Constructing Legal Systems

"European Union" in Legal Theory

Reliated by Neil MacCormick:

Constructing Legal Systems European Union In Legal Theory

Gareth Davies, Matej Avbelj

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Constructing Legal Systems: "European Union" in Legal Theory N. MacCormick,2013-06-29 Legal theory has been much occupied with understanding legal systems and analysing the concept of legal system This has usually been done on the tacit or explicit assumption that legal systems and states are co terminous But since the Rome Treaty there has grown up in Europe a new legal order neither national law nor international law and under its sway older conceptions of state sovereignty have been rendered obsolete At the same time it has been doubted whether the European Union that has grown out of the original European Communities has a satisfactory constitution or any constitution at all What kind of legal and political entity is this Union and how does it relate juridically and politically to its member states Further the activity of construing or constructing legal system and legal knowledge becomes visibly problematic in this context These essays wrestle with the above problems Philosophical Foundations of European Union Law Julie Dickson, Pavlos Eleftheriadis, 2012-10-11 This volume brings together legal philosophers political philosophers and EU legal academics in the service of developing the philosophical analysis of EU law In a series of original and complementary essays they bring their varied disciplinary expertise and theoretical perspectives to bear on central issues facing the Union and its law

Constitutionalizing Secession in Federalized States Miodrag A. Jovanović, 2007 This book is a thorough and professional study about secession Starting from the perspective of contemporary political philosophy the book explores the relevance of this issue for the theory and practice of federalism as well as its status under current public international law and concludes with a comparative constitutional analysis of the subject matter In the final chapter it provides a constitutionalized procedure of secession based on fundamental liberal democratic values. The book argues that a liberal democratic response to the secession controversy might consist of the constitutionalization of a right to secession While a number of recent works in political theory point to the fact that under certain circumstances the moral right of a group to secession should be recognized only a few of them are ready to defend the institutionalization of that right through the instruments of constitutional law This topical and thought provoking book is a welcome contribution to the ongoing debate on secession and will be of interest to academics in a variety of disciplines such as law history politics international relations philosophy and applied ethics and to politicians and constitution drafters The De Gruyter Handbook on Law and Digital Technologies Massimo Durante, Ugo Pagallo, 2025-09-22 The De Gruyter Handbook on Law and Digital Technologies provides a comprehensive accessible and thought provoking guide to the current and future regulation of digital technologies It addresses key legal challenges such as reconceptualizing crucial deep rooted notions including those of person autonomy democracy the rule of law sovereignty constitutionalism and governance The handbook proposes critical explorations of the potential impact of digital technologies on new and traditional forms of governance and regulation across different and competitive normative perspectives such as law economy social norms and legal design In this framework it addresses the

societal transformations brought about by digital technologies the legal means for regulating the field and the impact of governance in areas such as fintech sustainability outer space or healthcare The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law -La Cour de Justice et la Construction de l'Europe: Analyses et <u>Perspectives de Soixante Ans de Jurisprudence</u> Court of Justice of the European Un, A. Rosas, E. Levits, Y. Bot, 2012-12-05 This book is a contributed volume published by the Court of Justice of the European Union on the occasion of its 60th anniversary It provides an insight to the 60 years of case law of the Court of Justice and its role in the progress of European Integration The book includes contributions from eminent jurists from almost all the EU Member States All the main areas of European Union are covered in a systematic way The contributions are regrouped in four chapters dedicated respectively to the role of the Court of Justice and the Judicial Architecture of the European Union the Constitutional Order of the European Union the Area of EU Citizens and the European Union in the World The topics covered remain of interest for several years to come This unique book a must have reference work for Judges and Courts of all EU Members States and candidate countries and academics and legal professionals who are active in the field of EU law is also valuable for Law Libraries and Law Schools in Europe the United States of America Latin America Asia and Africa and law students who focus their research and studies in EU law The Evolution of EU Law Paul P. Craig, Gráinne De Búrca, 1999 The European Community has been in existence for 40 years This period has seen considerable change and development in both the institutional and the substantive law of the EC and more recently the EU This work seeks to stand back from the ever growing detail of Community law and examine this jurisprudence from an evolutionary and interdisciplinary perspective Every important area of institutional and substantive European law is covered leading lawyers analyze the evolution of their area of expertise across time bringing out the major thematic changes which have occurred These changes are then viewed against the broader political and economic background of the community as a whole The Union and the World: The Political Economy of a Common European Foreign Policy Alan Cafruny, Patrick Peters, 2023-08-21 During the last decade Europe has been transformed both politically and commercially The establishment of a genuinely single marketplace in the context of an expanding membership has enabled the European Union greatly to enhance its role on the world stage In the areas of trade and commercial policy the Union increasingly speaks with one voice As a result of the Maastricht Treaty on Economic and Political Union of 1993 a process has been set in motion whereby the embryonic mechanisms of a common foreign policy European Political Cooperation or EPC are gradually evolving into a more comprehensive Common Foreign and Security Policy CFSP The contributors to this volume describe and evaluate the nature and extent to which the European Union plays an independent role in international affairs This pioneering work makes an important contribution to the literature on the European Union since the chapters present a comprehensive picture of the Union's foreign economic policies and actions its foreign security policy and the supranational nature of much Union decision making The book is significant not only because of its dual focus

