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# An Ever More Powerful Court? The Political Constraints of Legal Integration in the European Union

Dorte Sindbjerg Martinsen

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# Nice Ever More Powerful Court Constraints

**SJ Ball**



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**An Ever More Powerful Court?** Dorte Sindbjerg Martinsen, 2015-10-01 The Court of Justice of the European Union CJEU has become famed and often shamed for its political power In scholarly literature this supranational court has been regarded as a master of integration for its capacity to strengthen integration sometimes against the will of member states In the public debate the CJEU has been severely criticized for extending EU competences at the expense of the member states In *An Ever More Powerful Court The Political Constraints of Legal Integration in the European Union* Dorte Sindbjerg Martinsen challenges these views with her careful examination of how judicial legislative interactions determine the scope and limits of European integration in the daily EU decision making process Methodologically the book takes a step forward in the examination of judicial influence suggesting a law attainment approach as a novel method combined with a large set of interviews with the current decision makers of social Europe Through a study of social policy developments from 1957 to 2014 as well as a critical analysis of three case studies EU regulation of working time patients rights in cross border healthcare and EU posting of worker regulations Martinsen reveals the dynamics behind legal and political integration and the CJEU s ability to foster political change for a European Union social policy **Good Judgment** Urška Šadl, 2024-08-22 Courts are context conscious They solve legal disputes with societal impact in mind using interpretive tools and procedural means This book develops concepts and methods for a systematic and legally informative analysis of this complex process The evidence delivered prompts a conversation about the authority courts have to change the law The analysis focuses on the European Court of Justice and its free movement case law The framework and theory however are relevant to courts and case law everywhere This is a compelling and intriguing examination of the ECJ and its shaping of a key tenet of EU law ,

European Union Law Damian Chalmers, Gareth Davies, Giorgio Monti, Veerle Heyvaert, 2024-03-28 The most current contextual and authoritative EU law text written for both EU and non EU markets and promoting critical reflection

*Constitutional Law of the EU's Common Foreign and Security Policy* Graham Butler, 2019-10-03 The Common Foreign and Security Policy CFSP of the European Union is a highly exceptional component of the EU legal order This constitutionalised foreign policy regime with legal diplomatic and political DNA woven throughout its fabric is a distinct sub system of law on the outermost sphere of European supranationalism When contrasted against other Union policies it is immediately clear that EU foreign policy has a special decision making mechanism making it highly exceptional In the now depillarised framework of the EU treaties issues of institutional division arise from the legacy of the former pillar system This is due to the reality that of prime concern in EU external relations is the question of who decides By engaging a number of legal themes that cut across foreign affairs exceptionalism executive prerogatives parliamentary accountability judicial review and the constitutionalisation of European integration the book lays bare how EU foreign affairs have become highly legalised leading to ever greater coherence in how Europe exerts itself on the global stage In this first monograph dedicated

exclusively to the law of the EU's Common Foreign and Security Policy in modern times the author argues that the legal framework for EU foreign affairs must adapt in a changing world so as to ensure the EU treaties can cater for a more assertive Europe in the wider world Cited in Opinion of Advocate General Evgeni Tanchev Case C 730 18 P SC v Eulex Kosovo ECLI EU C 2020 176 Court of Justice of the European Union First Chamber 5 March 2020 Opinion of Advocate General Gerard Hogan Case C 134 19 P Bank Refah Kargaran v Council of the European Union ECLI EU C 2020 396 Court of Justice of the European Union Grand Chamber 28 May 2020 Opinion of Advocate General Evgeni Tanchev Case C 283 20 CO ME GC and 42 Others v MJ Head of Mission European Commission European External Action Service EEAS Council of the European Union Eulex Kosovo ECLI EU C 2021 781 Court of Justice of the European Union Fifth Chamber 30 September 2021 and Opinion of Advocate General Tamara Capeta in Joined Cases C 29 22 P and C 44 22 P KS KD v Council of the European Union European Commission and European External Action Service EEAS and European Commission v KS KD Council of the European Union and European External Action Service EEAS ECLI EU C 2023 901 Court of Justice of the European Union Grand Chamber 23 November 2023

