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European Public Law Patrick J. Birkinshaw 2020-01-23 The sphere of public law is ill-defined and controversial. Taking the broad view that it comprises aspects of (for instance) constitutional principles, good and humane administration, judicial review based on the rule of law, human rights, liability for wrongdoing, public procurement, provision of public services, transparency, social media and protection of privacy – areas that link legal control to broad governmental purposes – the third edition of this established and much-praised work expands its examination of the emergence of European public law from European Union (EU) law (and its European Community and European Economic Community antecedents), the European Convention on Human Rights and the interface of these systems with Member State systems, to include the currently all-important challenge of Brexit. The book explains in detail what European public law is and the context in which laws interact in European societies. Masterfully summarising the debate surrounding the influence of EU and European Convention law on Member State law – particularly that of the United Kingdom (UK) – in a thematic and analytical manner, the author covers the following topics and much more as they persist in the shadow of Brexit: constitutional law and administrative law in the EU and France, Germany and the UK; subsidiarity in the EU and UK devolution; openness, transparency and access to information; national parliaments and scrutiny of EU law; influence of EU law on UK judicial review; access to justice in the light of austerity and government cuts in public expenditure; the future of the UK Human Rights Act; European influence on the law of liability; EU ombudsmen and internal grievance procedures; future relationship between EU and UK domestic law; citizenship and protection of human rights; competition, regulation, public service and the market; the impact of Brexit, the legal consequences of UK withdrawal legislation and European Public Law, the EU-UK written agreements on separation and the political statement’s prospects for a post-Brexit trade deal. Detailed analyses of major cases and legal provisions are featured throughout the book. Given that the effects of Brexit will take decades to unfold, and not only in the UK, this new edition of a classic text will prove to be an invaluable guide to the ever-developing European context of domestic public law. The indelible marks of European integration must be fully understood if we are to understand public law and its future direction. The book will be of enormous assistance to political theorists and scientists and commentators and of immeasurable practical and academic

importance in monitoring the future of Europe and its legal relationship with the UK. Academics and students will be rewarded by the detailed analysis of the context in which national laws and European laws interact. Practitioners in the UK, Europe and globally will gain invaluable insight into the laws they use to resolve practical questions of legal interpretation.

Towards a Sustainable European Company Law Beate Sjåfjell 2009-01-01 No one doubts any longer that sustainable development is a normative imperative. Yet there is unmistakably a great reluctance to acknowledge any legal basis upon which companies are obliged to forgo 'shareholder value' when such a policy clearly dilutes responsibility for company action in the face of continuing environmental degradation. Here is a book that boldly says: 'Shareholder primacy' is wrong. Such a narrow, short-term focus, the author shows, works against the achievement of the overarching societal goals of European law itself. The core role of EU company and securities law is to promote economic development, notably through the facilitation of market integration, while its contributory role is to further sustainable development through facilitation of the integration of economic and social development and environmental protection. There is a clear legal basis in European law to overturn the poorly substantiated theory of a 'market for corporate control' as a theoretical and ideological basis when enacting company law. With rigorous and persuasive research and analysis, this book demonstrates that: European companies should have legal obligations beyond the maximization of profit for shareholders; human and environmental interests may and should be engaged with in the realm of company law; and company law has a crucial role in furthering sustainable development. As a test case, the author offers an in-depth analysis of the Takeover Directive, showing that it neither promotes economic development nor furthers the integration of the economic, social and environmental interests that the principle of sustainable development requires. This book goes to the very core of the ongoing debate on the function and future of European company law. Surprisingly, it does not make an argument in favour of changing EU law, but shows that we can take a great leap forward from where we are. For this powerful insight - and the innumerable recognitions that support it - this book is a timely and exciting new resource for lawyers and academics in 'both camps' those on the activist side of the issue, and those with company or official policymaking responsibilities.

