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## European Law 2019



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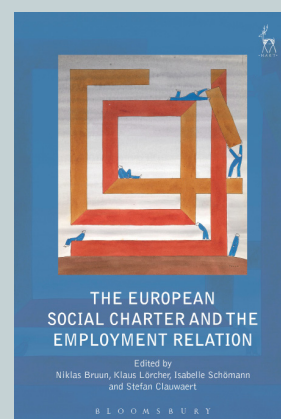
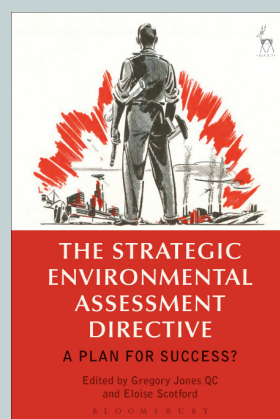
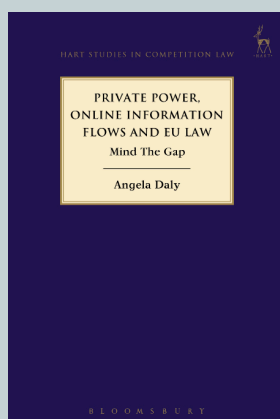
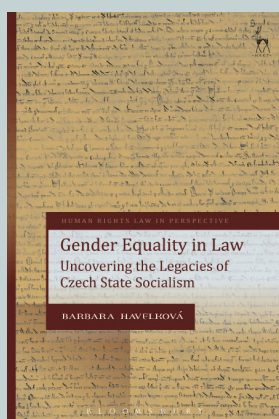
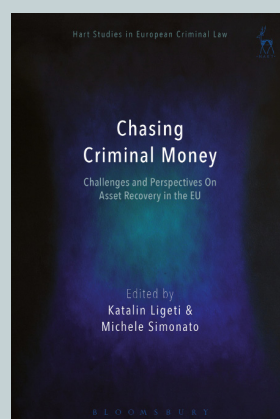
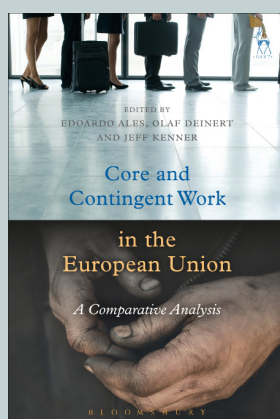
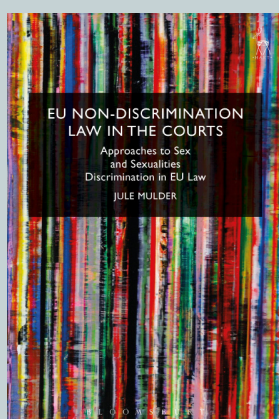
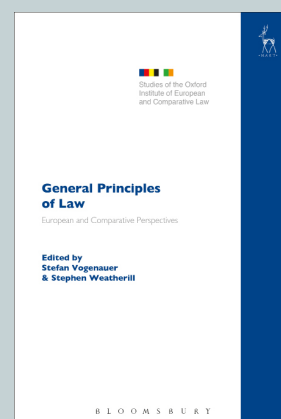
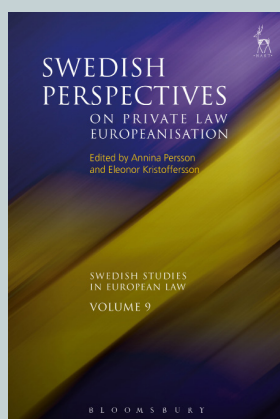
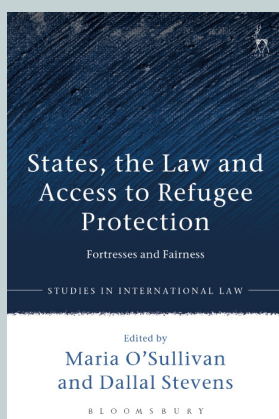
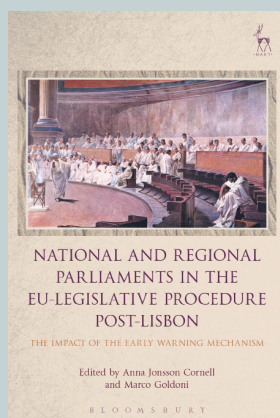
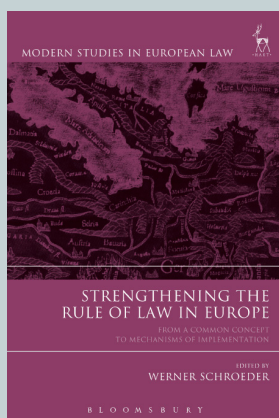
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## European and National Constitutional Law Series

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## Hart Studies in European Criminal Law

*Series Editors: Katalin Ligeti, Valsamis Mitsilega and Anne Weyembergh*

Since the Lisbon Treaty, European criminal law has become an increasingly important field of research and debate. Working with European Criminal Law Academic Network (ECLAN), the series publishes works of the highest intellectual rigor and cutting edge scholarship.

## Modern Studies in European Law

This series publishes the best new monographic works on EU law by younger scholars in the subject. The series embraces the full scope of scholarship on EU law from doctrinal analysis to theoretical exploration, and also encourages inter-disciplinary, comparative and historical approaches, the overall aim being to publish innovative work which will widen knowledge and understanding of the place of law in the creation of Europe.

## Studies of the Oxford Institute of European and Comparative Law

*Series Editor: Birke Häcker*

A series established by the Oxford Institute of European and Comparative Law as a forum for the dissemination of its research. Both European and comparative law are understood in the broadest sense, and a particular emphasis is placed on the specific intersection of the two disciplines.

## EU Law in the Member States

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This series is dedicated to exploring the impact of landmark CJEU judgments and secondary legislation in legal systems across the European Union. Each book is written by a team of generalist EU lawyers and experts in the relevant field, bringing together perspectives from a wide range of different member states in order to compare and analyse the effect of EU law on domestic legal systems and practice.

## European Competition Law Annual

*Current Editors: Philip Lowe, Mel Marquis and Giorgio Monti*

This is a series of volumes following the annual workshops on EU Competition Law and Policy held at the Robert Schuman Centre of the European University in Florence. Each volume contains papers by the EU's leading experts on competition law.

## Ius Commune Casebooks for the Common Law of Europe

*Series Managing Editor: Dimitri Droshout*

The *Ius Commune Casebook Project* fosters cooperation among legal scholars from all over Europe. They join forces to undertake in-depth comparative legal research in various areas of the law. The main aim of the project is to enable scholars and students across Europe and beyond to study and discuss the same leading cases and materials. The casebooks combine extracts from national case law and other sources with excerpts from the European level and thus take a 'bottom-up approach' to the study of the law.

## Parliamentary Democracy in Europe

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Encompassing monographs and edited collections, this series offers insights into rules and conventions shaping parliaments and parliamentary democracy in Europe.