*Free Movement and Non-discrimination in an Unequal Union* Susanne Schmidt, Michael Blauburger, Dorte Martinsen, 2020-05-21 The European Union's EU fundamental principles on free movement of persons and non discrimination have long challenged the traditional closure of the welfare state Although EU wide free movement and national welfare appeared largely unproblematic before Eastern enlargement the increased differences among EU member states in economic development and welfare provision have resulted in fears about potential welfare migration Because rights of EU citizens were shaped to an important extent by jurisprudence of the European Court of Justice these are often not very clearly delineated and easily politicised This comprehensive volume shows the normative limits of a strict non discriminatory approach to EU citizens access to national welfare and analyses how the Court developed its jurisprudence partly reacting to politicisation Although empirically free movement negatively impacts national welfare only under extreme conditions it is notable that member states have adjusted their social policies in reaction to EU jurisprudence and migration pressure alike Their heterogeneous institutions of national welfare administration and labour markets imply for member states that they face very different opportunities and challenges in view of intra EU migration This book was originally published as a special issue of the Journal of European Public Policy

*Policy Transfer and Norm Circulation* Laure Delcour, Elsa Tulmets, 2019-04-11 Policy Transfer and Norm Circulation brings together various fields in the humanities and social sciences to propose a renewed analysis of policy transfer and norm circulation by offering cross regional case studies and providing both a comprehensive and innovative understanding of policy transfer The book introduces a constructive interdisciplinary dialogue and comparative approach highlighting the partial and fragmented understanding of policy transfer and the questions and challenges in the study of policy transfer in three parts Firstly notions of transfer and circulation including law political economy sociology and history secondly a focus on European studies and

the transfer of norms both within and outside the EU and finally an examination within a broader IR context This text will be of key interest to scholars and students of European Union politics studies international relations public policy economics and law as well as practitioners dealing with regional integration      Regional Governance in the EU Gabriele Abels, Jan Battke, 2019 The role of regions in the European Union has been frequently debated since the 1980s This comprehensive book provides a thorough overview of the issue from a variety of perspectives analysing regional governance and territorial dynamics in the EU and its member states Focusing on the implications of the democratisation regionalisation nexus it argues that a Europe with the regions may promote good governance and ameliorate the democratic deficits of the EU

The Ethical Spirit of EU Law Markus Frischhut, 2019-03-15 This open access book seeks to identify the ethical spirit of European Union EU law a context in which we can observe a trend towards increasing references to the terms ethics and morality This aspect is all the more important because EU law is now affecting more and more areas of national law including such sensitive ones as the patentability of human life Especially when unethical behaviour produces legal consequences the frequent lack of clearly defined concepts remains a challenge particularly against the background of the principle of legal certainty This raises the question to which extent the content of these references is determined and whether it is possible to identify an ethical spirit of EU law Answering that question in turn entails addressing the following questions In references to ethics concerning EU law can we identify references to a particular theory of practical philosophy at all and if so to one or more normative ethical theories deontology consequentialism or virtue ethics Further should these non legal concepts be imported in an unaltered way absolute approach or be adapted to the legal context relative approach This book explores the different layers of EU law primary law agreements secondary law and tertiary law including the role of ethics in EU lawmaking and in EU case law as well as the implementation of relevant EU directives in selected Member States In addition to the above mentioned normative philosophical lens the book also analyzes the findings from the legal lens of EU integration i e especially EU values human rights and the cornerstone of human dignity      **EU Health Law & Policy** Anniek de

Ruijter, 2019-01-31 Whether there is a public health need for the containment and response to swine flu or an individual need to access health care across the border for a hip operation to alleviate pain the EU has an increasingly powerful role in the field of human health Health law and policy is deeply tied into fundamental rights bioethics and values with important implications for individuals However it is also an expansive area of economic regulation of social and state arrangements The growing role of the EU in human health law and policy is contested particularly as it has implications for the fundamental rights and values that are enshrined in national health law and policy This book outlines through case studies how the expansion of EU power is taking place through law and policy in both public health and health care How is law and policy in the field of human health adopted who are the institutional actors involved and what is the impact of these developments for fundamental rights      **Judicial Authority in EU Internal Market Law** Vilija Velyvyte, 2022-11-17 This book examines the

