

# The Relationship between European Community Law and National Law: The Cases



Volume 2

*Edited by Andrew Oppenheimer*

CAMBRIDGE

# Relationship Between European Community Law And National Law The Cases

**Catherine Barnard**



## **Relationship Between European Community Law And National Law The Cases:**

**The Relationship Between European Community Law and National Law** Andrew Oppenheimer, 1994-10-27 This is the first comprehensive collection of court decisions dealing exclusively with the relationship between European Community law and the national laws of the Member States It contains 90 decisions given between 1962 and 1993 by both the Community's Court of Justice 20 cases and the courts of the 12 Member States 70 cases The volume includes the recent decisions of national courts concerning the Maastricht Treaty Key recurring topics of the decisions are the supremacy and direct effect of Community law its impact on national sovereignty and constitutional rights and the remedies available before national courts for its enforcement All the texts are presented in English having been translated wherever necessary Each decision is preceded by a concise summary and key word heading The volume also includes a systematic introduction digest of key word headings table of cases and detailed index

**Collected Courses of the Academy of European Law:1997 European Community Law** Academy of European Law, 2001-05-23 The Academy of European Law was established by the European University Institute in 1990 and extends the Institute's current programmes into a larger field of interest It has as its main activity the holding of annual Summer Courses in the law of the European Community and the protection of human rights in Europe In addition to General Courses shorter courses are held on subjects of special academic and practical interest in both fields Finally special guest lectures on topical issues are given by policy makers judges and persons who have held or currently hold the highest position in these fields The courses are published in the language in which they were delivered English and French

*The Court of Justice of the European Union as an Institutional Actor* Thomas Horsley, 2018-07-19 Uses the EU Treaty framework to reassess the legitimacy of the Court of Justice's institutional role in European integration

**Free Movement of Persons Within the European Community** Anne Pieter van der Mei, 2003-02-24 This book explores the extent to which European Community law confers upon individuals the right to gain access to public services in other Member States Are European citizens and third country nationals who have moved to other Member States entitled to claim minimum subsistence benefits to receive medical care or to be admitted to education Does Community law provide for a freedom of movement for patients students and persons in need of social welfare benefits If so to what extent does Community law have regard for the Member States' fears for and concerns about welfare tourism Besides addressing numerous detailed questions on the precise degree to which Community law allows for cross border access to public services the author analyses how Community law and the Court of Justice in particular have sought to reconcile the Community's objectives of realising freedom of movement and ensuring equality of treatment with the need to develop and maintain adequate social services within the Community In addition the book contains a detailed analysis of United States constitutional law on cross border access to public services exploring the question whether the European Community can possibly learn from the American experience

[Back to Maastricht](#) Carlo Spagnolo, Leila Simona Talani, 2021-02-03

European integration has long defied previous notions of state sovereignty and has since the days of the Coal and Steel Community been conferred with original supranational instruments Yet the Treaty of Rome did not raise the same popular reactions as the Maastricht Treaty about the infringement of national sovereignty This book suggests that the end of the Cold War has modified the functions of European integration so that the original ideals of integration have lost part of their appeal hence the birth of the European Union can be regarded as an attempt to seek a new legitimacy How far did the EU Treaty meet this unprecedented challenge This book argues that the Maastricht Treaty established a constitutional framework for a new kind of polity without resolving the issue of its purpose and scope The volume seeks thus to explain some of the reasons for the defeat of the Constitutional Treaty in 2005 dating them back to the Maastricht Treaty In so doing the book links the actual state of European integration with the decisions taken at Maastricht in five different realms of supranational policy making The first is the constitutional setting of the EU Treaty and its effect on national constitutional law the second is the concept of governance and the changes introduced by the Economic and Monetary Union the third is the historical background of the Maastricht agreement the fourth the political economy of the Economic and Monetary Union the fifth is the impact of European citizenship in the recent case law of the European Court of Justice and the prospects of a EU politicisation The book puts in perspective the solutions to the recent stalemate of the European integration process offered by the Lisbon Treaty

