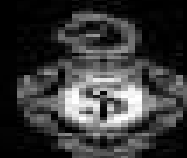


Adam Bodnar · Michał Kowalski  
Karen Raible · Frank Schorkopf (Eds.)

# The Emerging Constitutional Law of the European Union

German and Polish Perspectives



Springer

# Emerging Constitutional Law Of The European Union

**Matej Avbelj, Jan Komárek**



## **Emerging Constitutional Law Of The European Union:**

*The Emerging Constitutional Law of the European Union* Adam Bodnar, Michal Kowalski, Karen Raible, Frank Schorkopf, 2003-07-22 Young lawyers from different academic centres in Germany and Poland comment on the ongoing constitutional debate in the EU Each of the more than 20 articles is dedicated to a specific theme i e human rights institutional design current and future function of the EU homogeneity and identity security and defence policy home policy and common values Similarities as well as differences in the perspectives of an old EU Member State on the one hand and an EU Member State to be on the other hand are revealed **EU Constitutional Law** Koenraad Lenaerts, Piet Van Nuffel, Tim Corthaut, 2021 A major international textbook on EU constitutional law it covers the structure values procedures and policies of the EU It deals with institutional issues but also with substantive issues of major importance including citizenship free movement fundamental rights and the EU as an external actor The Unity of the European Constitution Philipp Dann, Michal Rynkowski, 2010-05-10 This book collects the contributions to a conference of a group of young Polish and German public law scholars on the Constitutional Law of the European Union The articles present a multi faceted examination of unity and its realization in the primary and constitutional law of the EU an analysis of EU constitutional structure in the face of diversity and the independence of EU law from international common law among other topics

**Constitutional Law and Economics of the European Union** Dieter Schmidtchen, Robert Cooter, 1997-01-01 Most papers are followed by remarks from two commentators which provide a useful summary of the issues at stake Keith Tribe The Economic Journal With its constitutional law and economics approach to European integration this book is both interesting and useful for academics policymakers and students of the EU Nina Grager Journal of Peace Research The process of European integration is at a crossroads As the Union becomes larger in terms of members the institutional structures and decision making procedures will have to change in order for it to make policy initiatives To meet these challenges the Union will need an effective institutional and constitutional structure which must be both democratic and acceptable to its citizens Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012-02-29 Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance Some of them believe that constitutionalism traditionally thought to be bound to a nation state can emerge beyond state borders most importantly in the process of European integration but also beyond that for example in international regulatory regimes such as the WTO or international systems of fundamental rights protection such as the European Convention At the same time the idea of constitutional pluralism has not gone unchallenged Some have questioned its compatibility with the very nature of law and the values which law brings to constitutionalism The critiques have come from both sides from those who believe in the traditional European constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states The book

collects contributions taking opposing perspectives on constitutional pluralism some defending and promoting the concept of constitutional pluralism some criticising and opposing it While some authors can be called the founding fathers of constitutional pluralism others are young academics who have recently entered the field Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism enriching our existing understanding of the concept in current scholarship

**The European Union's Emerging International Identity** Henri de Waele, Jan-Jaap Kuipers, 2013-06-06 The European Union officially acquired international legal personality with the entry into force of the Lisbon Treaty Since then the constitutional foundations of EU external relations have received an ever greater amount of scholarly attention So far however the body of knowledge has remained limited with regard to how the Union is actually being perceived on the global scene Moreover its dealings with other international organizations constitute a similar still underexplored topic The European Union's Emerging International Identity breaks new ground by addressing both these themes in combination The resulting volume offers an innovative inquiry into the EU's image and status based on a select number of studies of its position and functioning within the framework of eight international organizations

**Fundamental Rights in Europe** Federico Fabbrini, 2014-02 This book examines the European system for the protection of fundamental rights The aim is to identify the constitutional dynamics that occur as a result of the interaction between state and transnational human rights standards Fabbrini compares the European system with the US federal system based on four case studies

