

Contents

Preface xi

Glossary of Abbreviations xiv

Table of cases xvi

- 1 Understanding EU Law and Governance** 1
- 2 The EU as a Bureaucracy** 23
- 3 The EU as a Political Union** 50
- 4 The EU as a Regulator** 73
- 5 The EU as a Legal Order** 102
- 6 The EU as a Market** 129
- 7 The EU as a Union of Citizens** 150
- 8 The EU as a Union of Values** 175
- 9 The EU as a Unity** 202
- 10 The Future of EU Law and Governance** 228

Index 247

Detailed Contents

<i>Preface</i>	xi
<i>Glossary of Abbreviations</i>	xiv
<i>Table of Cases</i>	xvi

1 Understanding EU Law and Governance	1
1.1 What Is the 'Point' of the European Union?	2
1.2 The History of European Integration	4
1.3 Theories of European Integration	8
1.3.1 Intergovernmentalism	10
1.3.2 Neo-functionalism	12
1.3.3 Supranationalism	14
1.3.4 Post-functionalism	16
1.4 The Role of Law in European Integration	17
1.5 Tensions in European Integration	19
1.6 Conclusion	21
1.7 Learning Tools	21
2 The EU as a Bureaucracy	23
2.1 Institutional Balance in the European Union	24
2.2 The Institutions Explained	26
2.2.1 Executive Institutions: the European Commission	26
2.2.2 Executive Institutions: the European Council	31
2.2.3 Legislative Institutions: the European Parliament	34
2.2.4 Legislative Institutions: the Council of Ministers	38
2.2.5 Independent Institutions: the European Central Bank	41
2.2.6 Independent Institutions: the Court of Justice	42
2.3 Decision-making	42
2.4 Conclusion	47
2.5 Learning Tools	48
3 The EU as a Political Union	50
3.1 Is the EU a Political Union?	51
3.2 What Type of Democracy for the EU?	53
3.2.1 The EU as a State	54

3.2.2	The EU as a Democracy	56
3.2.3	The EU as a Consociational Democracy	59
3.3	Institutional Innovations	62
3.3.1	National Parliaments	62
3.3.2	Spitzenkandidaten	65
3.3.3	European Citizens' Initiative	67
3.3.4	Executivism and Constitutional Change	68
3.4	Conclusion	70
3.5	Learning Tools	71
4	The EU as a Regulator	73
4.1	Justifying EU Regulation	74
4.2	Principles of EU Regulation	76
4.2.1	Justification and Evidence-based Regulation	76
4.2.2	Transparency	77
4.2.3	Participation	79
4.2.4	Proportionality	79
4.3	Institutions of EU Regulation	81
4.3.1	Committees and Delegated/Implementing Legislation	82
4.3.2	Regulatory Agencies	84
4.4	Tools of EU Regulation	86
4.4.1	Secondary Legislation	86
4.4.2	Money and Incentives	88
4.4.3	Soft Law and Guidelines	90
4.4.4	Mutual Recognition	91
4.5	Enforcing EU Regulation	92
4.5.1	Judicial Review and Annulment	92
4.5.2	Infringement Actions	96
4.6	Conclusion	99
4.7	Learning Tools	100
5	The EU as a Legal Order	102
5.1	Integration through Law	103
5.1.1	Direct Effect	105
5.1.2	Primacy	108
5.1.3	Autonomy	110
5.1.4	Preliminary Reference Procedure	111
5.1.5	Effective Judicial Protection	113
5.1.6	State Liability	115
5.2	The Fragility of Integration through Law	116
5.2.1	Fundamental Rights Review	117
5.2.2	Ultra Vires Review	118
5.2.3	National (Constitutional) Identity Review	120
5.2.4	Democracy Review	122
5.2.5	Conflict and Reconciliation	122
5.3	Conclusion	125
5.4	Learning Tools	126

6	The EU as a Market	129
6.1	The Puzzle Called the Internal Market	130
6.1.1	How to Create an Internal Market without Borders?	131
6.1.2	Which Institutions Should Guide the Functioning of the Market?	132
6.1.3	The Substantive Orientation of the Internal Market	133
6.2	Positive Integration: Article 114 TFEU	135
6.3	Negative Integration	137
6.3.1	The Scope of Free Movement	139
6.3.2	Proportionality	144
6.3.3	The Implications of Negative Integration	146
6.4	Conclusion	147
6.5	Learning Tools	148
7	The EU as a Union of Citizens	150
7.1	Citizenship and Free Movement	151
7.2	Supranational Citizenship	153
7.3	Transnational Citizenship	157
7.3.1	Workers	158
7.3.2	Healthcare Patients	160
7.3.3	Students	162
7.3.4	Economically Inactive Citizens	163
7.3.5	Analysis	167
7.4	Third-country Nationals	167
7.4.1	The EU's Neighbourhood	167
7.4.2	Blue Card and Long-term Residence	168
7.4.3	Derivative Rights	169
7.4.4	Refugees and Asylum Seekers	170
7.5	Conclusion	172
7.6	Learning Tools	172
8	The EU as a Union of Values	175
8.1	What Are the EU's Values?	176
8.1.1	Values in the EU Treaties	177
8.1.2	The Charter of Fundamental Rights	179
8.1.3	General Principles and Unwritten Sources	181
8.1.4	EU Legislation	182
8.2	The Influence of EU values	184
8.2.1	EU Values at the CJEU	184
8.2.2	EU Values and the Union's Political Process	186
8.2.3	EU Values in the Member States	189
8.3	Limits on EU Values	192
8.3.1	The Scope of EU Values	192
8.3.2	Restricting EU Values	194
8.3.3	EU Values and International Human Rights Law	196
8.4	Conclusion	199
8.5	Learning Tools	199

9 The EU as a Unity 202

9.1 From One Europe to Many 203

- 9.1.1 Enhanced Cooperation 204
- 9.1.2 Opting In and Opting Out 206

9.2 The Risks of Differentiation 208

9.3 The EU and Europe 211

- 9.3.1 Joining the EU 211
- 9.3.2 Brexit and Leaving the EU 214
- 9.3.3 Models of Cooperation 219

9.4 Conclusion 225

9.5 Learning Tools 226

10 The Future of EU Law and Governance 228

10.1 How Does Change in the EU Happen? 229

- 10.1.1 Treaty Change 229
- 10.1.2 'Integration by Stealth' 231
- 10.1.3 Disintegration 233

10.2 Europe's Choices 235

- 10.2.1 Substantive Choices 235
- 10.2.2 Political Choices 237
- 10.2.3 Constitutional Choices 239
- 10.2.4 Global Choices 242

10.3 Conclusion 244

10.4 Learning Tools 245

Index 247