**The Impact of European Rights on National Legal Cultures** Miriam Aziz, 2004-07 This book contributes to the debate about the impact of European Community Law on the national constitutional orders and cultures of the respective Member States The author examines the doctrine of sovereignty as a mechanism within which this impact may be best assessed and in particular how it underwrites the tension between European Union rights and the rights provided by the respective legal orders of the Member States In particular the book focuses on political social and civil rights drawing from T H Marshall s typology In endorsing an appropriate analytical framework the book challenges both existing law and secondary literature in order to argue that the terminology the concepts and the tools which are used to assess the impact of the EC law on the national constitutional orders are to be selected with great care This is particularly apposite given the complexity of constitutional diversity in terms of national constitutions and their reception of EC law It is also important because of the variety of approaches involved in the constitutional adjustment of the *acquis* of the Union within the context of the increasing drive to constitutionalisation of the Union on the one hand and enlargement on the other

The European Court and National Courts Anne Marie Slaughter, Alec Stone Sweet, Joseph Weiler, 1998-03-01 The essays comprising this volume are the outcome of a major and unique project which looks in detail at the application of EC law by national courts and the interaction of the demands of EC law with the constraints imposed by national legal orders and especially national constitutional orders The volume comprises seven country studies which are shaped around a common research protocol These are supplemented by three cross cutting studies which draw on the country studies as well as on broader contextual

research work aimed at trying to understand the role of the European Court of Justice in the round. The results of this multi-national research are certain to provoke widespread interest among scholars of European law, international law and European politics for they offer the first systematic and rigorous attempt to assess the impact of the ECJ among the leading member states of the European Union.

Sovereignty, Statehood and State Responsibility Christine Chinkin, Freya Baetens, 2015-02-12. This collection of essays focusses on the following concepts: sovereignty, the unique intangible and yet essential characteristic of states; statehood, what it means to be a state and the process of acquiring or losing statehood; and state responsibility, the legal component of what being a state entails. The unifying theme is that they have always been and will in the future continue to form a crucial part of the foundations of public international law. While many publications focus on new actors in international law such as international organisations, individuals, companies, NGOs and even humanity as a whole, this book offers a timely, thought-provoking and innovative reappraisal of the core actors on the international stage: states. It includes reflections on the interactions between states and non-state actors and on how increasing participation by and recognition of the latter within international law has impacted upon the role and attributes of statehood.

*Limitations of National Sovereignty through European Integration* Rainer Arnold, 2016-02-25. The book considers the changes which national sovereignty has undergone through the supranational European integration. In various contributions by renowned academics and high judges demonstrate the serious impacts of supranationality on the EU member states and even on third countries which are connected with the EU by international treaties. It becomes clear that primacy of EU law, the most significant expression of supra-nationality, collides with national sovereignty as anchored in the national constitutions. The studies clearly show that most member states do not fully deny EU law primacy but are aware of the need to find an adequate balance between the supranational and the national orders. The result from the analyses of the authors from various European countries is that the upcoming constitutional paradigm is constitutional identity, a concept established by jurisprudence in Germany, France, Czech Republic without being named so and debated also in Poland which herself denies supranational impact on the national Constitution entirely. Studies on selected EU member states clarify the specific national approaches towards the limitations of their sovereignty as developed by the constitutional jurisprudence: Poland, Czech Republic, Hungary, Romania, Italy, Germany with comparative references to United Kingdom and France. It is illuminated that traditionally strong sovereignty concepts, UK, France, are considerably relativized and functionally opened towards the integration challenges. Basic issues are furthermore reflected such as the supranational impact on the State's power to reform its Constitution, the relation of national and constitutional identity and the national and supranational perspectives of identity. The book also includes Europe beyond the EU by research on the supranational character of association treaties from a Ukrainian perspective and on the Europeanization of a third country preparing EU membership: Albania.

On the Relation between the EU Charter of Fundamental Rights and National Fundamental Rights Alexander Heger, Moritz