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*Editors: Nils Wahl and Per Cramér*

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## New Edition



### EU Constitutional Law

An Introduction

Allan Rosas and Lorna Armati

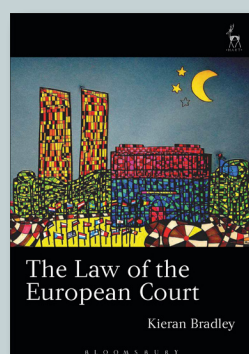
The third edition of this acclaimed book continues the story of the EU's constitutional journey. Fully updated to include the ramifications of Brexit, the book succeeds – where others have struggled – in making sense of the EU's complex constitutional order, focusing on its essential features but taking into account the profound changes that have taken place over the past 20 years.

Eschewing too much detail, the authors underline the essential values, principles and objectives of the integration regime as well as its basic normative structure and hierarchy. In this context, the decentralised nature of the EU is highlighted as an integral part of its constitutional make-up. Recurring themes include European citizenship, fundamental rights and the rule of law. The book also confronts head-on the problems and challenges facing the Union and the gap which is often perceived between lofty ideals and harsh realities.

The book will be useful to students of EU law and European integration but will also appeal to a broader audience of researchers and practitioners, including political scientists.

*Allan Rosas has been a judge at the European Court of Justice since January 2002. Lorna Armati has been a Member of the Legal Service of the European Commission since September 2010.*

May 2018 | 368pp | Pbk | 9781509909148 | RSP: £25.99



### The Law of the European Court

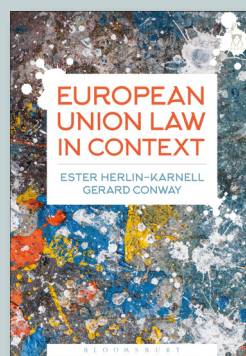
Kieran Bradley

This book provides a clear and concise examination and analysis of the structure and functioning of the Court of Justice of the European Union. It will explore the Court's place in the EU's institutional framework and those legal proceedings through which it carries out its judicial activity. In addition to looking at how the Court is composed and practical questions regarding its functions, it also will show how the Court has interpreted its own

jurisdiction. By placing its examination in a wider context it will appeal to academics and students as well as Union and national officials.

*Kieran Bradley is a Judge of the European Union Civil Service Tribunal.*

Apr 2020 | 352pp | Pbk | 9781509900718 | RSP: £28.99



### European Union Law in Context

Ester Herlin-Karnell and Gerard Conway

This textbook seeks to offer an explanatory and contextual view of EU law and its impact: it aims to map out a rapidly developing and intellectually challenging area in a simple and easily accessible yet analytical manner. The frequent absence of convincing political communication in EU matters has reached its peak during the recent crises. Against this backdrop, the book engages in attempts to explain

philosophical choices or power struggles behind a given EU law act. Hence, the book seeks to identify the mechanisms and conflicts that drive, and have driven over time, the development of EU law in an increasingly globalized world, rather than a narrower and technical doctrinal approach sometimes found in such textbooks.

*Ester Herlin-Karnell is Professor in EU Law, University Research Chair of EU Constitutional Law and Justice and the Director of the VU Centre for European Legal Studies at the Free University of Amsterdam. Gerard Conway is Lecturer in Law at Brunel University.*

Mar 2020 | 304pp | Pbk | 9781849467018 | RSP: £24.99



### The New EU Competition Law

Pablo Ibáñez Colomo

This innovative new textbook offers a unifying analytical framework cutting across cases and sectors for students of competition law. This fresh approach breaks down the traditional substantive/institutional approach ensuring that the student is offered the broadest possible perspective and deepest understanding of the issues at play at the heart of EU competition law. At the same time, it makes meaningful contributions to existing debates in concrete areas by offering a fresh perspective on well-trodden arguments.

Material is clearly organised into two parts, the first of which explores the features of this 'new' EU competition law and proposes an analytical framework against which the evolution of the field can be assessed. The second part addresses some of the most salient recent cases, which would be examined as manifestations of the field. Thought-provoking, engaging and informative, this is required reading for all students of the subject.

*Pablo Ibáñez Colomo is Associate Professor of Law at the London School of Economics and Political Science.*

Mar 2020 | 325pp | Pbk | 9781782259138 | RSP: £24.99



# European Law Titles (2019-2020)



## The Rise and Decline of Fundamental Rights in EU Citizenship

Adrienne Yong

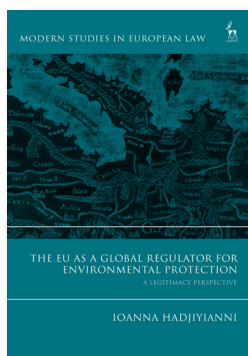
This book argues that there is an inherent relationship between EU fundamental rights and EU citizenship: they both have the same objective of guaranteeing protection for the individual. This is underpinned by the development of case law in the field by the Court of Justice of the EU (CJEU). Here, however, the author proposes that that relationship has weakened in recent years as the CJEU

has entered increasingly sensitive territory in regard to the protection of citizenship rights and fundamental rights.

Writing in the post UK-EU referendum environment, the author argues that this decline is attributable to increasing Euroscepticism, which has worsened since the Eurozone crisis and even more so in light of Brexit, and arguments made that leaving the EU would reduce immigration. This argument is particularly important to note given the rising fears of immigration that underlie much of the dissatisfaction with the EU project: a feeling prevalent not only in the UK. The chapters look at the rights of migrant EU citizens in Member States other than their own, and the guarantees that exist as a matter of protecting their fundamental human rights, which are present alongside rights enjoyed as part of being an EU citizen.

*Adrienne Yong* is Lecturer in Law at The City Law School, City, University of London under the Institute for the Study of European Laws (ISEL).

Mar 2019 | 248pp | Hbk | 9781509917938 | RSP: £70



## The EU as a Global Regulator for Environmental Protection: A Legitimacy Perspective

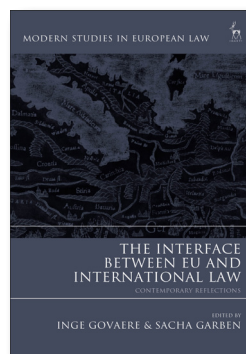
Ioanna Hadjiyianni

This book critically examines the extension of the scope of application of EU environmental legislation beyond EU borders by conditioning access to the EU market on the basis of processes that take place in third countries. It makes a timely contribution to political debates about the relations of the EU with non-EU countries, and the EU's role in global governance in a policy field where the

EU has been considered a global leader. The book aims to identify and explain the emerging legal phenomenon of internal environmental measures with extraterritorial implications as important manifestations of EU global regulatory power. The book assesses the extraterritorial reach of EU environmental law from a legitimacy perspective and examines mechanisms that can bolster its legitimacy, focusing on the legal orders of EU and WTO law, which are key legal fora for controlling the EU's global regulatory power.

*Ioanna Hadjiyianni* is a Lecturer in Law at the University of Cyprus.

Aug 2019 | 334pp | Hbk | 9781509925605 | RSP: £70



## The Interface Between EU and International Law: Contemporary Reflections

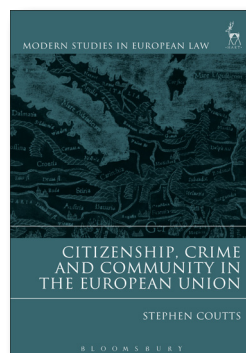
Inge Govaere and Sacha Garben

Despite their many obvious interconnections, EU and international law are all too often studied and practised in different spheres. While it is natural for each to insist on its own unique characteristics, and in particular for the EU to emphasise its sui generis nature, important insights might be lost because of this exclusionary approach. This book aims to break through some of those barriers and to show how

more interaction between the two spheres might be encouraged. In so doing, it offers a constitutional dimension but also a substantive one, identifying policy areas where EU and international law and their respective actors work alongside each other. Offering a 360-degree view on both EU and international institutional and substantive law, this collection presents a refreshing perspective on a longstanding issue.

