

# TABLE OF CONTENTS

<i>Table of Cases</i>	xi
<i>Table of Legislation</i>	xxxix

<b>1. What is the European Union for?</b>	I
1.1 The logic of the European Union	I
1.2 The limits of the European Union	7
1.3 Functional and geographic expansion	12
1.4 The challenge of legitimacy	15
1.5 Managing interdependence	20
<b>2. What does the EU do?</b>	21
2.1 Introduction: competence and powers	21
2.2 The competence of the EU: the principle of conferral	22
2.3 Categories of competence	24
2.4 The EU's competences under the TFEU	26
2.5 The broadening of EU competence	29
2.6 The 'soft' nature of the rules governing conferred competence	31
2.7 Legislative competence	33
2.8 The scope of competence asserted by <i>substantive</i> EU law	45
2.9 The relationship between the free movement and competition rules, on the one hand, and the legislative provisions, on the other, is not static	51
2.10 'Europeanization'—an imprecise term for an imprecise concept	53
2.11 The exercise of a conferred competence	55
2.12 Reviewing competence review	63
2.13 Conclusion	68
<b>3. How does the EU do it?</b>	71
3.1 A unique system of governance	71
3.2 The institutions of the EU—a general sketch of their nature and purpose(s)	72
3.3 The <i>limited</i> powers of the institutions of the EU	77
3.4 The EU's principal institutions	80
3.5 Legal acts	99
3.6 Softer and more flexible forms of policy-making	101
3.7 The legislative process	106
3.8 Legislative practice	111
3.9 Beyond market-making	113



3.10	Brussels, intergovernmentalism, and supranationalism	123
3.11	The narrative of 'constitutionalism'	127
3.12	General principles of the EU legal order: the creative role of the Court	129
3.13	The general principles	133
3.14	The horizontal provisions: 'mainstreaming' protective regulatory intervention	135
3.15	Fundamental rights	139
<b>4.</b>	<b>What is the relationship between EU law and national law?</b>	<b>153</b>
4.1	The constitutionalized legal order	153
4.2	The preliminary reference procedure	154
4.3	Supremacy (or primacy)	159
4.4	Direct effect	170
4.5	Rights and remedies	176
4.6	State and private liability	184
4.7	Directives as a special case	192
4.8	General principles, fundamental rights, and constitutionalism	209
4.9	Constitutionalism and coherence	218
4.10	What has been the reaction to the Court's mission to 'constitutionalize' EU law (and why)?	223
4.11	The reaction of national courts	228
4.12	Judicial dialogue	240
4.13	Pluralism	247
4.14	Conclusion: constitutionalism—what it is (and what it is not)	252
<b>5.</b>	<b>Does EU law apply uniformly?</b>	<b>257</b>
5.1	Introduction	257
5.2	Diversity: the scope of application of secondary legislation	259
5.3	Legislative flexibility: material scope, derogations, and the law and practice of implementation	277
5.4	Treaty-sanctioned diversity	286
5.5	Enhanced co-operation	294
5.6	Differentiated or variable integration more broadly	299
5.7	Conclusion	300
<b>6.</b>	<b>What is the EU's internal market?</b>	<b>305</b>
6.1	The ambiguities of internal market law	305
6.2	The scope of internal market law	310
6.3	Justification	329
6.4	The legislative dimension	350
6.5	Conclusion	361



<b>7. Who is the Citizen of the Union?</b>	<b>363</b>
7.1 Introduction	363
7.2 Citizenship in the Treaties	365
7.3 Directive 2004/38 on the rights of movement and residence of citizens in the Union	369
7.4 Some citizens are more equal than others	371
7.5 The cross-border element	383
7.6 How far beyond 'market citizenship'?	390
<b>8. What are the EU's values?</b>	<b>393</b>
8.1 The EU's values	393
8.2 Values and the purpose of the EU	395
8.3 Taking values seriously	406
8.4 From stealth to evasion	409
8.5 What is the future of European integration?	415
8.6 What is the future of the EU?	415
8.7 Conclusion	418
<i>Index</i>	421