role of the European Court of Justice in the regulation of the internal market from a competence perspective However rather than focusing on the Court s role in enforcing the limits of EU competence in the EU s political decision making it explores a related albeit understudied question to what extent does the Court observe the constitutional limits of EU competence and its own institutional powers in the interpretation of EU internal market law laid down in the Treaties The book provides an answer to this question through the analysis of EU free movement case law in light of the constitutional principles that govern the allocation of competences and powers in the EU conferral subsidiarity and proportionality on the vertical level and institutional balance on the horizontal level Why should the Court be bound by these principles What do they mean when applied to judicial practice To what extent are they observed in the free movement case law The book argues that the Court s observance of the four principles has been inconsistent thereby creating substantive and constitutional tensions in the EU s relationship with the Member States and upsetting the institutional balance of powers between the EU legislature and judiciary Shortlisted for the UACES Best Book Prize 2023 Runner up of the 2024 Peter Birks Prize for Outstanding Legal Scholarship

**The Routledge Handbook of Differentiation in the European Union** Benjamin Leruth, Stefan Gänzle, Jarle Trondal, 2022-05-11 The Routledge Handbook of Differentiation in the European Union offers an essential collection of groundbreaking chapters reflecting on the causes and consequences of this complex phenomenon With contributions from key experts in this subfield of European Studies it will become a key volume used for those interested in learning the nuts and bolts of differentiation as a mechanism of dis integration in the European Union especially in the light of Brexit Organised around five key themes it offers an authoritative encyclopaedia of differentiation and addresses questions such as How can one define differentiation in the European Union in the light of the most recent events Does differentiation create more challenges or opportunities for the European Union Is Europe moving away from an ever closer Union and heading towards an ever more differentiated Union especially as leading political figures across Europe favour the use of differentiation to reconcile divergences between member states This handbook is essential reading and an authoritative reference for scholars students researchers and practitioners involved in and actively concerned about research in the study of European integration As European differentiation is multifaceted and involves a wide range of actors and policies it will be of further interest to those working on countries and or in policy areas where differentiation is an increasingly relevant feature The Introduction and chapters 13 21 30 and 35 of this book is available for free in PDF format as Open Access from the individual product page at [www.routledge.com](http://www.routledge.com) It has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license

[Law and Practices of Delegated Rulemaking by the European Commission](#) Zamira Xhaferri, 2023-01-16 This book examines the law and practice of the delegation of rulemaking powers to the European Commission It combines legal doctrine with empirical research methods to bridge the gap between law on the books and law in action to fully appreciate the meaning and the impact of the changes post Lisbon The results of the empirical case study

provide food for thought on how the current legal framework regime for delegated rulemaking by the European Commission could be improved The findings seek to contribute to the academic and policy debates on this research topic that is likely to continue in forthcoming years

**The Changing European Union** Tamara Capeta,Iris Goldner Lang,Tamara Perišin,2022-12-29 It is widely recognised that international order is undergoing transformative change and the old norms no longer apply This collection looks at how the EU specifically its judicial wing is responding to these new challenges It looks both externally at those internationally shared problems of unequal societies the rise of populism and the migrant crisis and internally at Brexit the differences between the EU centre and peripheries and the division of competences Taking a multifaceted approach it draws on voices from academia and the judiciary to suggest how the EU might respond effectively to the challenges faced

*The Unfinished History of European Integration* Koen Zon,Matthew Broad,Aleksandra Komornicka,Paul Reef,Alessandra Schimmel,2025-10-01 The Unfinished History of European Integration is a companion to the history of the European Union From the aftermath of the First World War to the EU of 27 member states and Russia s invasion of Ukraine it guides the reader past the main events crucial sites and key actors that shaped the EU we know today How did it evolve from a market project to a geopolitical force what explains the expansion of its membership institutions policies and the resistance to this growth and why does it function as it does This book provides more than just a chronological account of over seventy years of European integration It also shows how observers past and present have made sense of the EU The Unfinished History of European Integration is therefore a unique introduction for readers with different disciplinary backgrounds to understanding the EU If over seventy years of European integration have taught us anything it is that fundamental crises as well as moments of rapid institutional change have been constants in its history