*Inge Govaere* is Professor of European Law, Jean Monnet Chair in EU Legal Studies and Director, Ghent European Law Institute (GELI), at Ghent University as well as Director of the European Legal Studies Department at the College of Europe. *Sacha Garben* is Professor of EU Law at the College of Europe.

May 2019 | 368pp | Hbk | 9781509923380 | RSP: £80



## Citizenship, Crime and Community in the European Union

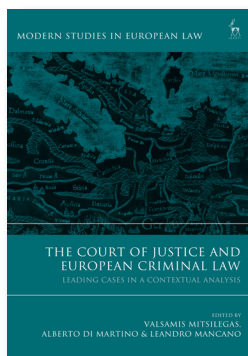
Stephen Coutts

Discussions on Union citizenship tend to focus on two areas: firstly, that of the rights of free movement and non-discrimination of migrant citizens, especially in relation to welfare benefits; secondly on the political dimension of Union citizenship and its role in the European Union's governance and constitution. This book offers an innovative approach to the study of Union citizenship. It does look at the rights of

Union citizenship and the place of citizenship in the European constitution and the European integration process but does this through an analysis of its interaction with another, highly relevant, area of law; that of criminal law. In doing so it contributes to and enriches our understanding of Union citizenship by drawing out heretofore neglected aspects and implications.

*Stephen Coutts* is a Lecturer in Law at Dublin City University.

Aug 2019 | 236pp | Hbk | 9781509915361 | RSP: £70



## The Court of Justice and European Criminal Law

Leading Cases in a Contextual Analysis

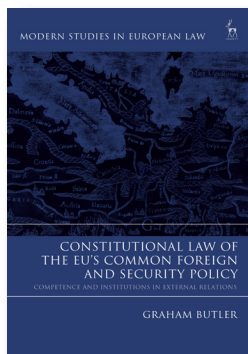
*Valsamis Mitsilegas,  
Alberto di Martino  
and Leandro Mancano*

The aim of this book is to provide an insight into the landmark rulings of the Court of Justice of the European Union (CJEU) in European Criminal Law (ECL). As in other areas of EU law, the decisions of the CJEU have been a motor of development

and integration. This can be seen eg in the impact on EU primary and secondary law produced by the Greek Maize case, as well as the 2005 and 2007 decisions. By analysing the most important judgments of the Court in the area of criminal law, the book provides a diachronic and multifaceted picture of the EU's and the Court's approach to criminal law.

**Valsamis Mitsilegas** is Professor of European Law at Queen Mary University of London. **Alberto di Martino** is Professor of Criminal Law, Scuola Superiore Sant'Anna, Pisa. **Leandro Mancano** is a Researcher at the University of Copenhagen.

Sep 2019 | 416pp | Hbk | 9781509911172 | RSP: £90



## Constitutional Law of the EU's Common Foreign and Security Policy

Competence and Institutions in External Relations

*Graham Butler*

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 outer-

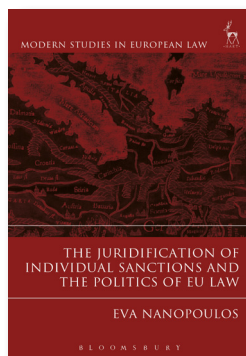
most sphere of European supranationalism. When contrasted against other Union policies, it is immediately clear that EU foreign policy has a special decision-making mechanism, making it highly exceptional.

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, cutting across foreign affairs exceptionalism, executive prerogatives, parliamentary accountability, judicial review, and the constitutionalisation of European integration; the book lays bare how EU foreign affairs has 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 book argues that the legal framework for EU foreign affairs must adapt in a changing world as to ensure the EU treaties can cater for a more assertive Europe in the wider world.

**Graham Butler** is Associate Professor of Law at Aarhus University, Denmark.

Oct 2019 | 272pp | Hbk | 9781509925940 | RSP: £70



## The Juridification of Individual Sanctions and the Politics of EU Law

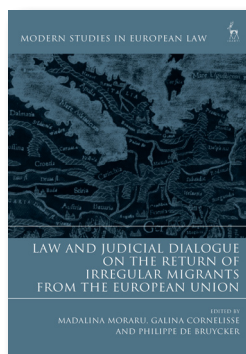
*Eva Nanopoulos*

The use of individual sanctions by the EU, whether adopted to give effect to Resolutions of the UN or at the EU's own initiative, has been the object of a marked process of juridification. This process is partly linked to the individualised dimension of modern sanctions, which required the development of new legal tools, both for their effectiveness and legitimation. But it is also linked to a wider

reconfiguration of sanctions, blurring the divide between war and peace, in which the individualisation of sanctions, but also their diversification and normalisation are altogether embedded. Contrary to conventional narratives, whereupon individual 'smart' sanctions emerged because of humanitarian and effectiveness concerns about comprehensive sanctions, and would have subsequently evolved to reflect changing conceptions of security, these trends are closely linked to the management of the post-colonial capitalist order and its 'enemies'. In that context, the more pronounced role of law in the EU must be linked not only to the place of the individual in the EU legal order, but to the role of law in the building and reproduction of European capitalism. As EU law becomes more politicised, however, the contradictions embedded in the process of juridification will continue to increase.

**Eva Nanopoulos** is a college lecturer and Fellow in Law at King's College London.

Nov 2019 | 336pp | Hbk | 9781509909797 | RSP: £70



## Law and Judicial Dialogue on the Return of Irregular Migrants from the European Union

*Madalina Moraru,  
Galina Cornelisse and  
Philippe De Bruycker*

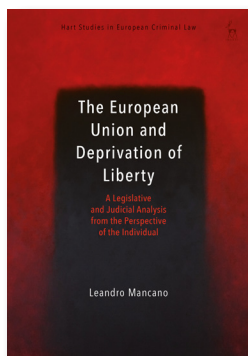
This volume examines the implementation of the Return Directive from the perspective of judicial dialogue. While the role of judges has been widely addressed in European asylum law and EU law more generally, their role in EU return policy has

hitherto remained under explored. This volume addresses the interaction and dialogue between domestic judiciaries and European courts in the implementation of European return policy. The book brings together leading authors from various backgrounds, including legal scholars, judges and practitioners. This allows the collection to offer theoretical and practical perspectives on important questions regarding the regulation of irregular migration in Europe, such as: what constitutes inadequate implementation of the Directive and under which conditions can judicial dialogue solve it? How can judges ensure that the right balance is struck between effective return procedures and fundamental rights? Why do we see different patterns of judicial dialogue in the Member States when it comes to particular questions of return policy, for example regarding the use of detention? These questions are more timely than ever given the shifting public discourse on immigration and the growing political backlash against immigration courts. This book will be essential reading for all scholars and practitioners in the fields of immigration law and policy, EU law and public law.

