picture, and no regularities can be established as to why a violation of symbols is not sanctioned in these countries. Although the criminal policies of these countries have a common result, there are different underlying reasons. Some of them are classic “liberal” countries in favor of freedom of speech (traditionally, in addition to common law countries, Scandinavian legal systems belong to this group, for example Sweden and Finland, but the Netherlands also belongs among them). There are also countries, where the influence of another country, which is geographically close and/or politically and culturally dominant, is evident (e.g., the influence of the English common law, in favor of freedom of speech, on Ireland or the former colony, Malta). In some cases, due to social and/or historical reasons, the expression of unified statehood is not very strong, and in order to prevent internal tensions, the criminal-law protection of symbols did not seem justified—that is, to pacify those who might intend to violate them (this is the situation in the case of the protection of state symbols of Belgium where the “Belgian” identity is not very strong, or Cyprus, where the symbols, no matter how neutral they might be, are suitable for inciting the tensions between the Greeks and Turks living in the country).

A similar motive could have justified the—octroyed—regulation of Bosnia and Herzegovina, where, to prevent internal tensions in the federal state divided by the three major state-forming nationalities, hit by a bloody war in the first half of the nineties, and currently united under harsh pressure from the international community, it was also reasonable not to bring the violation of the symbols of the federal state under the scope of criminal law. Although our research did not

Tajikistan (Art. 342), Turkey (Arts. 300, 341), Turkmenistan (Art. 178), Ukraine (Arts. 338, 339), Uzbekistan (Art. 215).

136 Andorra, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Finland, Ireland, Malta, Monaco, Netherlands, Portugal, Romania, and Sweden.

137 The continental part of Europe follows a stricter political thought also in other respects, which limits the freedom of speech more. According to a 2014 survey, defamation and slander was sanctioned in 23 out of the then 28 member states of the European Union; only five EU member states lacked criminal-law limitations of the freedom of speech and allowed only civil-law action against defamatory statements (cf. Tóth, 2015, p. 490). It is interesting that, according to this survey, the non-EU member Eastern European countries gave room for the freedom of speech to a much greater extent (and avoided criminal law sanctions for defamation and slander), most likely because they had experience of what may happen when the means of criminal law serve the interests of the central power and, thus, suppress criticism and opinions. The latter countries included Armenia, Bosnia and Herzegovina, Georgia, Macedonia, Moldova, Montenegro, partly Serbia (defamation was abolished but libel was preserved there), Tajikistan, and Ukraine.

cover the internal regulation of the member states of the analyzed federations, neither of the two member states of Bosnia and Herzegovina, that is, neither the Federation of Bosnia and Herzegovina (the Bosnian–Croatian Federation) nor the Republik of Sprska applies the classic protection of symbols; the violation of “national” symbols (which does not cover state symbols) are only punishable if committed as a hate crime (with an instrumental nature)¹³⁸—similarly to the situation in Kosovo. However, neither of the said effects is exclusive; that is the reason why other Scandinavian or Nordic countries (e.g., Norway, Denmark, or Iceland) criminalize the desecration of state symbols; similarly, we can draw no conclusions merely from the form of state or the size of a given country (Monaco and Andorra omits criminalization, while San Marino or Liechtenstein embraces it), or even cultural similarities (Portugal does not render the violation of symbols punishable, while Spain does)—despite, of course, the conclusion that the fact that a country belongs to one group or the other cannot be traced back to a single, common cause representing a similar motive.

Ad II). As for the 40 countries whose criminal codes render the violation of state symbols punishable, they also provide a rather diverse picture. As mentioned, Kosovo only sanctions the defamation of national (and not state) symbols if it is capable of inciting hatred or constitutes a hate crime;¹³⁹ in other words, its regulation does not fit in the regulatory scope of the traditional protection of state symbols, but in an extended criminalization of hate crime: in this case, only an expression of hatred against national minorities (or the majority nationality that forms the state) is explicitly punishable under criminal law.¹⁴⁰ (In addition, as we will see below, in the case of North Macedonia, Serbia, and Slovenia, there is hate crime,¹⁴¹ as well as classic protection of symbols.) In Slovakia, the violation of

138 Criminal Code of Federation of Bosnia and Herzegovina, Art. 163, “Inciting National, Racial or Religious Hatred, Discord or Hostility”; Criminal Code of Republik of Sprska, Art. 359, “Incitement to violence and hatred.”

139 Kosovo (Art. 141), Slovakia (Art. 364).

140 Criminal Code of the Republic of Kosovo, Art. 141 (“Inciting discord and intolerance”), para. 3 “Whoever commits the offense provided for in para. 1 of this Art. by means of...exposing national, racial, ethnic or religious symbols to derision...shall be punished by imprisonment....”; Criminal Code of Slovak Republic, Art. 364 (“Disorderly Conduct”): “Any person who, either verbally or physically, commits gross indecency or disturbs peace in public or in a place accessible to public, in particular by...b) desecrating the state symbol,...shall be liable....”

