

The European Court Of Justice: The Politics Of Judicial Integration (The European Union Series)

This title provides tools and approaches to study the activities of the European Court of Justice. Using new primary sources and an interdisciplinary approach, this volume develops a more holistic methodology for studying law and courts, especially the Court of Justice.

Karen Alter's work on the European Court of Justice heralded a new level of sophistication in the political analysis of the controversial institution, through its combination of legal understanding and active engagement with theoretical questions. The European Court's Political Power assembles the most important of Alter's articles written over a fourteen year span, adding an original new introduction and a conclusion that takes an overview of the Court's development and current concerns. Together the articles provide insight into the historical and political contours of the ECJ's influence on European politics, explaining how and why the impact of an institution can vary so greatly over time and access different issues. The book starts with the European Coal and Steel Community, where the ECJ was largely unable to facilitate greater member state respect for ECSC rules. Alter then shows how legal actors orchestrated an activist transformation of the European legal system, with the critical aid of jurist advocacy movements, and via the co-optation of national courts. The transformation of the European legal system wrested control from member states over the meaning of European law, but the ECJ continues to have varying influence across different issues. Alter explains that the differing influence of the ECJ comes from the varied extent to which sub- and supra-national actors turn to it to achieve political objectives. Looking beyond the European experience, the book includes four chapters that put the ECJ into a comparative perspective, examining the extent to which the ECJ experience is a unique harbinger of the future role international courts may play in international and comparative politics.

Essay from the year 2016 in the subject Politics - International Politics - Topic: European Union, grade: 69 Prozent (1,7), Cardiff University, language: English, abstract: The question of the role of the European Court of Justice (ECJ) in the process of European integration has been a matter of long-standing academic dispute between neo-functionalists and intergovernmentalists. In this essay it will be argued that the ECJ can be seen as an engine of European integration but the court - founded along with the other core institutions of the European Union (EU) in the 1950s - depends on the assistance of other actors. The explanation of this assertion is unfolded in three steps. At first this paper will provide a brief overview of neo-functionalism and intergovernmentalism and their dispute concerning the ECJ. Secondly, the 'magic triangle' (Vauchez 2008, p. 8) consisting of 'direct effect', 'supremacy' and 'preliminary ruling' - which allows the ECJ to have an impact on the integration process - will be examined and it will be explained why these three mentioned rules are so important for the European legal order. Thirdly, it is claimed that there are limits of the court's judicial law-making and thus its role in the process of European integration should not be overestimated.

The Court of Justice of the European Union has exclusive jurisdiction over European Union law and holds a broad interpretation of these powers. This, however, may come into conflict with the jurisdiction of other international courts and tribunals, especially in the context of so-called mixed agreements. While the CJEU considers these 'integral parts' of EU law, other international courts will also have jurisdiction in such cases. This book explores the conundrum of shared jurisdiction, analysing the international legal framework for the resolution of such conflicts, and provides a critical and comprehensive analysis of the CJEU's far-reaching jurisdiction, suggesting solutions to this dilemma. The book also addresses the special relationship between the CJEU and the European Court of Human Rights. The unique interaction between these two bodies raises fundamental substantive concerns about overlaps of jurisdiction and interpretation in the courts. Conflicts of interpretation manage largely to be avoided by frequent cross-referencing, which also allows for much cross-fertilization in the development of European human rights law. The link between these two courts is the subject of the final section of the book.

Broberg and Fenger on Preliminary References to the European Court of Justice

The Politics of Judicial Integration

Judicial Structures, Policies and Processes

Researching the European Court of Justice

Rethinking the Landmark Decisions of the Foundational Period

The European Court of Justice is one of the most important actors in the process of European integration. Political science still struggles to understand its significance, with recent scholarship emphasizing how closely rulings reflect member states' preferences. This book argues that the implications of the supremacy and direct effect of the EU Treaty have still been overlooked. As it constitutionalizes an intergovernmental treaty, the European Union has a detailed set of policies inscribed into its constitution that are extensively shaped by the Court's case law. If rulings have constitutional status, their impact will be considerable, even if the Court only occasionally diverts from member states' preferences. By focusing on the four freedoms of goods, services, persons, and capital, as well as citizenship rights, the book analyses how the Court's development of case law has ascribed a broad meaning to these freedoms. The constitutional status of this case law constrains policymaking at the European and member-state levels. Different case studies show how major pieces of EU legislation only partly codify case law. Judicialization is important in the EU. It also directly constrains member-state policies. Court rulings oriented towards individual disputes are difficult to translate into general policies-but if they have constitutional status they have to go through this process. Policy options are thereby withdrawn from majoritarian decision-making. As the Court cannot be overruled, short of a Treaty change, its case law casts a long shadow over policymaking in the European Union, undermining the legitimacy of this political order. This monograph focuses on the CJEU, and seeks to understand its role and action in the area of copyright, also outlining whether the latter has been informed by any particular vision of what EU copyright should be like, and what the legacy of all this might be.