**Philippe De Bruycker** is Professor of Law at the European University Institute. **Galina Cornelisse** is Associate Professor EU Law and Public International Law at VU, Amsterdam. **Madalina Moraru** is a fellow at the Faculty of Law, Masaryk University in Brno and Centre for Judicial Cooperation at the European University Institute.

Dec 2019 | 336pp | Hbk | 9781509922956 | RSP: £90





## The European Union and Deprivation of Liberty

### A Legislative and Judicial Analysis from the Perspective of the Individual

**Leandro Mancano**

*The European Union and Deprivation of Liberty* examines the EU legislative and judicial approach to deprivation of liberty from the perspective of the following fundamental rights and principles: the principle of legality and proportionality of penalties; the right to liberty; and the

principle that criminal penalties must aim for the social reintegration of the offenders. The book measures the relevant EU law against those rights; this constitutes the very core of the relationship between public powers and individual liberty. The analysis shows that the ultimate goal of the Union is the creation and preservation of the EU as a borderless area. The holistic approach adopted in the book explains how different legal phenomena connected to deprivation of liberty have come into being in EU law. It also shows that those phenomena call for solutions suitable for the peculiarities of the EU legal order.

**Leandro Mancano** is Lecturer in European Union Law at the University of Edinburgh.

May 2019 | 272pp | Hbk | 9781509908080 | RSP: £70



## EU Competition Litigation

### Transposition and First Experiences of the New Regime

**Magnus Strand, Vladimir Bastidas Venegas and Marios C Iacovides**

All EU Member States have now transposed Directive 2014/104/EU on damages actions for breaches of competition law into national law. The Directive (and the soft-law instruments accompanying it) not only marks a new phase for private enforcement of competition law but also,

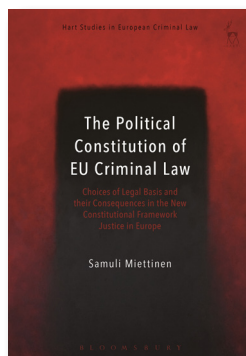
more generally, provides a novel and thought provoking instance of EU harmonisation of aspects of private law and civil litigation.

Following up on a previous volume in the *Swedish Studies in European Law* series, published in 2016, this book offers contributions from top practitioners and scholars from all over Europe, who present and discuss first experiences from the implementation of the new damages regime in various jurisdictions.

Topics covered include theoretical and practical reflections on the state of private enforcement in Europe, the balancing of conflicting interests pertaining to public and private enforcement of competition law respectively, and specific legal issues such as causation and the estimation of harm. The authors explore problems solved, problems created, and future challenges in the new regime of private enforcement of competition law in Europe, offering predictions as to issues that may have to be settled through recourse to the European Court of Justice.

**Magnus Strand** is associate professor of European law and senior lecturer in commercial law at Uppsala University. **Vladimir Bastidas Venegas** is associate professor of European law and senior lecturer in competition law at Uppsala University. **Marios C Iacovides** is assistant professor of European law at Stockholm University and legal counsel at the Swedish Competition Authority.

May 2019 | 272pp | Hbk | 9781509922017 | RSP: £60



## The Political Constitution of EU Criminal Law

### Choices of Legal Basis and their Consequences in the New Constitutional Framework

**Samuli Miettinen**

How is EU criminal legislative competence regulated after the Lisbon Treaty? Is it based on a legal constitution, reviewed by judges, or should the system be described as a political constitution, largely in the hands of the legislature? This study asks what powers have been conferred on the

Union in the field of substantive criminal law and how the exercise of its powers may be reviewed after the entry into force of the Lisbon Treaty. The questions raise a wide range of issues relevant to EU criminal law, but also to EU constitutional, administrative and institutional law.

**Samuli Miettinen** is Lecturer in Law at the University of Helsinki.

Jan 2020 | 320pp | Hbk | 9781509906246 | RSP: £60



## The Future of Europe

### Political and Legal Integration Beyond Brexit

**Antonina Bakardjieva-Engelbrekt and Xavier Groussot**

The European Union is at a crossroads. Slowly recovering from a series of financial and economic crises, with trust fundamentally shaken by processes of disaggregation and increasingly nationalist politics, it is searching for new visions that are at once inspiring and workable. In its White Paper of 1 March 2017, the Commission proposed five non-

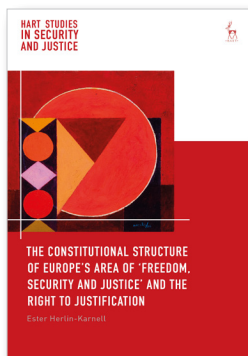
exclusive options for the Future of Europe. As put by the Commission, the five scenarios are illustrative in nature to provoke thinking. They are not detailed blueprints or policy prescriptions. Likewise, they deliberately make no mention of legal or institutional processes – the form will follow the function.

This book takes the current state of the Union seriously. However, it aims to debate not only the political vision of Europe, but also the issue of legal integration beyond Brexit. Apart from addressing the institutional challenges for the EU, the contributions to this volume focus on two key areas: rule of law and security. Rule of law and security are not only paradigmatic for the future of Europe but are also closely connected to a particular vision of Europe based on 'integration through law'; a vision that has been strongly contested in recent years. The overarching question is: how can sustainable political and legal integration be achieved in Europe?

The volume builds on a conference organised by the Swedish Network for European Legal Studies in November 2017 and includes chapters by leading scholars in the field from the Nordic countries and wider Europe.

**Antonina Bakardjieva Engelbrekt** is Professor of European Law at the Faculty of Law, Stockholm University and Chair of the Swedish Network for European Legal Studies. **Xavier Groussot** is Professor of European Law and Dean for Research at the Faculty of Law, Lund University.

Jul 2019 | 328pp | Hbk | 9781509923304 | RSP: £75



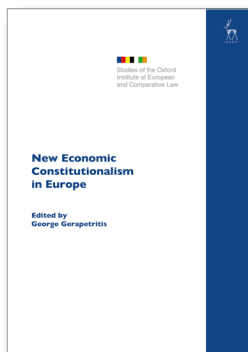
## The Constitutional Structure of Europe's Area of 'Freedom, Security and Justice' and the Right to Justification

*Ester Herlin-Karnell*

This book explores the implications of freedom as a non-domination-oriented view for understanding EU security regulation and its constitutional implications. At a time when the European borders are under pressure and with the refugee and migration crisis, which escalated in 2015, the idea of exploring a constitutional theory for the 'Area of Freedom, Security and Justice' (AFSJ) might seem to be a utopian project. This appears especially true in the light of the increased threat of terrorism in Europe (and on a global scale) and where the expanding EU security agenda is often advanced through the administrative law path, in contrast to the constitutional trajectory. Add to this the prolonged financial crisis, which continues to cast a long shadow on the future development of EU integration, and which suggests that Europe needs to 're-invent itself' beyond the sphere of economics. Therefore, it is precisely because of the current uncertainties regarding the progress of the EU and the constitutional law project that a constitutional take on the AFSJ is of particular importance. The book investigates the meaning of non-domination and the idea of justice and justification in the area of EU security regulation. In doing so, it focuses on the development of an AFSJ, what it means, and why it represents a fascinating example of contemporary constitutional law with interacting layers of security regulation, human rights law and transnational legal theory at its core.