141 Criminal Code of the Republic of North Macedonia, Art. 319 (“Causing hatred, discord or intolerance on national, racial, religious or any other discriminatory ground”), para. 1: “Whosoever by...mocking of the national, ethnic, religious and other symbols, by burning, destroying or in any other manner damaging the flag of the Republic of Macedonia or flags of other states,...directly or indirectly, causes or excites hatred, discord or intolerance on [protected attributions], shall be sentenced to imprisonment....”; Criminal Code of the Republic of Serbia, Art. 317 (“Instigating National, Racial and Religious Hatred and Intolerance”), para. 1: “Whoever instigates or exacerbates national, racial or religious hatred or intolerance among the peoples and ethnic communities living in Serbia, shall be punished by imprisonment....”; para. 2: “If the offense specified in para. 1 of this Art. is committed by...exposure to derision of national, ethnic or religious symbols,...the offender shall be punished by imprisonment....”; Criminal Code of the Republic of Slovenia, Art. 297 (“Public

state (domestic) symbols is only regulated and rendered punishable as an instrumental offense of the nature of public nuisance.¹⁴² Therefore, in fact, not 40 but only 38 countries belong to the group in which traditional protection of symbols (also) exists.

These 38 countries with “real” protection of symbols can be divided into five larger sub-groups: some of them (II/A) only protect their own state symbols; while some (II/B), in addition to their own, also protect the symbols of other states, but that protection does not cover symbols falling outside the scope of state symbols; in certain countries (II/C), in addition to the violation of their own state symbols (and/or the symbols of other states), the violation of the symbols of international organizations are also punishable (not including war crimes, e.g., the misuse of the red cross, which is a crime under the international law of war);¹⁴³ other states (II/D) have special regulations, where the scope of the protection under law covers also additional symbols (e.g., those of a member state of a federation); finally, there are countries which protect symbols of foreign states (or other symbols, typically those of international organizations), but—curiously—this protection does *not* cover their *own* state symbols.

II/A). There are 12 states that provide criminal-law protection to their own state symbols and only those.¹⁴⁴

The protection of all three classical symbols is covered by the legislation of the following countries: Albania, which criminalizes the “humiliation” of the Republic and its symbols; Belarus, which renders the “violation” of the state symbols punishable; Kazakhstan, Latvia and Turkmenistan, where the conduct punishable in terms of all three traditionally protected state symbols is the “desecration” of these symbols; and Hungary, where the violation of “national” symbols is called outright “blasphemy.”

Hungary is special in that the criminal code, as of 1 July 2013 when Act C of 2012 came into effect, in addition to the three classic symbols (which is called not “state” but “national” symbols), provides protection to an extraordinary, specifically

incitement to hatred, violence or intolerance”), para 1: “Whoever publicly incites or stirs up hatred, violence or intolerance with respect to nationality [...] shall be sentenced to imprisonment...”; para. 4: “If an act...is committed by...desecration of ethnic, national community, national or religious symbols,...the perpetrator shall be sentenced to imprisonment...”

142 Criminal Code of the Slovak Republic, Art. 364 (“Disorderly Conduct”), para. 1: “Any person who, either verbally or physically, commits gross indecency or disturbs peace in public or in a place accessible to public, in particular by “b) desecrating a state symbol,...shall be liable [to criminal punishment].”

143 See below.

144 Albania (Art. 268), Azerbaijan (Art. 324), Belarus (Art. 370), France (Art. 433-5-1), Georgia (Art. 343), Hungary (Art. 334), Kazakhstan (Art. 372), Kyrgyzstan (Art. 352), Latvia (Art. 93), Russian Federation (Art. 329), San Marino (Arts. 338, 407), Turkmenistan (Art. 178).

national symbol, namely the “Holy Crown“ which is considered a historical relic.¹⁴⁵ The Holy Crown is not similar to the other three symbols, but it represents the historical (and, consequently, the constitutional) identity of the Hungarian nation, a prominent symbol of the history of public law, and serves as the basis of the most important theory of Hungarian constitutional development, the so-called Holy Crown doctrine.¹⁴⁶

In 2000, the Hungarian Constitutional Court examined the constitutionality of the offense of “blasphemy of national symbol” as regulated in the old Criminal Code protecting the anthem, the flag, and the coat of arms, and ruled that it constitutes a constitutionally justifiable limitation on the freedom of speech; in other words, freedom of speech does not extend to the desecration of national symbols. The offense of “blasphemy of national symbol” was regulated in Art. 269/A of the Criminal Code in effect at that time (Act IV of 1978): “Any person who—before great publicity—uses an expression to dishonor or degrade the national anthem, the flag or the coat of arms of Hungary, or commits any other similar act, if such act does not result in a criminal act of greater gravity, is guilty of a misdemeanor punishable by imprisonment for up to one year.” In its Decision 13/2000. (V. 12.) CC, the Constitutional Court did not find the regulation of this offense unconstitutional, and ruled that the national symbols (the Hungarian anthem, the flag, and the coat of arms) “are constitutional symbols of the country’s external and internal integrity, which is why there are constitutional arguments in favor of their criminal-law protection. The enhanced public-law and criminal-law protection of institutions that express and display national sovereignty is constitutionally accepted in European legal cultures, and this is also a justified limitation of the freedom of expression.”¹⁴⁷ ¹⁴⁸ Since banning the “blasphemy” of any of these symbols does not prevent people from expressing opinion about them or

145 “Any person who—before the public at large—uses an expression to dishonor or degrade the national anthem, the flag or the coat of arms, or the Holy Crown of Hungary, or commits any other similarly slanderous act is guilty of a misdemeanor punishable by imprisonment...” (Criminal Code of Hungary, Art. 334.)

146 As regards the essence of the Holy Crown doctrine, see Eckhart, 1941.

147 As we have seen above and we will see below, this constitutional idea is essentially identical to the opinion of the German *Bundesverfassungsgericht* or the Spanish constitutional court on the criminal-law protection of national symbols (and differs from, e.g., the liberal opinion expressed in the USA, absolutely in favor of the freedom of speech.