In this probing analysis of the European Union's transnational legal system, Lisa Conant explores the interaction between law and politics. In particular, she challenges the widely held view that the European Court of Justice (ECJ) has, through bold judicial activism, brought about profound policy and institutional changes within the EU's member states. She argues convincingly that this court, like its domestic counterparts, depends on the support of powerful organized interests to gain compliance with its rulings. What, Conant asks, are the policy implications of the ECJ's decisions? How are its rulings applied in practice? Drawing on the rich scholarship on the U.S. Supreme Court, Conant depicts the limits that the ECJ and other tribunals have to face. To illuminate these constraints, she traces the impact of ECJ

decisions in four instances concerning market competition and national discrimination. She also proposes ways of anticipating which of this court's legal interpretations are likely to inspire major reforms. Justice Contained closes with a comparative analysis of judicial power, identifying the ECJ as an institution with greater similarities to domestic courts than to international organizations. The book advances a deeper understanding both of the court's contributions to European integration and of the political economy of litigation and reform.

Marc Jacob analyses in depth the most important justificatory and decision-making tool of one of the world's most powerful courts.

Unfinished Business

Judges Or Policy Makers?

Methodological Shifts and Law's Embeddedness

Resisting the European Court of Justice

West Germany's Confrontation with European Law, 1949–1979

Constitutional Challenges

The European Union's (EU) powerful legal framework drives the process of European integration. The Court of Justice (ECJ) has established a uniquely effective supranational legal order, beyond the original wording of the Treaty of Rome and transforming our traditional understanding of international law. This work investigates how these fundamental transformations in the European legal system were received in one of the most important member states, Germany. On the one hand, Germany has been highly supportive of political and economic integration; yet on the other, a fundamental pillar of the post-war German identity was the integrity of its constitutional order. How did a state whose constitution was so essential to its self-understanding subscribe to the constitutional practice of EU law? How did a country who could not say 'no' to Europe become the member state most reluctant to accept the new power of the ECJ?

This edited collection appraises the role, self-perception, reasoning and impact of the European Court of Justice on the development of European Union (EU) external relations law. Against the background of the recent recasting of the EU Treaties by the Treaty of Lisbon and at a time when questions arise over the character of the Court's judicial reasoning and the effect of international legal obligations in its case law, it discusses the contribution of the Court to the formation of the EU as an international actor and the development of EU external relations law, and the constitutional challenges the Court faces in this context. To what extent does the position of the Court contribute to a specific conception of the EU? How does the EU's constitutional order, as interpreted by the Court, shape its external relations? The Court still has only limited jurisdiction over the EU's Common Foreign and Security Policy: why has this decision been taken, and what are its implications? And what is the Court's own view of the relationship between court(s) and foreign policy, and of its own relationship with other international courts? The contributions to this volume show that the Court's influence over EU external relations derives first from its ability to shape and define the external competence of the EU and resulting constraints on the Member States, and second from its insistence on the autonomy of the EU legal order and its role as 'gatekeeper' to the entry and effect of international law into the EU system. It has not - in the external domain - overtly exerted influence through shaping substantive policy, as it has, for example, in relation to the internal market. Nevertheless the rather 'legalised' nature of EU external relations and the significance of the EU's international legal commitments mean that the role of the Court of Justice is more central than that of a national court with respect to the foreign policy of a nation state. And of course its decisions can nonetheless be highly political.

The need to balance power between the Member States and the Union and between public power and the market has created powerful constitutional dilemmas for the European Union. Adopting an inter-disciplinary approach and drawing upon the jurisprudence developed around Article 30, this new book offers both a descriptive and a normative analysis of the European Economic Constitution and discusses the role of the European Court of Justice in its development and in the review of State and Community legislation. The book is particularly relevant in view of the present debates on the European Constitution and the reform of the regulatory State.

Exploring the external impact of the Court of Justice of the European Union, this book delves into the influence its judgments have outside EU borders and particularly on the legal systems of countries in the European neighbourhood. A team of scholars from non-EU countries provided analysis and insight into this project.