**Ester Herlin-Karnell** is Professor in EU Law, University Research Chair of EU Constitutional Law and Justice, and the Director of the VU Centre for European Legal Studies at the Free University of Amsterdam.

Apr 2019 | 200pp | Hbk | 9781509912490 | RSP: £70



## New Economic Constitutionalism in Europe

*George Gerapetritis*

The book focuses on the institutional mutation of constitutionalism following the major economic crisis in the Eurozone and globally. The main axis is that a new economic constitutionalism has arisen, which trespasses the conventional conceptual foundations and needs to be addressed with novel institutional vehicles. The author proposes an original and searching analysis of the significant constitutional evolutions which have taken

place in member states in response to the global financial crisis. The book combines a sophisticated theoretical model of a new form of economic constitutionalism with detailed practical argumentation. This important new work provides a valuable addition to the understanding of this hugely important topic.

**George Gerapetritis** is Associate Professor of Constitutional Law at the University of Athens.

Oct 2019 | 336pp | Hbk | 9781509909629 | RSP: £60



## Discretion in EU Public Procurement Law

*Sanja Bogojevic, Xavier Groussot and Jörgen Hettne*

The EU public procurement regime has recently undergone an overhaul and now allows Member States and their contracting authorities to pursue strategic goals via public procurement, including environmental and social objectives. The extent to which such interests may be accommodated in the procurement process is ultimately determined by the broader legal context in which the

EU public procurement regime exists, which raises pressing questions regarding the scope and limits of Member States' discretion. This volume scrutinises these new legal acts – particularly Directive 2014/24/EU – focusing on discretion and engaging with questions central to the public procurement regime against the EU legal backdrop, including internal market law and environment law, as well as law beyond the EU.

**Sanja Bogojevic** is Fellow and Associate Professor of Law, Lady Margaret Hall, University of Oxford. **Xavier Groussot** is Professor of EU Law, Law Faculty, Lund University. **Jörgen Hettne** is an Associate Professor of EU Law Department of Business Law, School of Economics and Management, Lund University.

May 2019 | 320pp | Hbk | 9781509919482 | RSP: £80



## Better Regulation in EU Contract Law

*The Fitness Check and the New Deal for Consumers*

*Esther van Schagen and Stephen Weatherill*

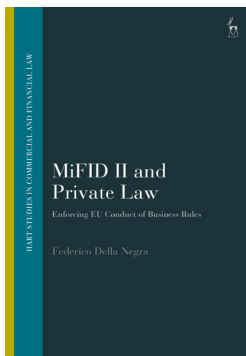
This book is the first to provide a critical investigation of EU impact assessments and better regulation from the perspective of EU contract law. The Commission's 'New Deal for EU Consumers' is one of the first EU contract law initiatives to implement both the newly revised Better Regulation

Guidelines and the newly introduced combined evaluation of multiple Directives in the form of a "fitness check". This offers an opportunity to explore difficulties and best practices at national level, as demonstrated by experience with the EU's Unfair Terms Directive. Both the fitness check and the impact assessment accompanying the New Deal should facilitate critical reflection on the design of EU contract law.

This book addresses key questions such as: do impact assessments favour business interests, at the expense of a high level of consumer protection? Is the evaluation of EU contract law, and the analysis in impact assessments, in line with scientific standards? Has the fitness check revealed difficulties and success stories with EU measures at national level, and thereby facilitated an in-depth scrutiny of the design of EU contract law? Ultimately: is the potential of better regulation realised?

**Esther van Schagen** is Lecturer at the Molengraaf Instituut, Utrecht University. **Stephen Weatherill** is the Jacques Delors Professor of European Law at the University of Oxford.

Dec 2019 | 240pp | Hbk | 9781509928354 | RSP: £80



## MiFID II and Private Law

### Enforcing EU Conduct of Business Rules

*Federico Della Negra*

In the wake of the global financial crisis, investors have suffered significant losses as a result of breaches of conduct of business rules in the distribution of financial instruments.

MiFID II introduced new disclosure, distribution and product governance rules to strengthen the protection of investors but, like MiFID I, did not harmonise the civil law consequences for their violation.

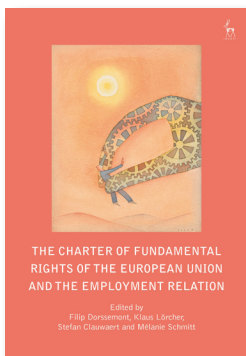
This book asks whether, in spite of the silence of the EU legislators, the MiFID II conduct of business rules may produce civil law effects, enabling investors to enforce them against investment firms before national courts and alternative dispute resolution (ADR) mechanisms.

Building on the case law of the CJEU, the book shows the conditions under which the breach of MiFID II conduct of business rules should give rise to a private law remedy, and what remedies would be compatible with EU law.

*MiFID II and Private Law* is an essential contribution to academic research in EU and financial law and will be a key text for policy-makers and legal practitioners working in the field of investor protection regulation and mis-selling litigation.

**Federico Della Negra** obtained his PhD in Law at the European University Institute.

Jul 2019 | 288pp | Hbk | 9781509925292 | RSP: £75



## The Charter of Fundamental Rights of the European Union and the Employment Relation

*Filip Dorsemont, Klaus Lörcher, Stefan Clauwaert and Mélanie Schmitt*

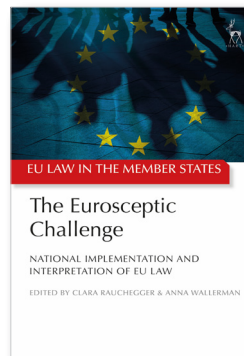
The Charter of Fundamental Rights of the European Union is the most developed and comprehensive legally binding human rights instrument in the social field of the European Union. It is becoming increasingly important and is the first instrument that includes both civil and political rights on

one hand and social rights on the other. Despite this, the Court of Justice of the European Union has only rarely dealt with fundamental social rights. In this context, employment rights need to be examined in this new rights framework. Following on from previous volumes setting out links between European labour law and fundamental social rights (as enshrined in relevant UN, ILO and Council of Europe instruments), in this book the ETUI Transnational Trade Union Rights (TTUR) Expert Network examines the justiciability of social rights and critically analyses the effectiveness of those rights embodied in the EU Charter.

Thus, this book completes the trilogy of ETUI TTUR books on fundamental social rights at European level following the publication, also by Hart Publishing, of *The European Convention of Human Rights and the Employment Relation* (2013) and *The European Social Charter and the Employment Relation* (2017).

**Filip Dorsemont** is Professor of Labour Law at the Catholic University of Louvain (UCL) and the Free University of Brussels (VUB), Belgium. **Klaus Lörcher** is former Legal Adviser to the European Trade Union Confederation (ETUC) and former Legal Secretary of the Civil Service Tribunal of the European Union. **Stefan Clauwaert** is a Senior Researcher at the European Trade Union Institute (ETUI). **Mélanie Schmitt** is Senior Lecturer in Labour Law at the University of Strasbourg, France.

Apr 2019 | 712pp | Hbk | 9781509922659 | RSP: £125



## The Eurosceptic Challenge

### National Implementation and Interpretation of EU Law

*Clara Rauchegger and Anna Wallerman*

In recent years, Eurosceptic and nationalist forces have been gaining ground in the European Union. Their rhetoric has changed the political discourse, shaking the ideal of an ever closer union to its core. However, the specific legal changes brought about by this political turn have often remained obscure. How does Euroscepticism manifest itself in the law

and policies of the EU Member States?