A Legal and Economic Assessment of European Takeover Regulation Christophe Clerc 2012 "Takeovers are one-off events, altering control and strategy within an organisation. But the chances of becoming the target of a bid, even where remote, daily influence corporate decision-making. Takeover rules are therefore central to company law and the balance of power among managers, shareholders and stakeholders alike. This study analyses the corporate governance drivers underpinning takeover bid regulations and assesses the implementation of the EU Directive on takeover bids and compares it with the legal framework of nine other major jurisdictions, including the US. It finds that similar rules have different effects depending on company-level and country-level characteristics and considers the use of modular legislation and optional provisions to cater for them. This book is an abridged version, with additional policy suggestions, of the study prepared for the European Commission jointly by CEPS and the law firm Marccus Partners. The legal analysis in this book was conducted by Christophe Clerc, partner with the law firm Pinsent Masons and general manager of the Paris office and Fabrice Demarigny, Chairman of Marccus Partners and Head of Capital Market Activities within the Mazars group. The economic analysis was carried out by Diego Valiante, Research Fellow at CEPS and its in-house European Capital Markets Institute (ECMI) and by Mirzha de Manuel Aramendía, Researcher at ECMI and CEPS."--Publisher description.

Annual of German and European Law Russell Miller 2007-02-01 German law has been of long-standing interest and increasing relevance around the world, but access for researchers and practitioners very frequently was limited by the necessity of German language proficiency. Offering English-language access to these fields, the Annual of German & European Law is a significant contribution to the global discourse on and study of German, European and Comparative law. Each volume presents: (1) articles – original, cutting-edge scholarship from the fields of German and European law; (2) jurisdictional reports – comments on the latest caselaw from Germany's most significant courts and the case-law of the European courts having importance for Germany; (3) book reviews – surveying the most compelling recent literature (whether in the German or English language) in the fields of German and European law; and (4) translations – exclusive English-language versions of significant primary sources of German law, including statutes and court opinions). The first volumes of the Annual of German & European Law have attracted contributions from some of the most preeminent commentators, scholars and jurists in the fields, including, among others: Luke Nottage (Volume I); Juliet Lodge (Volume I); Alexander Somek (Volume I): Susanne Baer (Volume I): Renate Jaeger (Volume II): Günter Frankenberg (Volume II): Bootjan Zupanãiã (Volume II): Nigel Foster (Volume II) The third volume maintains this tradition of high quality, peer-reviewed scholarship with contributions expected from Gertrude Lübbe-Wolff (Justice, German Federal Constitutional Court) and Christian Joerges (European University Institute).

Division of Powers in European Union Law Theodore Konstadinides 2009-01-01 The European Union has flourished and expanded over the last fifty years as a unique system that lies midway between a federal state and an anarchical international system. Different actors coexist within a cooperative hegemony of Member States, and the allocation of competences and decision-making among them has always been at the centre of the integration process. In fact, demands for clearer limits to the Unionand□s decision-making power and enduring tension over the nature and purpose of European integration have been the key drivers of integration and change. This deeply informed and thoughtful book thoroughly examines the manner in which the principle of division of powers has developed in EU Law over the course of European integration, and casts light on the path towards a more efficient delimitation of internal competence between the main actors: namely, the European Union and the Member States. Among the topics investigated in depth are the following: the place of the and□competence provisionsand□ in the current and future EU Treaty structure; the scope and limits of the powers of institutional actors involved in EU decision-making; the contribution of the Court of Justice in declaring the pre-emptive effect and overarching precedence of Community law; the role of subsidiarity as a tool for monitoring the jurisdictional limits of the Communityand□s legislative competence; areas where and□creeping competenceand□ occurs; the constitutional checks and balances available to Member States against unprecedented expansion of EU competences; and the spectre of a powerful and□coreand□ Europe and a and□multi-speedand□ Europe of pacesetters and laggards. Addressing numerous crucial issues and□ among them the degree of permanence of the nation-state in a context of ambiguous constitutional authority, and the width of the democratic base of the Unionand□s and□institutional dynamicand□ of cooperation and consensus and□ the author lucidly describes a seeming paradox: an and□ever-closer unionand□, with a growing democratic legitimacy, congruent with a supranational community that falls short of a fully-fledged democratic political entity. The countless perspectives and clarifications discovered along the way are sure to engage academics and policymakers working in the fields of the European integration project, and will provide ample

insights and food for thought.