148 Cf. CC decision no. 13/2000. (V. 12.), [61], [69]. The Constitutional Court of Hungary added: “Ensigns and symbols are as ancient as the history of mankind and human communities. Symbols, on the one hand, have always expressed the belonging of the individuals using the signs to a certain community, and, on the other hand, they have represented the whole community to the outer world. Although today mankind, as a whole, and large regions have symbols as well, the ensigns of national communities organized in the form of states have particular significance....[N]ational symbols have a twofold meaning: on the one hand, they are external forms of representing statehood, the sovereignty of the state and, on the other hand, they are tools to express belonging to the nation as a community. These symbols can be and are widely used by the members of the community, both individuals and legal entities...” [CC decision no. 13/2000. (V. 12.), 61, 67.]

criticize the regulation thereon, nor does it sanction the artistic actions or expressions of scientific criticism, the stipulation of the Criminal Code on it is not unconstitutional.¹⁴⁹

Out of the three domestic symbols, only two are protected in the following countries: Azerbaijan,¹⁵⁰ France,¹⁵¹ Georgia,¹⁵² Kyrgyzstan,¹⁵³ the Russian Federation¹⁵⁴ and San Marino.¹⁵⁵ With the exception of France, these countries omit the criminal-law protection of the anthem (and protect the coat of arms and the flag). France, on the other hand, does not protect the coat of arms (which is not even provided for in the constitution), regulating it as a form of “contempt,” and criminalizes only the “insulting” of the flag and the anthem. The regulation of San Marino is special, as, in addition to the traditional protection of symbols, it also punishes the unauthorized commercial and advertising use of the symbols as state trademarks (which, in other states, constitutes a regulation on civil-law /commercial law or trademark law/ or administrative level).¹⁵⁶

II/B). In addition to the given country’s own symbols, the criminal code of 9 European countries provide protection to the symbols of other states (but to state symbols only).¹⁵⁷ The following countries provide protection to all three main types of symbols, both in terms of their own state symbols and those of other states, in the following respective frameworks: as “contempt of state symbols” in Armenia, as “violation of symbols of the Greek state” and (in the case of reciprocity) as “violation of the symbols of another state” in Greece,¹⁵⁸ as “defilement of state symbols” in

149 ” The Constitutional Court holds that expressing negative opinions concerning the national symbols as well as scientific views, artistic expressions and criticism related to the history, value and public law significance of the ensigns, and also putting forward proposals on modifying or ceasing them are naturally out of the scope of criminal sanctioning as they are part of the constitutional freedom of expression.” [CC decision no. 13/2000. (V. 12.), 61, 70-71.]

150 “Violation of the National Flag or State Emblem of the Republic of Azerbaijan.”

151 “Contempt.”

152 “Desecration of the State Coat of Arms or of the national flag.” (The anthem is not protected, even though it is also mentioned in the constitution as a national symbol.)

153 “Desecration upon the National Emblem of the Kyrgyz Republic or the State Flag of the Kyrgyz Republic.” (The anthem is not protected, even though it is also specified in the constitution as a national symbol.)

154 “Outrages upon the National Emblem of the Russian Federation, or the State Flag of the Russian Federation.”

155 “Insult of the Republic and its emblems.”

156 Penal Code of San Marino, Art. 407 (“Illegal reproduction of the emblem of the Republic”): “Anyone who, without authorization, reproduces on goods or objects intended for trade the flag with emblem or the emblem of San Marino, unless the act constitutes a more serious offense, shall be punished with a fine....”

157 Armenia (Art. 331), Greece (Arts. 155, 181), Italy (Art. 299), Moldova (Art. 347), North Macedonia (Art. 319—hate crime; Arts. 178,181), Norway (Arts. 165, 166), Poland (Art. 137), Tajikistan (Art. 342), Turkey (Arts. 300, 341) and Ukraine (Arts. 338, 339).

158 I owe special thanks to Emmanouil Billis, Ilias G. Anagnostopoulos and Pantelis V. Bratis for translating the relevant provisions of the Greek Civil Code effective as of 2019 to English. In the course of my research, the Greek was the only criminal code that I could not find in any world language. (However, the old Greek Criminal Code, which was effective before 2019, can be found in English: Billis, 2017.)

Moldova, as “undermining the reputation of the Republic of North Macedonia” and as “undermining of the reputation of a foreign state” in North Macedonia, and as “degrading the symbols of state sovereignty” and (in the case of reciprocity) as “offenses against the flag of a foreign state” in Turkey. The regulation of North Macedonia is special in that it provides exemption from criminal law liability to journalists and in other exhaustively listed cases.¹⁵⁹

Only the violation of the coat of arms and the flag is rendered punishable in Italy,¹⁶⁰ Poland¹⁶¹ and Tajikistan (in Italy and Poland, the violation of the symbols of foreign states is only punishable in the case of reciprocity). Finally, in Ukraine, by an offense named “outrage against state symbols,” (as the only country in the group) provides a different regulation in terms of domestic and foreign symbols, and while it protects all three of its own state symbols, it only protects the flag and the coat of arms from among the symbols of foreign states, and only if they were “officially installed or raised flag or coat of arms.” In addition, in Ukraine, the special criminal offense of illegal hoisting of the national flag of Ukraine at a river or sea vessel is punishable separately.