Principles of European Constitutional Law Armin von Bogdandy, Jürgen Bast, 2009-12-03 For the time being the political project of basing the European Union on a document entitled Constitution has failed The second revised and enlarged edition of this volume retains its title nonetheless Building on a scholarly rather than black letter law account it shows European constitutional law as it looks following the Treaty of Lisbon with the EU's foundational treaties mandating the exercise of public authority establishing a hierarchy of norms and legitimising legal acts providing for citizenship and granting fundamental rights In this way the treaties shape the relations between legal orders between public interest regulation and market economy and between law and politics The contributions demonstrate in detail how a constitutional approach furthers understanding of the core issues of EU law how it offers theoretical and doctrinal insights and how it adds critical perspective From Reviews of the First Edition should be mandatory reading for anyone who wants to get a holistic perspective of the academic debate on Europe's constitutional foundations It is impossible to present the richness of thought contained in the 833 pages of the book in a short review Common Market Law Review an enduring scholarly work which gives an English speaking audience important and overdue access to the long standing and forever vigorous traditions of European constitutional law unhesitatingly recommended European Law Journal real scholarship in the profound sense of the word K Lenaerts Professor of European Law Leuven

**The EU-NATO Relationship** Martin Reichard, 2016-02-17 The EU NATO relationship continues to develop at a time of significant change for both organizations Post 9 11 NATO embarked

on a fundamental transformation recasting itself as an organization with global strategic reach and interest focused less on Europe than ever before At the same time the EU is also becoming a more global political actor Consequently there is growing evidence that over time the EU will take the primary place in providing military security in Europe This volume combines political and legal methods to provide a comprehensive analysis of the current and likely future relationship between the EU and NATO The work will be of interest to all those interested in the development of these two major organizations and international security more generally whether from a political or legal perspective

**The Constitutional Theory of the Federation and the European Union** Signe Rehling Larsen, 2021-02-04 From the start of the European integration process one question has puzzled scholars what type of political association is the European Union In absence of an agreed upon response most scholars have suggested that the European Union is sui generis This book challenges the sui generis thesis by demonstrating that the EU is not a unique form of association but rather a federal union of states or what this book calls a federation This is a discrete form of political association on par with though differentiated from political modernity's two other main forms namely the state and the empire The federation cannot be understood on the basis of the general theory of the state or its concept of sovereignty The statist imaginary still dominates both the debates on federalism and the EU meaning that all federal policies are either seen as confederal associations of sovereign states or sovereign federal states This book challenges this binary by demonstrating that the federation is not a super state but a discrete political form with its own constitutional theory It is characterized by a double political existence a lack of internal hierarchy and the internal absence contestation or repression of sovereignty This book details the key aspects of federal constitutional theory and how this theory accounts for the EU's constitutional form as well as the crises it has faced in recent years This book is broken into five chapters that cover the introduction to federalism origins of the EU state transformation and teleology unity in diversity and emergency rule without a sovereign This book draws on a variety of literatures and historical material to help the reader develop a critical understanding of constitutional myths and the theory of federalism

**A Union of Peoples** Pavlos Eleftheriadis, 2020 This book delves into the legal theory of the European Union offering an internationalist theory of European Union law as part of the law of nations where its central principles are not the principles of a single constitution but the cosmopolitan principles of accountability liberty and fairness