Malkmus, 2024-05-04 The sometimes complex and controversial relation between the fundamental rights of the European Union as enshrined in the EU Charter of Fundamental Rights CFR and national fundamental rights in the context of constitutional review is reflected in a series of landmark decisions in the multilateral cooperation of European courts which have reshaped the fundamental rights architecture in the multilevel system in recent decades This book aims to contribute to a systematic and comprehensive analysis of the EU and constitutional law issues involved thus serving as a reference point for scholars and practitioners dealing with this emerging topic in depth Following this approach it sheds light on the broader Union legal context of these developments examines the role of the CFR for Constitutional Courts the relationship between constitutional and ordinary courts and assesses the key decisions concerning the application of the CFR as a standard of constitutional review It also draws some initial conclusions on the development of the European fundamental rights architecture its prospects and possible implications for the Union's legal order The book contains several contributions by European legal experts from academia and the judiciary who examine the different methods of constitutional application of the CFR from a comparative law perspective These contributions deal with the following aspects first the role of the CFR for the respective Constitutional Court with regard to the application of EU law as well as national law falling within the scope of the CFR second the relationship between the respective Constitutional Court and the ordinary courts with regard to the application of the CFR third the relevant facts and legal reasoning of the most important Constitutional Court decisions on the application of the CFR as a relevant standard of constitutional review fourth the relevant case law of the CJEU on the relationship between Union and national fundamental rights as well as its broader implications for the multilateral cooperation of European courts The individual chapters examine inter alia the following decisions *Verfassungsgerichtshof Austria* March 14 2012 U 466 11 et al *Corte Costituzionale Italy* January 23 2019 *Sentenza* 20 2019 *Bundesverfassungsgericht Germany* November 6 2019 1 BvR 276 17 *Tribunal Constitucional Portugal* June 3 2022 *Acórdão* 268 2022 *Tribunal Constitucional Spain* June 29 2022 *Sentencia* Decision 89 2022      **Legality's Borders** Keith Culver, Michael Giudice, 2010-04-08 This text explains the rudiments of an inter institutional theory of law a theory which finds legality in the interaction between legal institutions whose legality we characterize in terms of the kinds of norms they use rather than their content or system membership      Cambridge Yearbook of European Legal Studies, Vol 9, 2006-2007 Catherine Barnard, 2007-12-18 The Cambridge Yearbook of European Legal Studies provides a forum for the scrutiny of significant issues in EU Law the Law of the Council of Europe and Comparative Law with a European dimension and particularly those issues which have come to the fore during the year preceding publication The contributions appearing in the collection are commissioned by the Centre for European Legal Studies CELS Cambridge a research centre in the Law Faculty of the University of Cambridge specialising in European legal issues The papers presented are all at the cutting edge of the fields which they address and reflect the views of recognised experts drawn from the University world legal practice

and the civil services of both the EU and its Member States Inclusion of the comparative dimension brings a fresh perspective to the study of European law and highlights the effects of globalisation of the law more generally and the resulting cross fertilisation of norms and ideas that has occurred among previously sovereign and separate legal orders The Cambridge Yearbook of European Legal Studies is an invaluable resource for those wishing to keep pace with legal developments in the fast moving world of European integration

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**The Foundations of European Community Law** Trevor C. Hartley, 2007 Recoge 1 Community institutions 2 The community legal system 3 Community law and the member states 4 Administrative law 50

**Years of the European Treaties** Michael Dougan, Samantha Currie, 2009-02-06 The essays which appear in this work are based on the papers presented at a two day conference held in Liverpool in July 2007 to celebrate the 50th anniversary of the signing of the Treaty of Rome establishing the EEC The collection reflects critically upon some of the EU's historic characteristics and speculates imaginatively on some of the diverse challenges facing the Union in the future Contributions from both established and emerging scholars of EU law and policy are united by two main themes the paradox of the resilient yet unstable basis of the Union's constitutional fundamentals and the ever contested balance between the EU's core economic mission and its broader social values and aspirations For any student scholar or practitioner interested in the dynamic nature of the constitutional relationship between the Union and its Member States and in the complex tensions underpinning the EU's substantive policies these essays will be essential reading

**European Union Law** Alina Kaczorowska, Alina Kaczorowska-Ireland, 2013 Fully revised and updated the third edition of EU Law provides an exhaustive yet easily readable account of the complex and ever changing subject of EU law The author gives thorough authoritative and up to the minute treatment to the institutional constitutional and substantive elements of EU Law The book is unique in that it successfully combines depth of coverage with an excellent selection of supporting case law making this challenging subject accessible and easy to follow Case summaries and judgments are highlighted in colour tinted boxes for ease of reference and are accompanied by key facts and analysis often in the light of subsequent developments The student friendly approach is enhanced by market driven pedagogical features including Concise outlines at the beginning of each chapter describing its content An aide m moire often presented in diagrammatic form at the end of each chapter to highlight and reinforce key points End of chapter recommended reading lists to facilitate further research End of chapter problem and essay questions

testing the students ability to apply what they have learnt and A map identifying EU Member States and their accession dates acceding States candidate States and potential candidate States The book s companion website offers a range of teaching and learning resources including an interactive timeline of the EU useful web links self test questions and much more This book is essential reading for those studying EU law on both undergraduate and postgraduate courses and will be of interest to students of political science social science and business studies It also provides comprehensive coverage of substantive and procedural EU competition law and thus has its place as a textbook for introductory courses on EU competition law