II/C). In 9 countries, beside the domestic (and, in 8 countries from among them, beside the foreign) state symbols, the symbols of international organizations also receive protection.¹⁶² (We do not include here the misuse of the red cross or other similar war crimes,¹⁶³ which constitute a criminal offense in all of the examined European countries.)¹⁶⁴ The only country that, in addition to the protection of the

159 Criminal Code of the Republic of North Macedonia, Art. 182-a (“Exclusion from liability...”): “There shall be no liability for the crimes referred to in Arts. 178, 179, 181, 182 for a journalist while practicing the profession, as well as for other persons, if the expressed humiliating opinion has been given in defense of freedom of public speech or of other rights or when protecting the public interest or other justified interests, or with honest intention or belief in the good intention of the opinion.

160 Cf. Penal Code of Italy, Arts. 292–293, 299 (“Insult or damage to the flag or other emblem of the state”; “Offense to the flag or other emblem of a foreign state”). The law also protects other, unspecified symbols, but only pictorial ones (“emblem”).

161 Criminal Code of the Republic Poland, Art. 137. para. 1: “Whoever publicly insults, destroys, damages or removes an emblem, banner, standard, flag, ensign or other symbol of the State shall be [punished]”; para. 2: “The same punishment shall be imposed on anyone, who on the territory of the Republic of Poland publicly insults, destroys, damages or removes an emblem, banner, standard, flag, ensign or other symbol of another State, publicly displayed by a mission of this state or upon an order of a Polish authority.”

162 Croatia (Arts. 349, 356), Estonia (Arts. 245, 249), Liechtenstein (Arts. 248, 317), Lithuania (Arts. 127, 128), Montenegro (Arts. 198, 200), Norway (Arts. 165, 166), Serbia (Arts. 173, 175), Slovenia (Arts. 163, 164).

163 Some countries render these acts punishable not in the general criminal code, but through separate laws or promulgated international conventions.

164 In general, the unlawful use of the red cross, and, additionally, often that of the red crescent, and rarely that of the red crystal, or perhaps that of “any similar” symbols is punishable as a war crime or military crime. In Belarus, the use of the symbols of international organizations, neutral or hostile (!!!) states, and military deception by using them is punishable; in Finland, the misuse of symbols pursuant to the Geneva Conventions is punishable in general; in some states (e.g., the Czech Republic, Lithuania, Slovakia, Spain), the unlawful use of the symbols of the UN and other states, and in Kosovo, Montenegro and Serbia, the unlawful use of the UN and other similar international organizations is punishable.

domestic state symbols, does not provide protection to any foreign state symbols but protects the symbol of a (single) supranational entity, is Bulgaria; in addition to the defamation of the coat of arms, the flag or the anthem of the Republic of Bulgaria, it renders the defamation of the flag or anthem of the European Union punishable.¹⁶⁵

Croatia protects the Croatian state flag, coat of arms and national anthem, as well as those symbols of other states, from exposure “to public ridicule, contempt or gross disparagement,” and punishes the same criminal offense committed against the symbols of certain, specified international organizations (namely the United Nations, European Union, Council of Europe, International Red Cross “or any other recognized international organization”).¹⁶⁶ In Estonia a person is punishable if they tear down, damage, profane or otherwise defame the Estonian flag, national coat of arms or any other official symbol of the Republic of Estonia, of a foreign state or an official symbol of an (any non-specified) international organization, or if they defame the national anthem of Estonia or that of a foreign state.¹⁶⁷ Also in Liechtenstein, the vilification of all of the traditional domestic and foreign state symbols (flag, coat of arms, anthem¹⁶⁸), as well as the vilification of the “intergovernmental institutions” is punishable under the conditions prescribed in the criminal code.¹⁶⁹ In Lithuania, the desecration of all three domestic state symbols, and the officially displayed foreign state emblems or flags is rendered punishable, and, under the latter conditions, the desecration of symbols of the European Union or an (any) “international public organization” is also punishable.¹⁷⁰

In Montenegro, mockery of any of the three, both domestic and foreign, traditional state symbols, is punishable (however, as a special provision, the latter act is only punishable if the offended state has diplomatic relations with Montenegro); mocking either two specified organizations of which Montenegro is a member—the

165 Criminal Code of the Republic of Bulgaria, Art. 108, para. 2.

166 Criminal Code of Croatia, Art. 349 (“damaging the reputation of the Republic of Croatia”) and Art. 356 (“damaging the reputation of a foreign state and international organization”). In terms of the latter criminal offense, the following special procedural provision is applicable: criminal proceedings can only be initiated based on an approval from the state attorney of the Republic of Croatia who may grant such approval after having obtained consent from the state, international organization or person against whom the criminal offense has been committed.

167 Penal Code of the Republic of Estonia, Art. 245 (“Defamation of official symbols of Republic of Estonia”) and Art. 249 (“Defamation of official symbols of foreign state or international organization”).

168 However, in terms of the anthem, there is a difference between the protection of the domestic anthem and the anthems of foreign states: while the vilification of the anthem of Liechtenstein is punishable is general, without limitation, in the case of the vilification of the anthem of a foreign state, the act must be performed during the playing of the concerned anthem at a public event. (cf. Criminal Code of the Principality of Liechtenstein, Art. 248, para. 2; Art. 317).

169 Vilification of the emblems of the intergovernmental institutions can be punished only if the concerned emblem was installed by a domestic authority or a representative office of the foreign state or if it was installed by the intergovernmental institution in accordance with the general rules of international law or under intergovernmental treaties. (cf. Criminal Code of the Principality of Liechtenstein, Art. 317).

170 Criminal Code of Lithuania, Art. 127 (“desecration of state symbols”) and Art. 128 (“desecration of symbols of a foreign state, the European Union or an international public organization”).