Employment Law at the European Court of Justice

The Limits of Legal Reasoning and the European Court of Justice

The Court of Justice of the European Union and the Politics of Law

Relationship Between the European Court of Justice (ECJ) and the National Constitutional Courts of the Member States with Respect to Control of Legislative Competences of the European Union

The European Court of Justice and International Courts

Judicial Protection in the European Union

Offering an alternative exploration of the Court of Justice of the European Union (CJEU) and its work, this book aims to start a conversation between legal, political and gendered examinations of the Court of Justice and some of the substantive areas of law it is concerned with. In doing so, it provides a broader and more holistic view of the Court and its work which can add to our understanding of the institution, its role and its case law as well as the contribution it can and does make to shaping law and policy and EU and national level.

Kuper also argues that the Court has played and is still playing a significant part in the direction and very definition of the European Community. This then raises issues of democratic legitimacy, and the Court's work is evaluated with reference to issues concerning the distribution of powers and competences among the various bodies of the Community - the Court, Commission, Council, Parliament and Member States.

The EU Treaties bind the Court of Justice of the European Union as an institution of the Union. But what does that mean for judicial lawmaking within the EU legal order? And how might any limits set out in the EU Treaties be effectively applied to the Court of Justice as lawmaker? This book interrogates these fundamental and underexplored questions at a critical juncture in European integration. It argues that the EU Treaties should be considered to function as the principal touchstones for assessing the internal constitutionality, and hence legitimacy, of all Union institutional activity - including the work of the Court. It then examines how far the Court of Justice complies with the EU Treaty framework in the exercise of its interpretative functions. The results of that analysis are striking and offer scholars powerful new insights into the nature and limits of the Court's role within the EU legal order.

A fully revised and updated third edition, this book details the form, contents, and procedures for preliminary references.

Written for both practitioners and academics, this is an essential guidebook covering all aspects of preliminary references.

The European Court of Justice on The European Convention on Human Rights

Appeals Before the Court of Justice of the European Union

Law and Politics in the European Union

Great Judgments of the European Court of Justice

Who Said What, When?

The Court of Justice of the European Union as an Institutional Actor

The book takes stock of the on-going 'methodological turn' in the field of EU law scholarship. Introducing a new generation of scholars of the European Court of Justice from law, history, sociology, political science and linguistics, it provides a set of novel interdisciplinary research strategies and empirical materials for the study of the Court of Justice of the European Union. The twelve case studies included challenge the usual top-down approach to EU law and the CJEU and instead suggest a more localized and fine-grained observation of the socio-legal actors and practices involved in the making of CJEU case-law. Moving beyond mainstream legal scholarship and the established 'grand narratives' of legal integration, the volume provides a more historically-informed and sociologically-grounded account of the EU law's uneven embeddedness in Europe's economies and societies.

Gerard Conway explains how judges of the ECJ should be understood as sharing the same interpretative perspective as the law-maker.

Appearing at a time when the ancient problem of the individual versus the state once again occupies the minds of thinking Europeans, this important new book thoroughly evaluates the judicial system of the European Union, fully describing the nature of the judicial protection available to individuals, undertakings, and member States. With attention to the rapid and continuing development of the Community legal order, Schermers and Waelbroeck provide a much-needed perspective on the reasoning of the European Court of Justice in significant decisions, especially recent cases, and shed revealing light on how the rule of law may develop in future. An introductory chapter offers a masterful description of how Treaty provisions, Community acts, international law, and national legal orders interact in the procedures and decisions of the Court of Justice. Further chapters provide analysis and insight into such matters as the following: the crucial role of national courts as guarantors of the rights of individuals in Community law the validity of acts taken by Community institutions and member States, and protection against them the delivery of non-judicial opinion and other tasks of the Court of Justice the composition, function, and rules of procedure

of the Court the organisation of the Court of First Instance and the appeal procedure against its decisions. Judicial Protection in the European Union is organised to facilitate its prodigious reference value. All important cases are examined, and abundant footnotes clearly indicate relevant precedents in each case. This is a fundamental source for students of European law, as well as a basic reference for practitioners and a valuable analysis of the strengths and weaknesses of the European system of judicial protection.

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Practice and Procedure

The Power of the European Court of Justice

Gender and the Court of Justice of the European Union

The European Court of Justice

New Legal Approaches to Studying the Court of Justice

Copyright and the Court of Justice of the European Union

Presents a new approach to prominent judgments of the European Court of Justice drawing on the writings of Judge Robert Lecourt.