International Civil Procedure [2007] II Christian Campbell,2007-10-29 International Civil Procedure Volume II 2007 edition with more than 700 pages in two volumes provides a detailed analysis of civil procedures in 16 jurisdictions Austria Canada Denmark England Finland France Germany Greece India Ireland Italy Mexico Spain Switzerland the European Union and the United States Attention focuses on jurisdiction ascertainment of applicable law trial and post trial motions appeals and conclusiveness of judgments Purchase Volume I to complete the set Purchase of print version includes CD version and 24 7 online access A 10% discount applies to a subscription for next year s update A 25% discount applies to a subscription for three years of updates Discounts are applied after purchase by rebate from publisher Legal Method and Reasoning Sharon Hanson,2012-09-10 Language skills study skills argument skills and legal knowledge are vital to every law student professional lawyer and academic Legal Method Reasoning offers a range of how to techniques for acquiring these skills It shows how to handle and use legal texts how to read and write about the law how to acquire disciplined study techniques and how to construct legal arguments This new edition will be of value to both undergraduate and postgraduate law students

**The Constitution's Gift** John Erik Fossum,Agustín José Menéndez,2011-01-16 This authoritative study considers all aspects of the European Union s distinctive constitution since its inception A unique political animal the EU has given rise to important constitutional conundrums and paradoxes that John Erik Fossum and Agust n Jos Men ndez explore in detail The authors consider the process of forging the EU s constitution and the set of fundamental norms that define the institutional structure the decision making procedures and the foundations of the Union s democratic legitimacy Their analysis illuminates the distinctive features of the EU s pluralist constitutional construct but also the interesting parallels to the Canadian constitutional experience and provides the tools to understand the Union s development especially during the Laeken 2001 2005 and Lisbon 2007 2009 processes of constitutional reform The authors original theory of constitutional synthesis captures the distinctive traits of the European Union as a polity It explains why and how the European Communities were established as the first constitutional union of constitutional states wherein integration would be steered by law not power politics or imperialism Similarly it presents the European Union as one of the few examples of a polity that has transcended the paradigm of the nation state and perhaps even that of the state Locating the substance and process of Lisbon in its proper constitutional context Fossum and Men ndez explain why this should be seen as a new beginning of the Union s



constitutional season not its end Offering the first history of European constitutional law that is both theoretically informed and normatively grounded their book will be essential reading for all readers interested in the process and theory of European integration *Cambridge Yearbook of European Legal Studies, Vol 7, 2004-2005* John Bell, Claire Kilpatrick, 2006-01-10 The Cambridge Yearbook of European Legal Studies provides a forum for the scrutiny of significant issues in European Union Law the Law of the Council of Europe and Comparative Law with a European dimension and particularly those which have come to the fore during the year preceding publication The contributions appearing in the collection are commissioned by the Centre for European Legal Studies CELS Cambridge which is the research Centre of Cambridge University Law Faculty specialising in European legal issues The papers presented are all at the cutting edge of the fields which they address and reflect the views of recognised experts drawn from the University world legal practice and the civil services of both the EU and its Member States Inclusion of the comparative dimension brings a fresh perspective to the study of European law and highlights the effects of globalisation of the law more generally and the resulting cross fertilisation of norms and ideas that has occurred among previously sovereign and separate legal orders The Cambridge Yearbook of European Legal Studies is an invaluable resource for those wishing to keep pace with legal developments in the fast moving world of European integration

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**European Constitutionalism** Kaarlo Tuori, 2015-07-16 European Constitutionalism redraws the perimeters in the debate on the nature of the European constitution Offering a fresh approach to both doctrinal and theoretical issues this book discusses general characteristics of the European constitution under the headings of relationality perspectivism and discursiveness and contains forays to sectoral constitutionalization in the micro and macroeconomic social and security dimensions European constitutionalism must be examined in its interaction with Member State constitutionalism which plays an essential role in channelling democratic legitimacy to the EU Written by a leading expert in the field this book will be of great interest to students and scholars alike

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