This book seeks to understand to what extent Eurosceptic attitudes translate into legislative, administrative and judicial practices that challenge EU law and governance in the Member States. It reveals the many facets of national resistance that the EU is currently facing, ranging from open defiance to ignorance of EU law. It includes perspectives from the entire Union, from old and new, western and eastern, troublesome and (ostensibly) compliant Member States.

Bringing together experts from law and political science, this timely book offers unique insights into the reception, and sometimes rejection, of EU law in the Member States. It will be essential reading for anyone interested in the current challenges and the future of the European Union.

**Clara Rauchegger** is Assistant Professor of European law at the University of Innsbruck. **Anna Wallerman** is Associate Senior Lecturer at the University of Gothenburg.

Sep 2019 | 224pp | Hbk | 9781509927654 | RSP: £70



## Authority and Legitimacy of Environmental Post-Treaty Rules

*Tim Staal*

In the international law of the 21st century, more and more regulation comes in the form of post-treaty rules. Developed in environmental law, this trend increasingly spreads to areas ranging from tobacco regulation to arms trade. This book offers the first systematic examination of these decisions, resolutions and recommendations adopted by treaty bodies, to assess their effectiveness. The

study shows that the authority of such rules is in question as, in practice, treaty parties retain almost complete discretion when it comes to their implementation. This conclusion gives rise to two key questions. To what extent does this ambiguous authority affect adherence to procedural principles like legal certainty, non-arbitrariness and the duty to state reasons? And can the legitimacy of the process and content of post-treaty rules fill the gaps in their authority? In assessing these questions, the study shines a light on this crucial but neglected area in international law scholarship and forms a starting point for improvements and reform.

**Tim Staal** is part-time Associate Professor of Public International Law at the University of Amsterdam and freelance investigative journalist.

May 2019 | 328pp | Hbk | 9781509925568 | RSP: £75





## The Triangular Constitution

### Constitutional Pluralism in Ireland, the EU and the ECHR

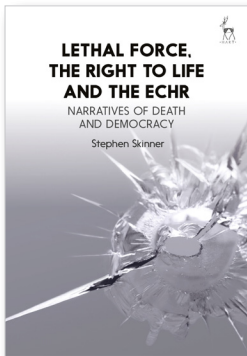
Tom Flynn

This book offers a new account of modern European constitutionalism. It uses the Irish constitutional order to demonstrate that, right across the European Union, the national constitution can no longer be understood on its own, in isolation from the EU legal order or from the European Convention on Human Rights. The constitution is instead triangular, with these three legal orders forming the

points of a triangle, and the relationship and interactions between them forming the triangle's sides. It takes as its starting point the theory of constitutional pluralism, which suggests that overlapping constitutional orders are not necessarily arranged 'on top of' each other, but that they may be arranged heterarchically or flatly, without a hierarchy of superior and subordinate constitutions. However, it departs from conventional accounts of this theory by emphasising that we must still pay close attention to jurisdictional specificity in order to understand the norms that regulate pluralist constitutions. It shows, through application of the theory to case studies, that any attempt to extract universal principles from the jurisdictionally contingent interactions between specific legal orders is fraught with difficulty. The book is an important contribution to constitutional theory in general, and constitutional pluralism in particular, and will be of great interest to scholars in the field.

*Tom Flynn is a Lecturer in the School of Law at the University of Essex.*

May 2019 | 288pp | Hbk | 9781509916160 | RSP: £70



## Lethal Force, the Right to Life and the ECHR

### Narratives of Death and Democracy

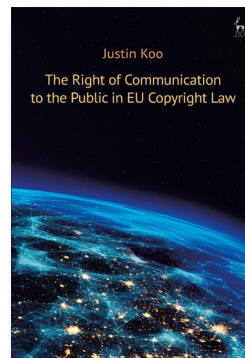
Stephen Skinner

In its case law on the use of lethal and potentially lethal force, the European Court of Human Rights declares a fundamental connection between the right to life in Article 2 of the European Convention on Human Rights and democratic society. This book discusses how that connection can be understood by using narrative theory to explore Article 2 law's specificities and its

deeper historical, social and political significance. Focusing on the domestic policing and law enforcement context, the book draws on an extensive analysis of case law from 1995 to 2017. It shows how the connection with democratic society in Article 2's substantive and procedural dimensions underlines the right to life's problematic duality, as an expression of a basic value demanding a high level of protection and a contextually limited provision allowing states leeway in the use of force. Emphasising the need to identify clear standards in the interpretation and application of the right to life, the book argues that Article 2 law's narrative dimensions bring to light its core purposes and values. These are to extract meaning from pain and death, ground democratic society's foundational distinction between acceptable force and unacceptable violence, and indicate democratic society's essential attributes as a restrained, responsible and reflective system.

*Stephen Skinner is Associate Professor of Comparative Legal History and Human Rights at the University of Exeter.*

Aug 2019 | 208pp | Hbk | 9781849464062 | RSP: £65



## The Right of Communication to the Public in EU Copyright Law

Justin Koo

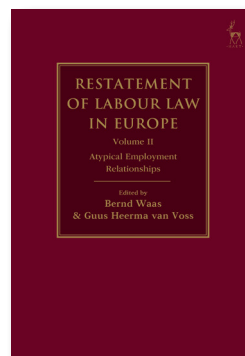
This monograph conducts a comprehensive analysis of the EU right of communication to the public, one of the exclusive rights under EU copyright law, and provides an alternative framework for its interpretation and application. The present state of the law is unsatisfactory; there is uncertainty in the *acquis communautaire* and courts at the EU and domestic levels have struggled to apply the right. Therefore, the book

identifies the problems with the existing right of communication to the public and proposes recommendations for reform.

In addition to reforming the scope of the right of communication to the public, the jurisdiction and applicable law in relation to the right are analysed and changes are recommended. Thus, the book covers both the scope and practicalities of a coherent and effective reform of the right. In light of the continuing development and accompanying tribulations with this right at the EU level, this book provides a topical and timely analysis that will be of interest to academics and practitioners working on EU copyright law.

*Justin Koo is a Lecturer in Law at the University of the West Indies, St Augustine.*

May 2019 | 280pp | Hbk | 9781509920655 | RSP: £65



## Restatement of Labour Law in Europe

### Volume II

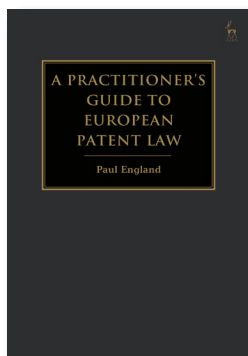
Bernd Waas and Guus Heerma van Voss

This important new collection sets out a restatement of labour law in Europe. Its second volume looks at a typical employment relationship in Europe. Opening with a restatement, it then provides comparative commentary on the question. The book goes on to systematically explore the national regulatory framework of: Austria, Belgium,

Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, FYR Macedonia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom. This important new project gives the definitive survey of labour law in Europe today.

