

The Legal System of the European Communities

- English influence: doctrine of precedent (*stare decisis*) develops in harmony with common law traditions in ECJ;
- The style of judgments: in 1950's and 1960's, ECJ judgments - stylistic copies of French judgments, esp. in their construction and disposition (e.g. the signal words *attendu que*); over time, the style of the Court became more independent: construction of its judgments does not come directly from any legal order of Member States

The European Communities And The Rule Of Law

Theodore Konstadinides



The European Communities And The Rule Of Law:

The Rule of Law in the European Union Theodore Konstadinides, 2017-09-21 This is a book about the internal dimension of the rule of law in the European Union EU The EU is a community based on law which adheres to and promotes a set of common values between the Member States The preservation of these values such as legality legal certainty prohibition of arbitrariness respect for fundamental rights is pivotal to the success of European integration and the well being of the individuals within it Yet the EU rule of law suffers from an imposter syndrome and has been the subject of criticism ie that it is only part of the EU agenda in order to legitimise sweeping new powers and policies and that it plays little or no role in promoting a culture of compliance for either deviant EU Institutions or for Member States This book will examine whether the EU rule of law deserves those criticisms It will offer an analytical guide to the EU rule of law by conceptualising it and locating it within the sources of EU law It will then ask whether the EU is based on the rule of law a question which is answered in the affirmative but one which has to be considered in the context of compliance and the overall effectiveness of the EU enforcement acquis It is argued that while the EU means well in its aim to preserve unity in an increasingly diversified Europe the extent to which it can pave the way to a better world based on a transnational rule of law concept akin to good governance and improvement of citizens lives is dependent on the commitment of all European integration stakeholders to the EU project

The Rule of Law's Anatomy in the EU Allan Rosas, Juha Raitio, Pekka Pohjankoski, 2023-06-15 This study with its approach rooted in EU law and its clear focus on conceptual underpinnings grapples with one of the most challenging questions facing constitutional lawyers today namely the rule of law Drawing on the expertise of leading scholars and judges at the forefront of the question it takes a dual approach It opens by setting out the foundations of the rule of law including legal certainty democratic principles and judicial independence It goes on to explore the protections that can be relied upon from policy developments to human rights sanctions and infringement actions This is a rapidly developing question in EU constitutional law so this masterful collection will be welcomed by both scholars and policy makers in the field

Enhancing the Rule of Law in the European Union's External Action Luis M. Hinojosa-Martínez, Carmela Pérez-Bernárdez, 2023-07-01 This timely book scrutinises the mechanisms for guaranteeing respect for the rule of law in the European legal system Focusing on external relations it assesses the capacity of the EU to disseminate these values as a global actor and offers novel suggestions for how this capacity could be exercised more effectively

The European Communities and the Rule of Law, 1977 **The Law and Governance of the EU Public Ethics System** Alberto Alemanno, 2025-05-24 The questions at the core of this volume are the following What are the ethics and integrity rules for the EU How do they score compared to the integrity frameworks existing at the Member States level and in other democracies How do we design these rules and ensure their enforcement in the EU How do we improve the enforcement of EU integrity standards Can an EU ethics system contribute to preventing or mitigating unethical conduct