**Constitutional Evolution in Central and Eastern Europe** Alexander H.E. Morawa, 2016-12-14 This book examines EU enlargement by studying how domestic constitutional evolution in the new member states contributes to European integration In contrast to the usual top down analytical pattern it reverses the paradigm by looking at constitutional developments and dynamics from the bottom up studying how domestic constitutional evolution contributes to European integration The authors analyze constitutional trends from the perspective of new Member States as policy makers and not strictly as policy takers The issue of conditionality is also explored in a discussion of the extent to which pre 2004 and 2007 conditionality has had lasting effects at the level of

constitutionalization of different areas and norms and if so of what kind The exploration of Europeanization effects in recent Member States substantiates and demonstrates how enlargement has been an important driving force for the effective export of EU legal rules in this region The book utilizes a comparative approach to highlight the merits and obstacles created by the growing diversity in the constitutional rules and patterns of the new Member States It also contains a section that places the CEE constitutionalizing map in a broader comparative European and global context establishing links with similar transitional regimes in the continent and elsewhere

*Recent Trends in German and European Constitutional Law* Eibe H. Riedel, Rüdiger Wolfrum, 2010-05-17 The present volume compiles the German National Reports on Public Law that are to be presented at the XVIIth Congress of the International Academy of Comparative Law which will take place from 16-22 July 2006 in Utrecht the Netherlands By publishing the conference report before the conference itself has taken place we hope to enable interested scholars and practitioners to gain information in greater detail as it will be possible during the conference and in this way to stimulate and inspire the overall discussion The Congress like its predecessors will bring together academics and practitioners from all over the world and thus offer an excellent opportunity for discussion and comparison on a wide range of current and interesting issues The articles of this volume map out the current situation and doctrinal ramifications of a specific comparative project as designed by the Congress organisers Each contributor provides both a full picture of the subject area and sets out his or her view on the topic which will give our experiences from the previous conferences stimulate and enrich the discussions at this year's conference This volume contains eight reports focussing on specific topics of German Public Law and two dealing with questions of European Constitutional Law

Constitutional Law of the EU's Common Foreign and Security Policy Graham Butler, 2019-10-03 The Common Foreign and Security Policy (CFSP) of the European Union is a highly exceptional component of the EU legal order This constitutionalised foreign policy regime with legal diplomatic and political DNA woven throughout its fabric is a distinct sub-system of law on the outermost sphere of European supranationalism When contrasted against other Union policies it is immediately clear that EU foreign policy has a special decision-making mechanism making it highly exceptional In the now depillarised framework of the EU treaties issues of institutional division arise from the legacy of the former pillar system This is due to the reality that of prime concern in EU external relations is the question of who decides By engaging a number of legal themes that cut across foreign affairs exceptionalism executive prerogatives parliamentary accountability judicial review and the constitutionalisation of European integration the book lays bare how EU foreign affairs have become highly legalised leading to ever greater coherence in how Europe exerts itself on the global stage In this first monograph dedicated exclusively to the law of the EU's Common Foreign and Security Policy in modern times the author argues that the legal framework for EU foreign affairs must adapt in a changing world so as to ensure the EU treaties can cater for a more assertive Europe in the wider world Cited in Opinion of Advocate General Evgeni Tanchev Case C-730/18 P SC v Eulex Kosovo ECLI:EU:C:2020:176 Court of Justice of the European

Union First Chamber 5 March 2020 Opinion of Advocate General Gerard Hogan Case C 134 19 P Bank Refah Kargaran v Council of the European Union ECLI EU C 2020 396 Court of Justice of the European Union Grand Chamber 28 May 2020 Opinion of Advocate General Evgeni Tanchev Case C 283 20 CO ME GC and 42 Others v MJ Head of Mission European Commission European External Action Service EEAS Council of the European Union Eulex Kosovo ECLI EU C 2021 781 Court of Justice of the European Union Fifth Chamber 30 September 2021 and Opinion of Advocate General Tamara Capeta in Joined Cases C 29 22 P and C 44 22 P KS KD v Council of the European Union European Commission and European External Action Service EEAS and European Commission v KS KD Council of the European Union and European External Action Service EEAS ECLI EU C 2023 901 Court of Justice of the European Union Grand Chamber 23 November 2023