*Bernd Waas is Professor of Law at the University of Frankfurt. Guus Heerma van Voss is Professor of Labour Law at Leiden University.*

Oct 2019 | 800pp | Hbk | 9781509912476 | RSP: £175



## A Practitioner's Guide to European Patent Law

### For National Practice and the Unified Patent Court

*Paul England*

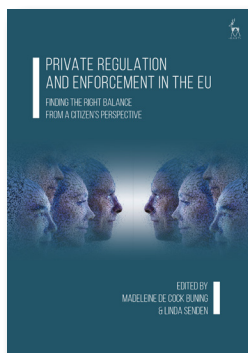
Written by a team of lawyers with long-standing experience in patent litigation in Europe, this book is a comprehensive and practical guide to European patent law, highlighting the areas of consistency and difference between the most influential European patent law jurisdictions: the European Patent Office (EPO), England & Wales, France, Germany and the Netherlands.

It is frequently the case that the decisions and approaches of these courts are cited by European patent lawyers of all jurisdictions when submitting arguments in their own national courts. The book is therefore intended to provide a guide to patent lawyers acting in the national European courts today. The book also looks to the future, by addressing all the areas of patent law for which the proposed Unified Patent Court (UPC) will need to establish a common approach.

Uniquely, the book: i) addresses European patent law by subject matter area, assessing the key national and EPO approaches together rather than in nation-by-nation chapters; and ii) provides an overview in each chapter of the common ground between the national approaches, and outlines a foundation for the UPC.

**Paul England** is a solicitor and head of the UPC taskforce at Taylor Wessing, London.

Oct 2019 | 368pp | Hbk | 9781509928606 | RSP: £100



## Private Regulation and Enforcement in the EU

### Finding the Right Balance from a Citizen's Perspective

*Madeleine de Cock Buning and Linda Senden*

Globalisation and technological innovation have been fueling the need for more and more trust in private actors, such as companies or special interest groups, in regulating and enforcing significant aspects of people's daily lives: from environmental and social protection to the

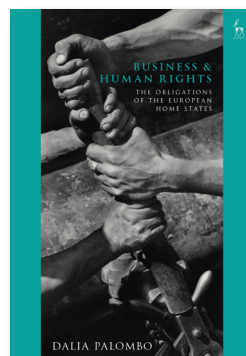
areas of food safety, advertisement and financial markets.

This book investigates the trust vested in private actors from the perspective of European citizens. It answers the question whether private actors live up to citizens' expectations or more should be done as to the safeguards of citizens' interests. Several cross-cutting studies explore how private regulation and enforcement is embedded in EU law.

The book offers an innovative approach to private regulation and enforcement by focusing on the specific EU context, which, unlike the national and transnational ones, has not been widely explored yet. This context merits a stand-alone analysis because of the unique normative framework of the EU, as a particular polity itself but also in relation to its Member States. With an overall analysis of the main aspects of private regulation and enforcement across different policy fields of the EU, the book therefore adds another missing tile to the mosaic of public-private governance studies.

**Madeleine de Cock Buning** is Professor at Utrecht University School of Law. **Linda Senden** is Professor of European and International Law at Utrecht University.

Oct 2019 | 416pp | Hbk | 9781509919529 | RSP: £95



## Business and Human Rights

### The Obligations of the European Home States

*Dalia Palombo*

This book analyses the accountability of European home States for their failure to secure the human rights of victims coming from host States against transnational enterprises. It argues for a reconfiguration of the relationship between multinational enterprises and individuals, both of which have been profoundly changed by globalisation. Enterprises are now supranational entities with numerous

affiliates all over the world. Likewise, individuals are increasingly part of a global community. Despite this, the relationship between the two is deregulated. Addressing this lacuna, this study proposes an innovative business and human rights litigation strategy. It illustrates why such a strategy is needed, pointing to the lack of effective legal remedies against European multinationals. The goal is to empower victims that come from developing countries against European States which are failing to hold multinational enterprises accountable for human rights abuses.

**Dalia Palombo** is LSE Fellow at the London School of Economics and Political Sciences.

Oct 2019 | 288pp | Hbk | 9781509928033 | RSP: £75



## An Ever-Changing Union?

### Perspectives on the Future of EU Law in Honour of Allan Rosas

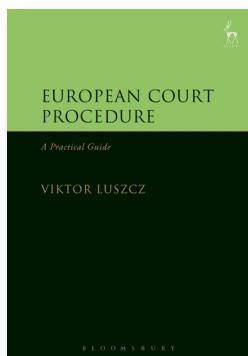
*Koen Lenaerts, Jean-Claude Bonichot, Heikki Kanninen, Caroline Naômé and Pekka Pohjankoski*

Allan Rosas is one of the leading European Union jurists of a generation. His impact on the legal landscape of the EU has been immense. This collection brings together colleagues from the worlds of the

judiciary, academia and practice, to grapple with one of the key questions underpinning his contribution: is the trajectory of EU law one of ever closer union? With essays exploring topics as diverse as national identity and European construction to Brexit, this collection is a fitting tribute to an unrivalled EU law career.

**Koen Lenaerts** is President of the Court of Justice at the European Union. **Jean-Claude Bonichot** is a Judge at the Court of Justice. **Heikki Kanninen** is a Judge at the General Court. **Caroline Naômé** and **Pekka Pohjankoski** are Legal Secretaries at the Court of Justice.

Nov 2019 | 352pp | Hbk | 9781509923663 | RSP: £95



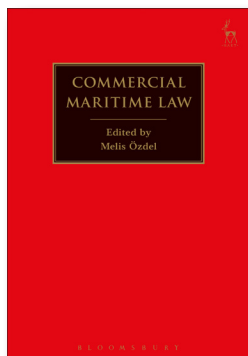
## European Court Procedure A Practical Guide Viktor Luszc

The new Rules of Procedure of the General Court, in force as of 2015, as well as the reform of the General Court and the re-establishment of a two-tier EU judiciary in September 2016 are the last bricks in the post-Lisbon legal structure governing litigation before the EU Courts. This work covers the already sizeable case-law developed after the completion of these reforms and explains the changes in the Courts' practice entailed by them. Written

by experienced EU Court and Commission insiders, it gives a detailed and practice-oriented overview of the whole spectrum of litigation procedure before the EU judiciary. It also presents the entire system of judicial avenues that enable litigants to enforce their rights under EU law against European institutions, Member States or private parties. The book is thus a comprehensive reference tool for practising lawyers and helps them present their cases effectively, while at the same time offering valuable guidance to national judges dealing with cases raising points of EU law. Moreover, it provides insights into the reasoning process of the EU Courts, which will be of interest to scholars in the field, and is built around a structure that facilitates its use as a teaching material.

**Viktor Luszc** spent 11 years as a *Référéndaire* at the General Court, Member of the Budapest Bar. **Alexandre Geulette** spent 11 years as a *Référéndaire* at the Court of Justice and the General Court. **Viktor Bottka** spent 14 years as a Member of the European Commission's Legal Service. **Martin Farley** spent 5 years as a Member of the European Commission's Legal Service. **Milan Kristof** spent 12 years as a *Référéndaire* at the Court of Justice. **Vivien Terrien** spent 9 years as a *Référéndaire* at the General Court, Member of the New York Bar and the Paris Bar.