within the Union thus improving its democratic legitimacy In addressing these questions this edited volume provides a critical analysis of the existing EU ethical framework while contextualising it within the unique transnational setting that characterises the EU public administration and its various institutions *Development of Judicial Control of the European Communities* Gerhard Bebr, 2013-12-01 The development of the judicial control of the European Communities is perhaps best illustrated by comparing the first decision the Court of Justice rendered in December 1954 under the ECSC Treaty with its preliminary rulings van Gend Loos 1962 ENEL 1964 and Simmenthal II 1978 rendered under the EEC Treaty In the first case the Court quashed a decision of the High Authority impugned by an annulment action of a Member State for an illegal exercise of Community powers a judicial control which at the time already represented a spectacular legal innovation introduced by the ECSC Treaty At that time the Court was for evident reasons still reserved as to its role within the unprecedented institutional structure of the Community In van Gend ENEL and Simmenthal II on the other hand the Court resolutely pursued a judicial policy intended to ensure an effective operation of the Community legal order a problem hardly envisaged in 1954 In these rulings the Court characterized the emerging legal order and stated its fundamental and indispensable requirements the unlimited supremacy of Community law and its direct effect The development of a superior and autonomous Community legal order was finally completed by the Court's recognition of fundamental Community rights of individuals This development from an initially reserved stand of the Court searching for its proper role and its potentialities to a bold and determined judicial policy is truly remarkable External Relations Law of the European Community Rasmussen Holdgaard, 2008-01-01 External Relations Law of the European Community begins by noting two common characteristics of legal analyses in the field of EU external relations First most legal analyses assume that EC external relations law cannot be studied or applied without a constant awareness of the underlying political dynamics Yet the same analyses fail to explain how these dynamics are to be understood assessed and systematically applied This pragmatic outlook reduces the importance and value of a self reflective rational and coherent legal language Second most legal analyses tend to focus only on **A Citizen's Guide to the Rule of Law** Adis Nicolaidis, Kalypso Merdzanovic, 2021-04-20 In our daily lives the rule of law matters more than anything and yet remains an invisible presence We trust in the rule of law to protect us from governmental overreach mafia godfathers or the will of the majority We take the rule of law for granted often failing to recognize its demise until it is too late For under attack it is not only in the growing number of authoritarian countries around the world but in Europe too As a citizen's guide this book explains in plain language what the rule of law is why it matters and why we have to defend it The starting point is to ask why EU efforts to promote the rule of law in candidate countries have succeeded or failed and what this tells us about what is happening inside the EU The authors move on to suggest ways of strengthening the rule of law in Europe and beyond This book is a call to action in defense of the most precious human invention of all time **The Law of the European Union and the European Communities** Pieter Jan

Kuijper, Fabian Amtenbrink, Deirdre Curtin, Bruno De Witte, Alison McDonnell, 2018-09-28 The Law of the European Union is a complete reference work on all aspects of the law of the European Union including the institutional framework the Internal Market Economic and Monetary Union and external policy and action Completely revised and updated with many newly written chapters this fifth edition of the most thorough resource in its field provides the most comprehensive and systematic account available of the law of the European Union EU Written by a new team of experts in their respective areas of European law its coverage incorporates and embraces many current controversial and emerging issues and provides detailed attention to historical development and legislative history of EU law Topics that are constantly debated in European legal analysis and practice are touched on in ways that are both fundamental and enlightening including the following powers and functions of the EU law institutions and relationship among them the principles of equality loyalty subsidiarity and proportionality free movement of persons goods services and capital mechanisms of constitutional change treaty revisions accession treaties withdrawal agreements budgetary principles and procedures State aid rules effect of Union law in national legal systems coexistence of EU European Convention of Human Rights ECHR and national fundamental rights law migration and asylum law liability of Member States for damage suffered by individuals competition law cartels abuse of dominant position merger control social policy equal pay and equal treatment environmental policy consumer protection public health cultural policy education and tourism nature of EU citizenship its acquisition and loss and law and policy of the EU s external relations The fifth edition embraces many new ongoing and emerging European legal issues As in the previous editions the presentation is notable for its attention to how the law relates to economic and political realities and how the various policy areas interact with each other and with the institutional framework The many practitioners and scholars who have relied on the predecessors of this definitive work for years will welcome this extensively revised and updated edition Those coming to the field for the first time will instantly recognize that they are in the presence of a masterwork that can always be turned to with profit and that helps in understanding the rationale underlying any EU law provision or principle

The European Union and Human Rights Jan Wouters, Michal Ovádek, 2021-03-25 The European Union and Human Rights Analysis Cases and Materials maps and critiques the EU s commitment to human rights in both internal and external affairs The book covers the evolution as well as the current state of the EU s engagement with human rights focusing on the internal side on the role of the EU law in the multi faceted system of human rights protection and on the external side on the EU s efforts to bind its foreign policy to promoting human rights This book combines analysis of key developments with a wide range of sources including extracts from legislation case law policy documents and research of other scholars The inclusion of both primary and secondary materials is intended to guide readers to acquire a deep understanding of EU human rights law and policy This title devotes significant attention to explicating the fundamental concepts and systemic features of the EU s human rights protection and promotion In addition chapters devoted to individual topics provide more depth on a range of policy

areas in both the internal and external dimension of EU affairs Topics covered by these individual chapters include non discrimination and competition law migration trade policy and development cooperation