Theorizing Internal Security in the European Union Raphael Bossong, Mark Rhinard, 2016-11-17 This edited volume offers different theories useful for understanding and explaining European Union cooperation on internal security matters Cooperation on such matters has not only flourished over the past two decades but more recently has also become one of the most politicised or contested areas of European integration Yet academic studies in the field remain predominantly empirical or not readily accessible to new scholars The book addresses this major gap by providing a theoretical primer with a palette of options for explaining a complicated issue area reaching across the divide of critical and more mainstream scholars that typically fragments discussion and debate Theorizing Internal Security Cooperation in the European Union offers accessible and authoritative contributions by some of the most distinguished scholars in the field Each chapter reviews the emergence of a major theoretical approach the current state of the art for that approach and the accompanying methodological considerations before providing an empirical illustration and an outlook on further research and dialogue with other perspectives This book will serve as a central reference for developing our understanding of EU internal security cooperation for exploring the ongoing transformation of statehood and for illuminating the contemporary evolution of the European Union

*Framing the Subjects and Objects of Contemporary EU Law* Samo Bardutzky, Elaine Fahey, 2017-06-30 This timely book invites the reader to explore the lexicon of subjects and objects of EU law as a platform from which several dilemmas and omissions of EU law can be researched It includes a number of case studies from different fields of law that deploy this lexicon structuring the contributions around three principal elements of EU law its transformations crises and external internal dynamics

**The Limits of Legal Reasoning and the European Court of Justice** Gerard Conway, 2012-01-12 Gerard Conway explains how judges of the ECJ should be understood as sharing the same interpretative perspective as the law maker

*European Yearbook of Constitutional Law 2023* Charlotte van Oirsouw, Jurgen de Poorter, Ingrid Leijten, Gerhard van der Schyff, Maarten Stremmer, Maartje De Visser, 2024-12-11 The European Yearbook of Constitutional Law EYCL is an annual publication devoted to the study of constitutional law It aims to provide a forum for in depth analysis and discussion of new developments in the field both in Europe and beyond This book addresses the theme Constitutional

Law in the Digital Era Societies are increasingly affected by the use of digital technologies by both public and private actors This has resulted in a range of normative questions that require a constitutional response The book explores a number of issues concerning the relationship between the impact of digitalisation and constitutional values by examining the constitutional challenges arising from the increasing use of digital technologies and develops potential constitutional responses and remedies to these challenges This volume will be of special interest to constitutional and legal scholars who are interested in EU and national constitutional law as well as to social scientists more generally e g governance sociology science and technology as well as computer and data scientists In addition the book is relevant for judges government officials and policy makers who work on the intersection of digitalisation and EU constitutional law Charlotte van Oirsouw is a PhD researcher at Utrecht University School of Law Department of Constitutional and Administrative Law Jurgen de Poorter is State Councillor at the Dutch Council of State and Professor at Tilburg Law School Department of Public Law and Governance Ingrid Leijten is Professor at Tilburg Law School Department of Public Law and Governance Gerhard van der Schyff is Associate Professor at Tilburg Law School Department of Public Law and Governance Maarten Stremmer is Assistant Professor at Maastricht University Faculty of Law Department of Public Law Maartje De Visser is Professor at Yong Pung How School of Law Singapore Management University Chapter 10 is available open access under a Creative Commons Attribution 4 0 International License via link [springer.com](https://www.springer.com)

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**Constitutional Law of the European Union** Koenraad Lenaerts, Piet Van Nuffel, Robert Bray, 1999 This work provides an up to date picture of the constitutional



law of the European Union and the law governing forms of co operation among the Member States such as common foreign and security policy police and judicial co operation in criminal matter such as schengen The book begins by describing the pathways for integration in teh EU outlining the substantive temporal and territorial jurisdiction of the EU The authors provide an exposition of the objectives and tasks of the Community together with an analysis of the principles of legal basis subsidiarity proportionality and equal treatment This is followed by an analysis of substantive European law with particular attention given to the principles of the internal market and EMU

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