Despite the fact that the case-law of the European Court of Justice on employment related issues has become increasingly erratic of late, there is no denying the centrality of the Court's role in the development of EC employment law. Though concentration on the work of the Court of Justice may no longer be in vogue, this book examines its contribution in the employment law field in its political and economic context, as well as with reference to the juridical structures within which the Community's judicial arm is obliged to operate. The objective is not simply to critique the employment jurisprudence of the Court but also to examine the procedural, operational and structural context in which the Court of Justice is obliged to work and to reflect on how this context may affect the jurisprudential outcome. The book focuses, in particular, on the shortcomings of the preliminary reference procedure.

When the Court of Justice hands down decisions in the employment law field, Article 234 EC dictates a particular type of judicial dialogue between it and the national referring courts. It is contended that the dual dispute resolution/public interest nature of the Court's role in the preliminary reference procedure goes some way to explaining why its answers are often regarded as unsatisfactory from the perspective of the referring court and "users" of EC law generally. The book further outlines the developing Community policy on employment and reflects on the effect which this nascent policy may have on the balancing exercises which the Court is inevitably called upon to perform in a variety of social policy contexts. Finally, part two of the book examines specific substantive areas of EC employment law. The policy considerations at play in the case-law of the Court are discussed in detail, as is the coherence of this case-law with the Community's political stance on employment.

Can a jurisprudential approach help lawyers and legal philosophers to understand the sources, organization, and main features of European Community (EC) law? How does the European Court of Justice interpret EC law and justify its decisions? This study examines these questions and related issues--analyzing EC law and the decision-making process of the European Court of Justice from a legal theoretical perspective. The justification of legal decisions is a crucial issue in legal and political theory, with courts achieving legitimation through their practice of justification. This study also assesses the justificatory practice of the European Court of Justice and how its jurisprudential approach contributes to an understanding of European integration.

Recog: 1.The Court as an institution -- 2.General outline of procedure -- 3.Parties -- 4.Representation and legal aid -- 5.Intervention -- 6.Procedural issues -- 7.Admissibility -- 8.Interim relief -- 9.Pleading -- 10.Evidence -- 11.Costs -- 12.Judgments and decisions of the court -- 13.Forms of action.

Dialogue Between the Spanish Courts and the European Court of Justice Regarding the Judicial Protection of Consumers Under Directive 93/13/EEC

The Shadow of Case Law

The Legal Reasoning of the European Court of Justice

The European Court of Justice. An important motor of European integration?

The Role of the European Court of Justice in the Enforcement of Unimplemented Directives

Judicial Lawmaking and its Limits

The Court of Justice of the European Union (CJEU) is one of the central institutions of the EU and has played a decisive role in European integration. As one of the most powerful international courts, at a time when political systems around the world are becoming more judicialized, it is a key actor to understand in world affairs. Yet it is not without controversy. As both an interpreter of law and as a political power influencing policy-making through its bold case law, it has become increasingly criticized in recent years for its perceived activism and distance from the European people. Combining the perspectives of a legal scholar and a political scientist, this important new text gives a uniquely broad-ranging account of the CJEU. It introduces readers to the role and function of the Court and explains how it fits into the broader political system and historical evolution of the European Union. It examines the constitutional contributions made by the Court and the part it plays in policy-making, in areas such as the environment, gender equality and human rights. Drawing on the latest research, the book takes full account of recent changes to the place of the Court in the European political system, and shows how new forms of governance, such as the open method of coordination, have had a significant impact on the role the Court is able to play.

This book provides a broad-ranging assessment of the Court's contribution to the integration process. It also examines why the Court's active role has not encountered greater opposition, and analyses the implications for the Court confronting the EU.

How should judges of the European Court of Justice be selected, who should participate in the Court's proceedings and how should judgments be drafted? These questions have remained blind spots in the normative literature on the Court. This book aims to address them. It describes a vast, yet incomplete transformation: Originally, the Court was based on a classic international law model of court organisation and decision-making. Gradually, the concern for the effectiveness of EU law led to the reinvention of its procedural and organisational design. The role of the judge was reconceived as that of a neutral expert, an inner circle of participants emerged and the Court became more hierarchical. While

these developments have enabled the Court to make EU law uniquely effective, they have also created problems from a democratic perspective. The book argues that it is time to democratise the Court and shows ways to do this.