Investment Protection Standards and the Rule of Law August Reinisch,Stephan W. Schill,2023 This edited volume explores the connection between the rule of law and substantive standards of treatment in international investment agreements It also analyses to what extent these standards of treatment can be understood as positive expressions of the rule of law

Interregionalism and the European Union Professor Mario Telò,Professor Louise Fawcett,Dr Frederik Ponjaert,2015-11-28 Is the EU isolated within the emergent multipolar world Concentrating on interregional relations and focussing on the European Union s evolving international role with regards to regional cooperation this innovative book collects a set of fresh empirical analyses of interregional ties binding the EU with its Eastern and Southern neighbourhood as well as with Asia Africa and the Americas The 25 leading authors from 5 continents have contributed original and diverse chapters and the book advances a novel theoretical post revisionist approach beyond both the Eurocentrism of Europe First perspectives as well as the Euroscepticism of those advocating to simply move Beyond Europe

Public Law in a Troubled Era Katarzyna Gromek-Broc,2023-07-14 Public law which examines relations between governments and institutions and individuals has in recent years become deeply disturbed by an erosion of the rule of law notably in some of the world s most professedly democratic nations In this book of edited essays many of the world s leading public lawyers draw on examples from the United Kingdom European States and the European Union EU to explore the alarming tensions unleashed as Europe is rocked by Brexit the war between nations on the EU border and the worldwide phenomenon of populist resistance to globalised forces and liberal democratic aspirations The book is dedicated to Professor Patrick Birkinshaw who until his retirement was Director of the Institute of European Public Law and Professor of Public Law at the University of Hull and widely respected as a leading authority on public law With a focus on public law and European public law jurisprudence with hugely important global ramifications the contributions continue his work and crucially deal with the new and troubling shape of the law politics relationship The essays examine these developments under four headings Law in a World Turned Upside Down with essays on e g Brexit the denial of human rights and the rule of law in Hungary climate change governance Law and Politics A Shifting Boundary showing how advances in the courts have prompted reaction to curtail judicial review and human rights protection especially evident in the fading mirage of fair trial rights and administration on the EU periphery Law s Promise specifying real achievements in the way of reform and higher levels of security for individuals and New Bearings exploring initiatives and emerging problems including reform of judicial review the European Banking Law digitalization of public administration and institutional interactions with the Chinese 1982 Constitution The book brings together leading university professors public officials and judges all experts in their respective fields All are concerned with a central role for law in the process of governance This unrivalled volume penetrates the contradictions uncertainties and

insecurities that plague this topic of worldwide interest and debate and will prove invaluable to practitioners public administrators jurists judges and legal academics everywhere It will also be of interest to political scientists and politicians In its completely original and innovative discussions of the changes taking place at the interface of law and politics and of how law can enhance certainty and reliability in governance this book provides a most detailed and insightful analysis of the new bearings in public law in Europe and worldwide

The Court of Justice of the European Union Kate Shaw,2022-12-19

In an era of Covid 19 The Court of Justice of the European Union explores the extent to which the CJEU can realise a powerful role as guardian of the EU s rule of law in a public health emergency Drawing on an extensive literature review The Court of Justice of the European Union argues the CJEU can realise such a role by anchoring a structured rule of law review in its reasoning when considering the exercise by the Member States of the public health derogation Both the legal reasoning of the CJEU during the Covid 19 public health emergency and its aftermath as well as the related challenges to the EU s rule of law are legally and politically of intense interest to legal academics legal practitioners policy makers and students

The European Convention on Human Rights and Private Law Mateja Durovic,Cristina Poncibò,2024-11-14 In this book a team of expert contributors address challenging issues concerning the relationship between private law and the rule of law and human rights with specific focus on case studies from South Eastern Europe The book examines the broadening application of human rights to the private law fields and the resulting effects Contributors offer a truly interdisciplinary perspective drawn from comparative law civil law procedural law and public law By so doing for the first time they offer insights into the fascinating questions the region poses for private law and human rights