United Nations Organization and the International Red Cross (whether by the violation of their symbols or otherwise)—is similarly punishable.¹⁷¹ However, Montenegro, similarly to North Macedonia and Serbia which will be discussed below, provides impunity from criminal liability in several cases in order to protect the freedom of speech.¹⁷²

In Norway, in terms of the “Norwegian or foreign official coat of arms, mark or seal,” not the violation or mockery, but only the deceptive use and misuse, e.g., unauthorized acting on behalf of a state body, is punishable.¹⁷³ Similarly, only the abusive or deceptive use is rendered punishable in terms of the symbols of international organizations.¹⁷⁴ In Serbia and Slovenia, in addition to the “violation of national symbol” presented above, which offense is punishable in the context of hate crime, the traditional protection of state symbols also includes the punishment of the offenses committed against domestic symbols and the symbols of foreign states (all three types in both cases), which means that a person who “publicly ridicules” (in Serbia) or “publicly dishonors” (in Slovenia) any of them is punishable.¹⁷⁵ Finally (similarly to Montenegro and North Macedonia), Serbia defines grounds for excluding criminal liability in certain cases justified in order to protect freedom of expression.¹⁷⁶

II/D). There are 6 countries where not only the violation of the symbols of the given state (and/or other states, and/or international organizations) is punishable, but also that of the symbols of “internal” entities or communities (which do not have sovereignty), such as member states, autonomous territories, or local governments. The most common in that regard is the punishment for violating the symbols of provinces, member states or autonomous territories, in addition to the punishment for

171 Criminal Code of Montenegro, Art. 198 (“Tarnishing the Reputation of Montenegro”) and Art. 200 (“Tarnishing the Reputation of Foreign states or International Organizations.”).

172 “Perpetrators shall not be punished for offenses set forth in Arts. 198 to 200 of this Code where the presentation was given within a serious criticism in a scientific, literary, or artistic work, or while performing an official duty, journalistic profession, political activity, while defending a right or protecting justified interests, provided that the manner of expression or other circumstances show that he has not done it with the intention to discredit or where he proves the veracity of his allegation or that he had a well-founded reason to believe in the veracity of what he was stating or disseminating.” (Criminal Code of Montenegro, Art. 201.)

173 Penal Code of Norway, Art. 165 (“Misuse of public uniform, distinctive sign or title, etc.”).

174 Penal Code of Norway, Art. 166 (“Misuse of international distinctive sign”).

175 Criminal Code of the Republic of Serbia, Art. 173 (“Disparaging the Reputation of Serbia”) and Art. 175 (“Ruining the reputation of a foreign state or international organization”); Criminal Code of the Republic of Slovenia, Art. 163 (“dishonoring the Republic of Slovenia”) and Art. 164 (“Dishonoring a foreign country or international organization”).

176 “There shall be no punishment of the perpetrator for offenses specified in Arts 173 through 175 if the statement is given within the framework of serious critique in a scientific, literary or art work, in discharge of official duty, performing journalist duties, political activity, in defense of a right or defense of justifiable interests, if it is evident from the manner of expression or other circumstances that it was not done with intent to disparage or if he proves the veracity of his allegations or that he had reasonable grounds to believe that what he said or disseminated was true.” (Criminal Code of the Republic of Serbia, Art. 176.)

violating the federal symbols. In Austria, for example, the violation (spiteful insult, disparagement or other kinds of degradation) of the flag or anthem of "federal provinces" ("*Bundesländer*") (provided that they are displayed on a public occasion or at an event open to the public) also constitutes a criminal offense.¹⁷⁷ In Germany, the flag and anthem of the states (*Länder*), as well as their coat of arms and even their state "colors" are protected—even though the federal constitution only specifies the constitutional protection of the federal flag.¹⁷⁸ In Switzerland, "attacks" on Swiss national emblems are punished, including attacks on cantonal symbols. The federal flag, as well as the cantonal and foreign flags are expressly specified, but, in general, the violation of any "Swiss national emblem" or "a national emblem of a foreign state" constitutes a crime; this protection therefore covers other objectified symbols besides the flag and the coat of arms, but—due to its nature—does not extend to sanctioning the violation of the national anthem.¹⁷⁹

In Spain, the criminal law regulation covers also the ensigns or symbols of Autonomous Communities. As it can be seen above, the Spanish constitution provides protection to the symbols of Autonomous Communities, but the criminal-law protection is stronger in the case of Spain (that is, in the case of the Spanish state and not the Autonomous Communities), because it covers not only the flag named in the constitution, but all symbols,¹⁸⁰ and the constitutionality of that was recognized even by the Constitutional Court of Spain. In one of its more recent decisions, rendered in 2020,¹⁸¹ in relation to Art. 543 of the Spanish Penal Code, the Constitutional Court of Spain ruled that the regulation that renders the scorning of the Spanish flag punishable is not unconstitutional. In the concerned case, the employees of an outsourced cleaning company of a military compound demonstrated against the civilian company to improve their working conditions, and as the part of that, during a flag-raising ceremony, one of the civilian employees shouted that "here you have the silence of the f***ing [*puta*] flag," and "we have to set that f***ing [*puta*] flag on fire." The concerned person submitted a constitutional complaint (*amparo*) against the final decision imposing a penalty. The Constitutional Court ruled that the flag as

177 Austria, Art. 248 ("Disparagement of the state and its symbols" / "*Herabwürdigung des Staates und seiner Symbole*").