Nov 2019 | 592pp | Hbk | 9781841130538 | RSP: £90



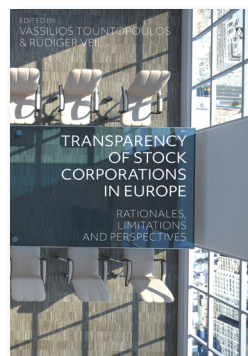
## Commercial Maritime Law Melis Özdel

The title "Commercial Maritime Law" is a misnomer. There is a patchwork of different commercial maritime laws around the world. However, the title is a true reflection of what many legal scholars and practitioners in the field have long desired: a common framework of commercial maritime law. The book unravels the complexities of bridging the gap between common law and civil law in commercial maritime law and will discuss whether the title "Commercial Maritime Law" will remain a misnomer despite the countless attempts

at harmonization. In this book, internationally renowned legal scholars and practitioners discuss the areas in which the common law and civil law are divided; the impact of these differences on the drafting and ratification of international conventions; the search for a common framework; and the procedural aspects of the common law and civil law divide in commercial maritime law.

**Melis Özdel** is a Lecturer in Law at University College London and Director of the UCL Centre for Commercial Law.

Jan 2020 | 256pp | Hbk | 9781849466752 | RSP: £75



## Transparency of Stock Corporations in Europe Rationales, Limitations and Perspectives Vassilios Tountopoulos and Rüdiger Veil

This edited collection explores transparency as a key regulatory strategy in European business law. It examines the rationales, limitations and further perspectives on transparency that have emerged in various areas of European law including corporate, capital markets and

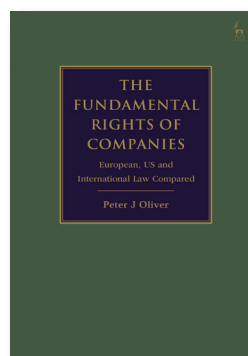
accounting, as well as other areas of law relevant for European (listed) stock corporations.

This book presents a clear and accurate picture of the recent reforms in the European transparency regime. In doing so, it endorses a multidimensional notion of transparency, highlighting the need for careful consideration and contextualisation of the transparency phenomenon. In addition, the book considers relevant enforcement mechanisms and discusses the implications of disparate enforcement concepts in European law from the perspective of both private and public law.

Written by a team of distinguished contributors, the collection offers a comprehensive analysis of the European transparency regime by discussing the fundamentals of transparency, the role disclosure has in European business law, and related enforcement questions.

**Vassilios Tountopoulos** is Professor of Law at the University of the Aegean. **Rüdiger Veil** is Professor of Law at the University of Munich.

Nov 2019 | 304pp | Hbk | 9781509925520 | RSP: £85



## The Fundamental Rights of Companies EU, US and International Law Compared Peter J Oliver

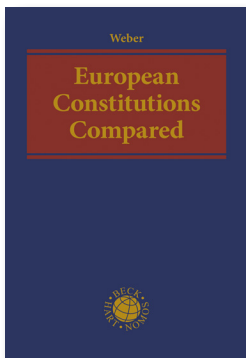
This volume fills a major gap in the literature on fundamental rights: the existing European works are confined almost exclusively to EU competition law, and there is a dearth of secondary sources on the fundamental rights of companies under EU law and the European Convention on Human Rights more generally, despite the rich and relentless flow of rulings

from both the Luxembourg and the Strasbourg courts. This book covers all the principle substantive rights such as property, privacy and freedom of speech, as well as various procedural rights (eg the right to a fair trial, double jeopardy and the privilege against self-incrimination). Not only does this volume provide comprehensive coverage of this increasingly important case law, but it also examines the relevant US authorities in great depth; and the comparison with European law often leads to surprising results. International law is also covered at length, while English law serves as the main point of reference on numerous issues. Despite the wealth of detail, the author has ensured that the coverage of this broad and varied subject is sufficiently succinct to enable the reader to gain an overall view. He has not merely described the law as it stands, but also proposes an overall approach. This work is aimed at practitioners and academics alike.

**Peter J Oliver** is a Visiting Professor at Université Libre de Bruxelles and a Barrister.

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## European Constitutions Compared

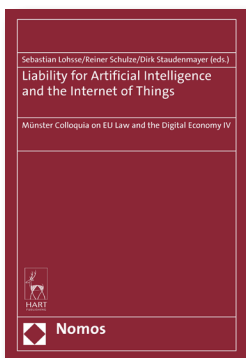
Albrecht Weber

This book is a comprehensive study of the institutional setting of European Constitutions and provides a systematic study of the constitutional principles and organisation of state powers. The following issues are addressed: Terminology; Notion and Functions of Constitution; Sources of Constitutional Law; Constituent and Amending Power; Protecting the Constitution; Directive Principles; Fundamental Constitutional

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**Albrecht Weber** is a professor emeritus of law at the University of Osnabrück.

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## Liability for Artificial Intelligence and the Internet of Things

Münster Colloquia on EU Law and the Digital Economy IV  
Sebastian Lohsse, Reiner Schulze  
and Dirk Staudenmayer

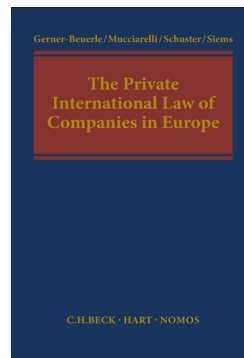
The year 2018 featured a number of key developments in shaping the digital single market. Whereas some issues are now in the final stages of the legislative process, other key topics are in their infancy and therefore, in line with the objective of the

Münster Colloquia on EU Law and the Digital Economy, require in-depth discussion as to how EU law should react to the challenges and needs of the digital economy.

The 2018 Münster colloquium focused on an issue central to the digital single market: The "Liability for Robotics and in the Internet of Things". The European legislator faces the challenge to decide between adapting existing product liability rules or the creation of new concept of objective liability for autonomous systems. The 2018 Münster colloquium provided a forum for intense discussion of these questions between renowned experts on digital law, representatives from the EU institutions, and from industry.

**Sebastian Lohsse** is Professor of Roman Law, Comparative Legal History, Civil Law and European Private Law at the University of Münster. **Reiner Schulze** is Professor of German and European Civil Law at the University of Münster. **Dirk Staudenmayer** is Honorary Professor at the University of Münster and Head of Unit - Contract Law; DG Justice and Consumers; European Commission.

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## The Private International Law of Companies in Europe

Carsten Gerner-Beuerle,  
Federico M. Mucciarelli,  
Edmund-Philipp Schuster  
and Mathias Siems

Can firms freely choose their place for corporation and thus the applicable law? And is it possible that a firm can subsequently reincorporate in another country, with the effect of a change of the law applicable to this country?

In the European Union, the answer to these questions has to consider the impact of the freedom of establishment and the corresponding case law of the Court of Justice. Beyond some general principles, there is, however, considerable diversity between the laws of Member States. Thus, this book aims to provide an up-to-date analysis of this important area of law for all Member States. It is based on a comprehensive study, produced for the European Commission, on the private international law of companies in the European Union.

**Carsten Gerner-Beuerle** is Professor of Commercial Law at University College London. **Federico M Mucciarelli** is an Associate Professor of Business Law at the University of Modena. **Edmund-Philipp Schuster** is an Associate Professor of Law at the London School of Economics and Political Science. **Mathias M Siems** is Professor of Commercial Law at Durham University.

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