*Sovereignty and the political* Tomasz Grzegorz Grosse,2022 The typescript of a scientific monograph *Sovereignty and the Political* presented for review is a text which deals with a question that is consequential for both scholars and researchers and society and the political domain as such as the Author sets out to unravel the mechanics of a fundamental political dispute which while carrying tangible implications for the member states of the European Union and their citizens at present seems to have a potential to bring about a significant change in the political relations landscape in Europe in the long term ASSOC PROF MAREK REWIZORSKI UNIVERSITY OF GDANSK The book submitted for review offers original consequential and valid insights contributing to the discussion on the past present and future developments of regional level governance mechanisms The imminent need for a substantive and balanced debate on the directions of European integration renders its publication fully justified PROF RADOS AW ZENDEROWSKI

**Sociology of Europeanization** Sebastian M. Büttner,Monika Eigtmüller,Susann Worschech,2022-02-02 The numerous and far reaching socio political transformations that have taken place on the European continent since the mid 20th century have stipulated the emergence of new approaches and research fields in the social sciences One of these is the development of a Sociology of Europeanization This textbook provides an

overview of its major topics concepts and research approaches Each of the 14 chapters of this textbook introduces one particular topic of the Sociology of Europeanization ranging from major conceptual considerations to an exploration of the numerous spatial cultural economic political judicial and socio structural implications of Europeanization Hence this book is very suitable as a fundamental introductory reading and for teaching in European studies and related study programs It is also recommended to everyone who is interested in more recent European history and current sociological studies of transnationalization Events around the book Link to a De Gruyter Online Event in which renowned scholars and experts discuss what is necessary for the teaching of European Studies today and what future directions European Studies should take in light of current challenges and crises The event was moderated by Sebastian B ttner and Susann Worschech two co editors of this textbook <https://youtu.be/Deh13FJ1ctE> During the annual colloquium of the European General Studies Programme of the College of Europe Bruges Sebastian B ttner discussed and presented his co edited book <https://youtu.be/GLheIHQOEv4>

**The Institutions of the European Union** Dermot Hodson,Uwe Puetter,John Peterson,Sabine Saurugger,2022 In a time of disruption and rapid change the European Union s institutions have endured In The Institutions of the European Union a team of expert contributors and editors explain everything you need to know about the functions powers and composition of these important organizations as they contend with the changing dynamics of European integration It is the most comprehensive guide to understanding how the institutions of the EU provide political direction govern policies and integrate contrasting interests within the EU New to this Edition Fully updated to cover the institutional changes prompted by Brexit Covid 19 and many other issues facing the EU A new introductory chapter presents the idea of EU institutional politics and explores its different dimensions Explores the urgent challenges of creating more diverse and inclusive EU institutions New discussion questions help you reflect critically and engage with the content to take your learning further Professor Uwe Puetter of Europa Universit t Flensburg and Sabine Saurugger of Science Po Grenoble UGA join Dermot Hodson as editors Book jacket

Foreign Policy Objectives in European Constitutional Law Joris Larik,2016-03-25 Presenting the first comprehensive account of foreign policy objectives as a growing part of European constitutional law Joris Larik confronts the trend of enshrining international ambitions in the highest laws of states and the European Union Closely examining the provisions of foreign policy objectives Larik differentiates their legal force and functions situating them into the overall legal order of the state the EU and the composite European constitutional space He argues that the codification of foreign policy objectives suggests a progression in the evolution of the role of the constitution from limiting public authority to guiding it towards certain goals both at home and in the wider world Advancing a comparative constitutional perspective for the study of EU external relations this volume contributes a constitutional dimension to the normative power debate in the study of EU foreign policy Drawing on established national doctrines on constitutional objectives from Germany France and India the book provides a common vocabulary for coming to terms with



foreign policy objectives as legal norms across different jurisdictions In the pluralist context and closely intertwined legal orders of the EU and its Member States it shows how objectives help to channel the individual ambitions of the Member States through the Union framework towards a more coherent external action Furthermore the book connects its legal findings with the debate on the EU as an actor in international relations exploring the role of these norms in inter institutional struggles and processes of identity shaping legitimation and socialization Research Handbook on EU Health Law and Policy Tamara K. Hervey, Calum Alasdair Young, Louise E. Bishop, 2017-03-31 The steady expansion of the European Union s involvement in health over the past 20 years has been accelerated by recent events This handbook offers an up to date analytical overview of the most important topics in EU health law and policy It outlines as far as possible the direction of travel for each topic and suggests research agenda s for the future

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