178 Germany, Art. 90a ("Disparagement of state and denigration of symbols" / "*Verunglimpfung des Staates und seiner Symbole*"/), para. 1: "Whoever publicly, in a meeting or by disseminating material 1. uses abusive language against or maliciously disparages the Federal Republic of Germany or one of its Länder or its constitutional order or 2. denigrates the colors, flag, coat of arms or the anthem of the Federal Republic of Germany or one of its Länder..."; para. 2: "Whoever removes, destroys, damages, renders unusable or defaces, or commits defamatory mischief on a flag of the Federal Republic of Germany or of one of its Länder which is on public display or a national emblem which has been mounted in a public place by an authority of the Federal Republic of Germany or one of its Länder... The attempt is punishable."

179 Criminal Code of the Swiss Confederation, Art. 270 ("Attacks on Swiss national emblems") and Art. 298 ("Attacks on the national emblems of a foreign state").

180 Criminal Code of the Kingdom of Spain, Art. 543 ("On offending Spain").

181 Case 190/2020.

a symbol of the Spanish unity is constitutionally entitled to criminal law protection, and that the mockery of the flag caused an intense feeling of humiliation among the military personnel in the concerned case and it was not connected to the protection of the labor rights of the employees of a civil company.¹⁸² In principle, the decision is significant because it recognized, as did the constitutional courts of several other European countries (e.g., that of Germany and Hungary), that the protection of national/state symbols can be a legitimate, constitutionally recognized limitation on the freedom of speech.

The regulation of the protection of symbols are also doubled in Uzbekistan, where the Uzbek criminal code, in addition to the state flag, state emblem and state anthem of the Republic of Uzbekistan, also protects the similar own symbols of the Republic of Karakalpakstan, which is an autonomous territory in Uzbekistan.¹⁸³ Finally, the regulation of Luxembourg is unique throughout Europe, since it not only punishes the unauthorized use (for example, for advertising purposes) of the state symbols (so not their violation), but also that of the symbols of local governments and other official symbols, as well as the unauthorized use of the symbol of the Grand Duke. There is no other state that protects not only its own symbols or the symbols of its member states or autonomous territories, but also the symbols of local governments at a criminal law level.¹⁸⁴

II/E). Finally, there are two countries whose criminal law, based on their own special regulations, only protects the symbols of foreign states/nations and international organizations (e.g., EU, UN, CoE), but not their *own* state symbols. One of them is Denmark. According to the Danish criminal code: “Any person who openly insults any foreign nation, foreign state, its flag or any other recognized symbol of nationality or the flag of the United Nations or the Council of Europe shall be liable,”¹⁸⁵ but there is no similar provision for the punishment of the same acts when they are committed against Danish state or national symbols. Thus, the protection of the freedom of speech is “polite,” just like in the case of Iceland (the reason of which might be that the domestic symbols are not specified in the constitution of either country). The criminal code of Iceland, very similarly to that of Denmark, provides that “any person who publicly insults a foreign nation or foreign state, its supreme official, its head of state, its flag or other recognized national symbol, or the flag of the United Nations or the flag of the European Union, shall be subjected to a fine.”¹⁸⁶ The only

182 As regards that case and its assessment, see Cuenca, 2021, pp. 125–145.

183 Criminal Code of Uzbekistan, Art. 215 (“Disrespect to state Emblems”).

184 Criminal Code of the Grand-Duchy of Luxembourg, Art. 232bis.: “[It shall be punished] those who have made use for unauthorized purposes the coat of arms of the Grand Ducal House, those of the state and of the municipalities, the national flag, the flag of shipping and aviation, as well as all crests, emblems and symbols used by the authorities and by the public establishments. There is unauthorized use of the coat of arms and symbols concerned, in particular when it is made: a) for fraudulent purposes, b) for commercial, industrial, professional or advertising purposes, except in the cases provided for by laws and regulations, or authorized by the government.”

185 Criminal Code of Denmark, Art. 110 e.

186 Criminal Code of Iceland, Art. 95.

difference in the area of symbol protection is that one of the dedicatedly protected international organization is the UN in the case of both countries, while the other is the Council of Europe in the case of Denmark, and the European Union in the case of Iceland (although Iceland is not an EU member state); otherwise, both are generally worded and do not limit the protection of symbols under criminal law to the flags of other states, but extend it to any symbol that is considered state (national) symbol by the given state.

Overall, the criminal law protection of the state symbols (and, only to a small extent, national symbols in a strict sense) prevails in most part of Europe, in about three-quarters of the European countries. In two of these countries, the violation of such symbols is only punishable as a hate crime (and in three additional countries, *also* as a hate crime),¹⁸⁷ under various names (defamation, vilification, desecration, mockery, etc., of the state symbols/emblems/etc.). There are only three countries (Luxembourg, Norway, and San Marino) where the violation or desecration of a symbol is not punishable, only its unlawful (e.g., abusive or unauthorized commercial) use.

From among the 53 countries with written constitutions, 38 countries apply criminal-law protection of symbols in a strict sense (that is, not regulated as hate crime or an instrumental act of public nuisance). Among those, there are 36 countries where the violation of domestic state (or national) symbols is punishable (whether only those or those *as well*),¹⁸⁸ and only two where it is not.¹⁸⁹ In total, the violation of the symbols of foreign countries is punishable in 21 states¹⁹⁰ (among them, only in the case of reciprocity in four ones); the criminal regulation of 11 countries allow for the punishment of the defamatory violation of the symbols of international organizations;¹⁹¹ the symbols of cantons, member states, or autonomous territories, etc., are protected by the criminal code of five countries (that is, the criminal code of the given territory etc. or the federal criminal code);¹⁹² finally, there is only one state (Luxembourg) that allows for punishment for the abuse of the symbols of local governments and other state bodies (although it is not a defamatory crime, that is, not the “defamation” but only the abusive, deceptive use of symbols is punishable).