on economics as well as politics but also because it comprehensively covers the broad range of Union policies in both the economic and political spheres The intended level of readership is undergraduate courses on the EU and on European politics upper level undergraduate courses in International Relations and graduate survey courses on the EU The book is sufficiently comprehensive and instructive to achieve a wide readership especially in North America and the UK

Constructing Modern European Private Law Ivan Sammut, 2016-09-23 The Europeanisation of European Private Law EPL is an ongoing process that has gained momentum with the communautarisation of judicial cooperation in civil and commercial matters with the Amsterdam Treaty This work examines the governance structure of EPL It proves that more can be achieved towards the Europeanisation of private law through a new approach involving innovative modes of governance in EPL In order to test this hypothesis it is necessary to look at this exercise from three different angles. The first angle provides a study about the tools and the context with which one can further Europeanise private law and bridge the gaps between the main legal families common law and civil law The second angle encompasses a study of what has and what has not been achieved in the development of EPL by looking at both EU and non EU initiatives The final angle then examines the role of governance in the future development of EPL As such this study confirms that the further Europeanisation of EPL requires a multi level mode of governance confirming the traditional supra national Community Method mode of governance in EPL with the introduction of intra governmental innovative methods in EPL such as the Open Method of Coordination OMC and soft law These innovative modes together with the traditional mode of governance can take forward the development of EPL so that it can better serve the needs of the European legal community in the future Visa Policy within the European **Union Structure** Annalisa Meloni, 2006-01-16 The book focuses on the common visa policy as a case study on the constitutional structure of the European Union After introducing the nature of visas the book concentrates on the difficulties in forging a common visa policy at European level Cooperation on visas has been characterized by a continuous reformulation of the framework for cooperation The book describes cooperation before the Treaty on European Union adopted at Maastricht under the Maastricht Treaty and under the Treaty of Amsterdam Furthermore the book traces the essential characteristics of the common visa policy The European Union's Foreign and Security Policy Ramses A. Cases and Materials on EU Law Stephen Weatherill, 2014 The 11th edition of this respected book Wessel,1999-08-01 provides a valuable selection of significant cases and legislation and an engaging range of carefully selected extracts all of which are presented alongside insightful author notes in an easy to use and accessible format An Introduction to International Human Rights Law Azizur Rahman Chowdhury, Jahid Hossain Bhuiyan, 2010-06-14 This book is designed to provide an overview of the development and substance of international human rights law and what is meant concretely by human rights guarantees such as civil and political rights and economic and social rights It highlights the rights of women globalization and human rights education The book also explores domestic regional and international endeavors to protect

human rights The history and role of human rights NGOs coupled with an analysis of diverse international mechanisms are succinctly woven into the text which well reflects the scholarship and erudition of the authors This lucidly written and timely volume will be of great help to anyone seeking to understand this area of law be they students lawyers scholars government officials staff of international and non international organizations human rights activists or lay readers Convergence and Divergence in European Public Law Paul Beaumont, Carole Lyons, Neil Walker, 2002-06-07 This book grew out of a symposium held in the University of Aberdeen in May 2000 It examines the extent to which the European Union has brought about and should bring about convergence of law in Europe in particular but not exclusively public law in Europe Rather than focusing narrowly on the Intergovernmental Conference process the book engages those who wish a detached and at times theoretical examination of the politics of institutional reform in the EU Michael Keating and Joanne Scott of the legal techniques for accommodating diversity within the Union and the process of treaty making or constitution building in the EU Deirdre Curtin Ige Dekker Bruno de Witte and Carole Lyons the cross fertilisation of administrative law concepts between the EU level and the national level Chris Himsworth Ton Heukels and Jamila Tib the need for and legitimacy of a European Union competence on human rights Gr inne de B rca Paul Beaumont and Niamh NicShuibhne and whether private law and public law differ in the extent to which they go to the heart of reflect national culture and therefore in the extent to which they are amenable to convergence Carol Harlow Pierre Legrand and Neil Walker The Principle of Legal Certainty in EC Law J. Raitio, 2013-03-14 The intertwinement of EC law and national law may create unforeseeability in situations where EC law invades the national cases which gives rise to the very question of legal certainty in EC law This study contributes to the contemporary discussion which wrestles with the following questions in particular What have been the visions and objectives for European integration in the last decades How to describe European Union as a political entity and a legal system What is the relationship between legal certainty rule of law various general principles and human rights What is the core of legal certainty on the basis of the case study What kind of legal arguments and patterns of justification are there from a comparative perspective How has the term legal certainty been defined in the Nordic legal theory How predictable and acceptable are the interpretations of the European Court of Justice is it running wild Legal certainty relates to the principle of non retroactivity and the protection of legitimate expectations in particular but more profoundly it can be related to the conceptual scale for weighing up and balancing between formal justice and material fairness in legal decision making This scale is illustrated by presenting the terms formal factual and substantive legal certainty The Iudicial Construction of *Europe* Alec Stone Sweet, 2004-09-09 The law and politics of European integration have been inseparable since the 1960s when the European Court of Justice rendered a set of foundational decisions that gradually served to constitutionalize the Treaty of Rome In this book Alec Stone Sweet one of the world's foremost social scientists and legal scholars blends deductive theory quantitative analysis of aggregate data and qualitative case studies to explain the dynamics of European