There is a considerable mismatch between theories on the influence of the EU outside its borders and concrete knowledge on whether and to what extent the suggested impact is of any practical relevance. The aim of this book, therefore, is to help close that gap in the knowledge concerning the role and function of the Court of Justice of the European (CJEU) outside its own borders in selected countries. Scholars from Armenia, Azerbaijan, Georgia, Israel, Jordan, Russia, Switzerland, Tunisia, Turkey, Ukraine and the Eurasian Economic Union have researched and explored how their respective countries have been influenced by the CJEU. This title looks at 'why' along with 'how' these decisions have been utilized. All of this culminates in an effort to be able to rank the degree to which the CJEU is influencing non-EU jurisdictions according to a common scale. Looking across the selected countries, this title analyses the research provided by the scholars. This includes a brief description of the relationship and agreements between the EU and the country, a concise history of the country's judiciary, a full account of the extent to which the country's courts have cited CJEU judgements, and an analysis of that extent and the impact they have had. Other factors are explored as well, such as countries who want to join the EU might aim for more legal harmonization between them and the EU. These metrics are used to compare across the neighbourhood countries and draw conclusions about CJEU influence and impact outside of the EU. This comprehensive edited collection is an in-depth look at the actual impact of the CJEU in neighbourhood countries, providing crucial information in an overlooked field of EU law.

Precedents and Case-Based Reasoning in the European Court of Justice

Preliminary References to the European Court of Justice

Selected Essays

Justice Contained

The European Court of Justice and the Policy Process

We the Court

This collection of essays originated in a series of seminars given at the summer courses of the Academy of European Law at the European University Institute, Florence in 1999.

This book provides a detailed examination of the law and practice of the preliminary reference procedure in EU law. It is designed to be of practical use in litigation and case preparation.

Great Judgments of the European Court of Justice Rethinking the Landmark Decisions of the Foundational Period Cambridge University Press

Ô This well-constructed, and well-written, collection fills a gap in the scholarship. It offers a rounded and plausible picture of the Court's role in Europe, engaging with the complexity of the law without losing sight of the bigger political picture. Well-contextualised, critical, but nuanced, discussions of the role of rights, economics, science, and institutions, and of the important particularities of EU adjudication, will make this volume unmissable for those interested in the political role of the Court of Justice of the EU. Æ Gareth Davies, VU University of Amsterdam, The Netherlands This book delves into the rationale, components of, and responses to accusations of judicial activism at the European Court of Justice. Detailed chapters from academics, practitioners and stakeholders bring diverse perspectives on a range of factors Æ from access rules to institutional design and to substantive functions Æ influencing the European Court's political role. Each of the contributing authors invites the reader to approach the debate on the role of the Court in terms of a constantly evolving set of interactions between the EU judiciary, the European and national political spheres, as well as a multitude of other actors vested in competing legitimacy claims. The book questions the political role of the Court as much as it stresses the opportunities Æ and corresponding responsibilities Æ that the Court's case law offers to independent observers, political institutions and civil society organisations. Judicial Activism at the European Court of Justice will appeal to researchers and graduate students as well as to EU and national officials.

Revisiting Law in Context

The European Court of Justice and the European Economic Constitution

The European Court of Justice and External Relations Law

The Role of the European Court of Justice on the Way to European Union

The European Court's Political Power

The Impact of the European Court of Justice on Neighbouring Countries

This book describes the rules governing appeals before the Court of Justice of the European Union. The appeal is the judicial remedy by which a party may contest a decision of the General Court of the European Union. It concerns matters in which the Tribunal has jurisdiction such as, competition, mergers, state aids, access to documents, restrictive measures, EU staff, trade marks, and other areas of intellectual property. This form of judicial remedy was created just over 25 years ago. It is specific to the ECJ, and can only be learned through the case-law. This book is a description of the case-law, and of the rules that the lawyers pleading appeal cases are required to know.

The European Court of Justice (ECJ) has played a vital role in promoting the process of European integration. In recent years, however, the expansion of EU law has led it to impact ever more politically sensitive issues, and controversial ECJ judgments have elicited unprecedented levels of criticism. Can we expect the Court to sustain its role as a motor of deeper integration without Member States or other countervailing forces intervening? To answer

this question, we need to revisit established explanations of the Court's power to see if they remain viable in the Court's contemporary environment. We also need to better understand the ultimate limits of the Court's power – the means through which and extent to which national governments, national courts, litigants and the Court's other interlocutors attempt to influence the Court and to limit the impact of its rulings. In this book, leading scholars of European law and politics investigate how the ECJ has continued to support deeper integration and whether the EU is experiencing an increase in countervailing forces that may diminish the Court's ability or willingness to act as a motor of integration. This book was published as a special issue of the Journal of European Public Policy.

On Law and Policy in the European Court of Justice

A Comparative Study in Judicial Policymaking

Study of the Role of Spanish Judges in the Implementation of Directive 93/13/EEC

The Procedural and Organizational Law of the European Court of Justice

The Politics of the European Court of Justice

Towards a European Jurisprudence