EU Anti-corruption Efforts in the Eastern Neighbourhood Mihai-Razvan Corman,2024-12-02 In EU Anti Corruption Efforts in the Eastern Neighbourhood Mihai Razvan Corman provides a fresh and original legal analysis of the EU s capability to tackle this complex and multi faceted phenomenon beyond its borders Key legal instruments and mechanisms from the external dimension are examined and contrasted to the EU s anti corruption arsenal towards Member States Special attention is dedicated to the EU s anti corruption capability in the areas of organized and cross border crime public procurement and political party financing In particular this book focuses on the implications of the EU s internal capability for its external efforts It also explores to what extent there is a gap between the EU s high ambitions of tackling corruption in the Eastern Neighbourhood and its actual legal capability While EU anti corruption efforts in Moldova serve as a crucial case study its engagement in the other candidate countries from the EaP is also incorporated in the analysis

European Union Governance in Central Asia

Agha Bayramov,Marek Neuman,2024-12-09 The edited volume attempts to critically approach EU Central Asian relations asking whether when adopting a more sectoral governance approach the EU s transformative power vis vis the region is greater than initially argued and if so under what conditions it flourishes most It assesses whether through adopting a sectoral approach to the area of development infrastructure water management security climate change energy trade health

education or any other element defining EU Central Asian relations the European Union is able to co shape this geopolitically strategic region If so what drives the EU s ability to do so if not what mitigates its potential influence This book contributes to the scholarship on the EU s external governance both empirically and theoretically

The Cambridge Companion to European Criminal Law Kai Ambos, Peter Rackow, 2023-02-16 European Criminal Law has developed into a complex jagged subject matter which at the same time has become increasingly important for everyday criminal law practice On the one hand this work aims to do comprehensive justice to the complexity of the matter without sacrificing readability In order to achieve this the book s structure enables legal scholars and experienced practitioners to access the information relevant to them in a targeted manner and at the same time enables less oriented readers to gain access to European criminal law Thus the volume both answers basic questions and offers discussion in more specialised areas Written by experts in the field the book offers discussions which are both of the highest academic standards and accessibly readable

Defending Checks and Balances in EU Member States Armin von Bogdandy, Piotr Bogdanowicz, Iris Canor, Christoph Grabenwarter, Maciej Taborowski, Matthias Schmidt, 2021-01-05 This open access book deals with Article 7 TEU measures court proceedings financial sanctions and the EU Rule of Law Framework to protect EU values with a particular focus on checks and balances in EU Member States It analyses substantive standards powers procedures as well as the consequences and implications of the various instruments It combines the analysis of the European level be it the EU or the Council of Europe with that of the national level in particular in Hungary and Poland The LM judgment of the European Court of Justice is made subject to detailed scrutiny

National Human Rights Institutions David Langtry, Kirsten Roberts Lyer, 2021 National Human Rights Institutions Rules Requirements and Practice is an authoritative guide to National Human Rights Institutions NHRI in their important role as promoters and protectors of human rights at the national level This book serves as both the first ever casebook on the findings of the SCA as well as a comprehensive reference for the requirements for compliance of NHRIs with the Paris Principles and is a vital source of information on the actual practice of NHRIs Since its earliest assessments of NHRIs in 1998 the Global Alliance of NHRIs GANHRI Sub Committee on Accreditation SCA has developed a substantive body of work that has examined the operation and practice of over 128 institutions in countries and territories from every part of the globe Analysed and catalogued in their entirety into an accessible format for the first time and covering all aspects of NHRIs structure and functioning as well as providing a thorough overview of how the SCA works in practice this book is an indispensable resource for scholars and practitioners who wish to understand and learn how NHRIs operate at the national level as well as what problems they face and ultimately how they can be strengthened Benefitting from the unique insight of David Langtry a member of the SCA for 11 years this book is an essential source for all those interested in the role of NHRIs and more broadly of all state established institutions intended to function independently

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