187 As it was mentioned before, Kosovo and Slovakia belong to the former group, while North Macedonia, Serbia and Slovenia belong to the latter.

188 Albania, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Croatia, Estonia, France, Georgia, Germany, Greece, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Moldova, Montenegro, North Macedonia, Norway, Poland, Russian Federation, San Marino, Serbia, Slovenia, Spain, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.

189 Denmark and Iceland.

190 Armenia, Bulgaria, Croatia, Denmark, Estonia, Greece, Iceland, Italy, Liechtenstein, Lithuania, Moldova, Montenegro, North Macedonia, Norway, Poland, Serbia, Slovenia, Switzerland, Tajikistan, Turkey, Ukraine.

191 Bulgaria, Croatia, Estonia, Liechtenstein, Lithuania, Montenegro, Norway, Serbia, and Slovenia.

192 Austria, Germany, Spain, Switzerland, and Uzbekistan.

6. Conclusion

Even though Europe is often perceived as a continent “no longer in need” of its old culture, and where the protection of community (mainly the state and national) symbols fades into the obscurity of the past, and, thus, these symbols no longer have any substantive significance, we can see, on the contrary, that both the constitutions and the criminal codes consider that these values ought to be protected, and the latter allow for the desecration and violation of these symbols to be punished with sanctions under criminal law (even if the harmfulness to society of such offenses does not reach the level of a violent crime committed against a person, and, therefore, they are typically sanctioned by either a fine or some sort of criminal-law measure, and imprisonment is indeed a rarely applied punishment). All this is typical not only of Central European countries but of Europe as a whole (in contrast to the liberal Anglo–Saxon tradition, in which countries the defamation of symbols, as long as it does not constitute any other violent offense or a direct incitement to such offense, falls under the protection of the freedom of speech). So, at the level of legal regulation as regards the protection of state or national (or, in a broader sense, community) symbols, there is no significant difference between Eastern and Western Europe in a geographical sense, or between the former socialist countries and the countries that have long been capitalists. In that regard, neither can a connection be established with the form of state (monarchy or republic), or the nature of the state organization (federal or unitary state).

Thus, there seems to be a broad consensus on this attitude: community (state, national) symbols protect the rights of *individuals* held together by the community (state, nation) through the fictional interests of the communities, and the relationship of the individuals to these communities is seen as a value to be preserved. This shows that, in contrast to the more individualistic Anglo–Saxon and common law approach, most European countries have found a balance between the protection of individual rights (including freedom of expression) and the protection of the interests of the community, what is reflected as well in the constitutional regulation and the possibility of criminal defense of violations of state and national symbols in most of the European countries.

Bibliography

- BARKER, B.J. (2015) *The complete guide to flags of the world*. IMM Lifestyle Books.
- BARNUM, D.G. (2006) 'The Clear and Present Danger Test in Anglo-American and European Law', *San Diego International Law Journal*, 7(2), pp. 263–292.
- BARTHES, R. (1977) *Elements of Semiology*. New York: Hill and Wang.
- BILLIS, E. (ed.) (2017) *The Greek Penal Code*. Max-Planck-Institut für Ausländisches und Internationales Strafrecht, Band G 124. Berlin: Duncker & Humblot.
- BLEISE, B.J. (1992) 'Freedom of Speech and Flag Desecration: A Comparative Study of German, European and United States Laws', *Denver Journal of International Law and Policy*, 20(3), pp. 471–492.
- BOYD, M. (1980) 'National anthems' in SADIE, S. (ed.) *The New Grove Dictionary of Music and Musicians*. Macmillan, pp. 46–75.
- CERULO, K.A. (1989) 'Sociopolitical Control and the Structure of National Symbols: An Empirical Analysis of National Anthems', *Social Forces*, 68(1), pp. 76–99; <https://doi.org/10.2307/2579221>.
- CIRLOT, J.E. (1984) *A Dictionary of Symbols*, 2nd edn. London and Henley: Routledge & Kegan Paul.
- COWIE, A. (ed.) (1989) *Oxford Dictionary*. 4th edn. Oxford: Oxford University Press.
- CUENCA, A.G. (2021) 'Current caselaw discrepancies in the protection of national symbols and state representatives between the European Court of Human Rights and Spanish courts: A vicious circle', *The Age of Human Rights Journal*, 2021/17, pp. 125–145; <https://doi.org/10.17561/tahrj.v17.6405>.
- DARLING, K.A. (2004) 'Flag Burning: Johnson, Eichman and Beyond', *Appalachian Journal of Law*, 2004/3, pp. 101–119.
- DAVID, R. (1985) *Major Legal Systems in the World Today*. 3rd edn. Stevens & Sons.
- DORSEN, N. (2000) 'Flag Desecration in Courts, Congress and Country', *Thomas M. Cooley Law Review*, 17(3), pp. 417–442.
- DRY, M. (1990) 'Flag Burning and the Constitution', *Supreme Court Review*, 1990, pp. 69–103; <https://doi.org/10.1086/scr.1990.3109656>.
- DWORKIN, R. (2009) 'Foreword' in HARE, I., WEINSTEIN, J. (eds.), *Extreme Speech and Democracy*. Oxford – New York: Oxford University Press. pp. v–ix.
- DWORKIN, R. (1996) *Freedom's Law: The Moral Reading of the American Constitution*. Oxford – New York: Oxford University Press.
- DUGGAL, K., SRIDHAR, Sh. (2006) 'Reconciling Freedom of Expression and Flag Desecration: A Comparative Study', *Hanse Law Review*, 2(1), pp. 141–160.
- ECKHART, F. (1941) *A szentkorona-eszme története*. Budapest: Magyar Tudományos Akadémia & Franklin Társulat.
- FIRTH, R. (1973) *Symbols: Public and Private*. Cornell University Press, Ithaca, New York.
- FARRINGTON, C. (2019) 'Beyond the Ode to Joy? The Politics of the European Anthem', *The Political Quarterly*, 90(3), pp. 525–533; <https://doi.org/10.1111/1467-923X.12701>.
- GUIRAUD, P. (1978) *Semiology*. London, Henley and Boston: Routledge & Kegan Paul.
- HALÁSZ, I. (2014) 'Az állam és jelképei' in BENDE Zs., HALÁSZ I. (eds.) *Összehasonlító alkotmányjog*. Budapest: Nemzeti Közszerzői Egyetem, pp. 31–38.
- HENNESSY, K. (ed.) (2019) *Signs & symbols*. 2nd edn. London: Dorling Kindersley.
- KNOLL, V. (2011) 'Czech State Symbols, their Legal Regulation and Protection', *Legal Compass*, 2011/Special Issue, pp. 1–4.
- KOHLI, Sh. (2010) 'Parody of national anthem', *NUJS Law Review*, 3(2), pp. 215–228.

