The European Court Of Justice The Politics Of Judicial Integration The European Union Series

Recoge: 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.

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

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.

This title focuses specifically on the role, action, and legacy of the Court of Justice of the European Union (CJEU) in the field of copyright, also by providing an exclusive survey that covers two decades (1998 - 2018) of CJEU decisions in this area of the law. The main objective of this work is providing readers with a sense of direction of EU copyright case law. In order to achieve this, an attempt of 'tidying up' and rationalizing existing rulings is carried out. The book consists of three parts. The first part explores the role of the CJEU in copyright cases. Besides outlining the history of EU copyright harmonization and providing statistical data concerning the Court's activity, it extracts the key standards employed in copyright case law, explains their meaning and significance, and carries out a novel statistical analysis aimed at mapping relations between the various standards. Following a discussion of the impact of CJEU interpretation of certain EU copyright provisions (notably their preemptive force on individual EU Member States' freedom), the second part is concerned with CJEU action (and vision) in respect of three key areas of copyright: the construction of economic rights; exceptions and limitations; and enforcement. The final part focuses on CJEU legacy broadly intended. It tackles two distinct perspectives, these being the effect on national copyright laws and the current policy discourse around EU copyright reform. As regards the former, the book discusses the default consequences of the departure of a certain Member State from the EU. In relation to the latter, attention is focused on a number of selected areas, which require to be considered in light, not just of existing legislation, but also - and perhaps most importantly - existing case law.

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.

This book is structured to reflect the different questions that may arise in connection with a preliminary reference. It explains who can make a reference, what questions can be referred, and when can, when should, and when must a reference be made. Thereupon the book provides detailed guidance on the form and contents of the actual reference as well as the procedure, both before the referring court and the European Court of Justice. Finally, the preliminary ruling and its effects are explained together with the questions of cost and legal aid. Now in its third edition, this book has proved to be of considerable value to the legal practitioner faced with the subtleties of a preliminary reference - be it as judge or advocate. However, it is much more than an advance practitioners' guide. With backgrounds as both practitioners and academics, the two authors have produced a book that also caters for the needs of academics. The practical guidance is thus supplemented by the critical analysis of the Court of Justice's practice. This fully updated and revised edition of Broberg and Fenger on Preliminary References to the European Court of Justice provides a meticulous, yet easily accessible examination of all aspects of the preliminary reference procedure.

6.3 R v Kent Kirk.

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.

“More than just another new theoretical study, this book really is a practical and useful tool that I sincerely recommend." From the foreword by Mr Marc van der Woude, President of the General Court of the European Union 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.

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.

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.

Since its formation the European Union has expanded beyond all expectations, and this expansion seems set to continue as more countries seek accession and the scope of EU law expands, touching more and more aspects of its citizens' lives. The EU has never been stronger and yet it now appears to be reaching a crisis point, beset on all sides by conflict and challenges to its legitimacy. Nationalist sentiment is on the rise and the Eurozone crisis has had a deep and lasting impact. EU law, always controversial, continues to perplex, not least because it remains difficult to analyse. What is the EU? An international organization, or a federation? Should its legal concepts be measured against national standards, or another norm? The Oxford Handbook of European Union Law illuminates the richness and complexity of the debates surrounding the law and policies of the EU. Comprising eight sections, it examines how we are to conceptualize EU law; the architecture of EU law; making and administering EU law; the economic constitution and the citizen; regulation of the market place; economic, monetary, and fiscal union; the Area of Freedom, Security, and Justice; and what lies beyond the regulatory state. Each chapter summarizes, analyses, and reflects on the state of play in a given area, and suggests how it is likely to develop in the foreseeable future. Written by an international team of leading commentators, this Oxford Handbook creates a vivid and provocative tapestry of the key issues shaping the laws of the European Union.

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.

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.

The European Union today stands on the brink of radical institutional and constitutional change. The most recent enlargement and proposed legal reforms reflect a commitment to democracy: stabilizing political life for citizens governed by new regimes, and constructing a European Union more accountable to civil society. Despite the perceived novelty of these reforms, this book explains (through quantitative data and qualitative case analyses) how the European Court of Justice has developed and sustained a vibrant tradition of democratic constitutionalism since the 1960s. The book documents the dramatic consequences of this institutional change for civil society and public policy reform throughout Europe. Cichowski offers detailed empirical and historical studies of gender equality and environmental protection law across fifteen countries and over thirty years, revealing important linkages between civil society, courts and the construction of governance. The findings bring into question dominant understandings of legal integration.

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.

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.

ÔThis well-constructed, and well-written, collection fills a gap in the scholarship. It offers a rounded and plausible picture of the CourtÕs 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.Õ Đ 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 Đ from access rules to institutional design and to substantive functions Đ influencing the European CourtÕs 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 Đ and corresponding responsibilities Đ that the CourtÕs 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.

The Power of the European Court of JusticeRoutledge

In 2017, the Court of Justice of the European Union (CJEU) celebrated 65 years and has thereby achieved retirement age in most EU Member States. If it were to retire, the Court would be able to look back at a fascinating journey, from its relatively humble beginning on 4 December 1952 as part of the then brand-new European Coal and Steel Community, to one of the most important and exciting judicial institutions in Europe, perhaps in the entire world. The need to understand the CJEU has never been greater. This volume is dedicated to improving our understanding of the Court in relationship to other actors, including other EU institutions, the Member States, national courts, third countries, and international organisations. It is based on a conference arranged by the Swedish Network for European Legal Studies (SNELS) held at Stockholm University in December 2016, and includes contributions by both lawyers and researchers in other fields, as well as current members of the Court.