integration and institutional change in the EU since 1959 He shows that the activities of market actors lobbyists legislators litigators and judges became connected to one another in various ways giving the EU its fundamentally expansionary character He then assesses the impact of Europe's unique legal system on the evolution of supranational governance tracing outcomes in three policy domains free movement of goods sex equality and environmental protection The book integrates diverse themes including the testing of hypotheses derived from regional integration theory the judicialization of legislative processes the path dependence of precedent and legal argumentation the triumph of the rights revolution in the EU delegation agency and trusteeship balancing as a technique of judicial rulemaking and governance and why national administration and justice have been steadily Europeanized Written for a broad audience the book is also recommended for use in graduate and advanced undergraduate courses in law and the social sciences MacCormick's Scotland Neil Walker, 2012-03-26 A Gedenkschrift to one of Scotland's most prominent jurists and legal thinkers Complexity of the EU Constitutional Process Giuseppe Martinico, 2022-08-05 Offering a fresh view on the EU constitutionalisation process the new edition of The Tangled Complexity of the EU Constitutional Process presents three main points the idea of constitutional complexity the tension between constitutional evolutionism and constitutional constructivism in the process of European integration and the functional nature of conflicts in the evolution of the EU Because of its prodigiousness European law produces consternation among constitutionalists accustomed to traditional patterns of power This book argues that while constitutional conflicts have frequently been depicted as elements of disturbance along the path towards legal coherence they are physiological and might even be functional to the development of the European legal order which should not be understood in a deterministic manner The new edition will be of particular interest to academics and students in the disciplines of law international relations and political science Nordic and **Other European Constitutional Traditions** Joakim Nergelius, 2006-06-01 In the complicated legal and political situation that reigns in Europe at the moment characterized not at least by the uncertainty of what happens with the proposed EU constitution after negative results in the French and Dutch referendums in 2005 it has become increasingly important to analyse the EU constitutional frameworks from historical and comparative perspectives This book provides new insights based on perspectives from Member States such as Germany and Italy as well as the Nordic Countries It also deals with European legal and philosophical heritage in general as well as special issues like closer cooperation among Core States and the role of the Court of Justice in recent EC law development It is of interest both for legal practitioners and scholars as well as students of political science and history EC Law and the Sovereignty of the Member States in Direct Taxation Mathieu Isenbaert, 2010 In order to develop a suitable framework for the analysis of the European Court of Justice ECJ case law it is first analysed what significance if any the concept of sovereignty has in the contemporary supranational environment of the European Union All too often tax scholars equate sovereignty with the concepts of competence or jurisdiction It will be

established in this thesis that a much more specific and higher level meaning is to be attributed to the sovereignty concept which goes beyond the strictly legal concepts of competence or jurisdiction. The cornerstone of this thesis however is an extensive analysis of the case law of the ECJ in direct tax matters including a comparison with its non tax case law A new kind of methodology is used in discussing the cases they are categorized according to whether a discrimination or a restriction based analysis was applied by the ECJ. **Research Handbook on Legal Pluralism and EU Law** Gareth Davies, Matej Avbelj, The Research Handbook on Legal Pluralism and EU Law explores the diversity of phenomenon of overlapping legal systems within the European Union the nature of their interactions and how they deal with the difficult question of the legal hierarchy between them The contributors reflect on the history sociology and legal scholarship on constitutional and legal pluralism and develop this further in the light of the challenges currently facing the EU

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