- KOLSTØ, P. (2006) 'National symbols as signs of unity and division', *Ethnic and Racial Studies*, 29(4), pp. 676–701; <https://doi.org/10.1080/01419870600665409>.
- KRÜDEWAGEN, U. (2002) 'Political Symbols in Two Constitutional Orders: The Flag Desecration Decisions of the United States Supreme Court and the German Federal Constitutional Court', *Arizona Journal of International and Comparative Law*, 19(2), pp. 679–712.
- LEVINSON, S. (1993) 'The Flag as a Symbol' in SIMONI, M., ROBINSON, Ch. (eds.) *Flag and the Law: A Documentary History of the Treatment of the American Flag by the Supreme Court and Congress*. Buffalo, New York: Hein, pp. xv–xx.
- LINDMARK, J. (1971) 'The Flag as a Non-verbal Symbol', *Free Speech Yearbook*, 10(1), pp. 64–68.
- MEAGHER, D. (2008) 'The Status of Flag Desecration in Australian Law', *University of Western Australia Law Review*, 34(1), pp. 73–102.
- MEIKLEJOHN, A. (1965) 'Free Speech and its Relation to Self-Government' in MEIKLEJOHN, A. (ed.) *Political Freedom: The Constitutional Powers of the People*. New York: Harper & Row.
- MILL, J.S. (2001) *On Liberty (1859)*. Reprint, Batoche Books, Kitchener.
- NETTL, P. (1967) *National anthems*. 2nd edn. New York: Frederick Ungar Publishing.
- O'GRADY, W., DOBROVLSKI, M., KATAMBA, F. (eds.) (1996) *Contemporary Linguistics: An Introduction*. 3rd edn. Essex: Pearson Education.
- RÁCZ, L. (2002) 'Az államcímerek és használatuk rendje' in RÁCZ, L. (ed.) *Egyetemes állam- és jogtörténet*. Budapest: HVG-ORAC, pp. 489–499.
- SAUNDERS, K.W. (2017) *Free Expression and Democracy: A Comparative Analysis*. Cambridge: Cambridge University Press; <https://doi.org/10.1017/9781316771129>.
- SCHWEITZER, G. (2019) 'Állami és nemzeti jelképek' in GÁRDOS-OROSZ, F., HALÁSZ I. (eds.) *Bevezetés az alkotmányjogba*. Budapest: Dialog Campus, pp. 211–218.
- SCANLON, T. (1972) 'A theory of freedom of expression', *Philosophy & Public Affairs*, 1(2), pp. 204–226.
- SLATER, S. (2018) *The illustrated book of heraldry: An international history of heraldry and its contemporary uses*. Anness Publishing.
- SMITH, Wh. (1975) *Flags through the ages and across the world*. Maidenhead: McGraw Hill.
- SMITH, Wh. (1980) *Flags through the ages and across the world*. Maidenhead: McGraw Hill.
- SMUK, P. (2014) 'A szuverenitás jelképei és alkotmányos védelmük', *MTA Law Working Papers*, 2014/37, pp. 1–10.
- TÓTH J., Z. (2015) 'The regulation of defamation and insult in Europe' in KOLTAY, A. (ed.) *Comparative Perspectives on the Fundamental Freedom of Expression*, Budapest: Wolters Kluwer, pp. 487–517.
- TSUJI, Y. (2019) 'Stand for the National Flag and Sing the National Anthem', *International Comparative, Policy & Ethics Law Review*, 2(3), pp. 751–776.
- WILLS, Ch. (ed.) (2008) *Complete flags of the world*. 5th edn. London: DK Publishing.
- WOOD, J.E. (1989) 'Making a Nation's Flag a Sacred Symbol', *Journal of Church and State*, 35(3), pp. 375–380; <https://doi.org/10.1093/jcs/31.3.375>.
- ZNAMIEROWSKI, A. (2001) *The World Encyclopedia of Flags. The definitive guide to international flags, banners, standards and ensigns*. London: Hermes House.
- [No author] (1968) 'Constitutional Law – Freedom of Speech – Desecration of National Symbols As Protected Political Expression', *Michigan Law Review*, 66(5), pp. 1040–1057; <https://doi.org/10.2307/1287191>.