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.

Whereas individual Member State governments of the European Union occasionally complain about judgments of the European Court of Justice (ECJ), especially when those judgments curtail that State's policy autonomy in a sensitive domain, the collectivity of the Member State governments have agreed in each treaty revision so far to confirm and extend the far-reaching powers which the ECJ possesses for enforcing EU law. The explanation of the paradox can only be that, deep down, the Member States of the EU remain convinced that an effective ECJ with strong enforcement powers is one of the salient features of EU law which have stood the test of time and feel no inclination to clip the wings of the ECJ for fear that this would affect the effectiveness of the European integration process. Nevertheless, the grumblings about single judgments, or about the consistency and direction of the ECJ in particular policy fields, have never ceased and indeed have become more audible in recent years. This book - now available in paperback - deals with the perception that the ECJ quite often does not leave sufficient autonomy to the Member States in developing their own legal and policy choices in areas where European and national competences overlap.

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.

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.

Uses the EU Treaty framework to (re)assess the legitimacy of the Court of Justice's institutional role in European

integration.
The Court of Justice of the European Union has often been characterised both as a motor of integration and a judicial law-maker. To what extent is this a fair description of the Court's jurisprudence over more than half a century? The book is divided into two parts. Part one develops a new heuristic theory of legal reasoning which argues that legal uncertainty is a pervasive and inescapable feature of primary legal material and judicial reasoning alike, which has its origin in a combination of linguistic vagueness, value pluralism and rule instability associated with precedent. Part two examines the jurisprudence of the Court of Justice of the EU against this theoretical framework. The author demonstrates that the ECJ's interpretative reasoning is best understood in terms of a tripartite approach whereby the Court justifies its decisions in terms of the cumulative weight of purposive, systemic and literal arguments. That approach is more in line with orthodox legal reasoning in other legal systems than is commonly acknowledged and differs from the approach of other higher, especially constitutional courts, more in degree than in kind. It nevertheless leaves the Court considerable discretion in determining the relative weight and ranking of the various interpretative criteria from one case to another. The Court's exercise of its discretion is best understood in terms of the constraints imposed by the accepted justificatory discourse and certain extra-legal steadying factors of legal reasoning, which include a range of political factors such as sensitivity to Member States' interests, political fashion and deference to the 'EU legislator'. In conclusion, the Court of Justice of the EU has used the flexibility inherent in its interpretative approach and the choice it usually enjoys in determining the relative weight and order of the interpretative criteria at its disposal, to resolve legal uncertainty in the EU primary legal materials in a broadly communautaire fashion subject, however, to i) regard to the political, constitutional and budgetary sensitivities of Member States, ii) depending on the constraints and extent of interpretative manoeuvre afforded by the degree of linguistic vagueness of the provisions in question, the relative status of and degree of potential conflict between the applicable norms, and the range and clarity of the interpretative topoi available to resolve first-order legal uncertainty, and, finally, iii) bearing in mind the largely unpredictable personal element in all adjudication. Only in exceptional cases which the Court perceives to go to the heart of the integration process and threaten its acquis communautaire, is the Court of Justice likely not to feel constrained by either the wording of the norms in issue or by the ordinary conventions of interpretative argumentation, and to adopt a strongly communautaire position, if need be in disregard of what the written laws says but subject to the proviso that the Court is assured of the express or tacit approval or acquiescence of national governments and courts.
Past cases are the European Court of Justice's most prominent tool in making and justifying the rulings and decisions which affect the everyday lives of more than half a billion people. Marc Jacob's detailed analysis of the use of precedents and case-based reasoning in the Court uses methods such as doctrinal scholarship, empirical research, institutional analysis, comparative law and legal theory in order to unravel and critique the how and why of the Court's precedent technique. In doing so, he moves the wider debate beyond received 'common law' versus 'civil law' figments and 'Eurosceptic' versus 'Euromantic' battle lines, and also provides a useful blueprint for assessing and comparing the case law practices of other dispute resolution bodies.
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.
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.
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.
Marc Jacob analyses in depth the most important justificatory and decision-making tool of one of the world's most powerful courts.
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.
The European Court of Justice is widely acknowledged to have played a fundamental role in developing the constitutional law of

the EU, having been the first to establish such key doctrines as direct effect, supremacy and parallelism in external relations. Traditionally, EU scholarship has praised the role of the ECJ, with more critical perspectives being given little voice in mainstream EU studies. From the standpoint of legal reasoning, Gerard Conway offers the first sustained critical assessment of how the ECJ engages in its function and offers a new argument as to how it should engage in legal reasoning. He also explains how different approaches to legal reasoning can fundamentally change the outcome of case law and how the constitutional values of the EU justify a different approach to the dominant method of the ECJ.

How can multilingualism and legal certainty be reconciled in EU law? Despite the importance of multilingualism for the European project, it has attracted only limited attention from legal scholars. This book provides a valuable contribution to this otherwise neglected area. Whilst firmly situated within the field of EU law, the book also employs theories developed in linguistics and translation studies. More particularly, it explores the uncertainty surrounding the meaning of multilingual EU law and the impact of multilingualism on judicial reasoning at the European Court of Justice. To reconceptualize legal certainty in EU law, the book highlights the importance of transparent judicial reasoning and dialogue between courts and suggests a discursive model for adjudication at the European Court of Justice. Based on both theory and case law analysis, this interdisciplinary study is an important contribution to the field of European legal reasoning and to the study of multilingualism within EU legal scholarship.

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.