General Principles of EC Law in a Process of Development Ulf Bernitz 2008-01-01 What are the basic principles underlying European Community Law? Although no one seeks a purely descriptive answer to this question, the discussion it gives rise to is of immense significance both for theoretical legal studies and for legal practice. Over the years, scholars have convened from time to time to re-examine the question in the light of new developments. This important volume offers insights and findings of the latest such conference, held at Stockholm in March 2007, and sponsored by the Swedish Network for European Legal Studies. The nineteen essays here printed are all final author-edited versions of papers first presented at that conference. Far from merely an updating of the First Edition, which marked a 1999 conference held under the same auspices at Malm&#65533;, this book is entirely new. It underscores the importance of discovering the emergence of new general principles--linked, indeed, to such fundamental continuing concerns as democracy, accountability, transparency, direct effect, good administration, and European citizenship--as they develop in such increasingly important areas as the following: core aspects of competition and financial integration law; the ongoing process of European constitutionalization; the application of general principles in the new Member States; the growth of European private law; the successive creation of a jus commune europaeum; and the instrumental function of the EC Court. There is also special consideration attached to such overriding issues as the gap-filling function of the principles within the Community legal system, and the implications of the use of a comparative methodology. The authors include both eminent, well-known experts, many of whom took part in the 1999 Conference, and representatives of a new generation of younger scholars in the field. For the myriad parties involved in the evolution of the European project from a legal perspective, this book serves as a watershed, a thorough inspection of the foundations as they are perceived and understood at the present moment. It is sure to be consulted and cited often in the years to come.

General Principles of European Private International Law Stefan Leible 2016-02-22 European private international law, as it stands in the Rome I, II, and III Regulations and the recent Succession Regulation, presents manifold risks of diverging judgments despite seemingly harmonised conflict of law rules. There is now a real danger, in light of the rapid increase in the number of legal instruments of the European Union on conflict of laws, that European private international law will become incoherent. This collection of essays by twenty noted scholars in the field sheds clear light on the pivotal issues of whether a set of overarching rules (a 'general part') is required, whether an EU regulation is the adequate legal instrument for such a purpose, which general questions such an instrument should address, and what solutions such an instrument should provide. In analysing the possible emergence of general principles in European private international law over the past years, the contributors discuss such issues and factors as the following: – the relationship between conflict of laws and recognition; - the room for party autonomy; - the concept of habitual residence; - adaptation when interplay between different laws leads to deadlock; - public policy exceptions; - the desirability of a general escape clause; - the classic topics of characterisation, incidental question, and renvoi; and - right to appeal in case of errors in the application of foreign law. Practitioners dealing with these notoriously difficult cases will welcome this in-depth treatment of the issues, as will interested policymakers throughout the EU Member States and at the EU level itself. Scholars will discover an incomparable comparative analysis leading to expert recommendations in European private international law, opening the way to an effective European framework in this area.

EU Regulation of Access to Labour Markets Elise Muir 2012-07-05 With a focus on how directly the conditions of access to employment are modified by EU legislation and case law, this important book critically analyses the mandate by which the EU constrains domestic competences to regulate access to labour markets. The author identifies an 'EU public-social order approach' – a set of norms imposed by EU institutions on domestic authorities in the performance of a task with social implications. In the area of access to labour markets, this approach is characterized by the following measures and objectives: prohibition of certain forms of discrimination in access to employment, which enhances the protection of individuals; facilitation of the cross-border allocation of workforce among Member States, which requires domestic decision-makers to give equal chances to all EU citizens; and promotion of the economic competitiveness of domestic labour markets, which affects the rights of third country nationals. The presentation assesses the effectiveness of this public-social order approach – in particular as revealed in ECJ case law – as a tool to increase economic efficiency, advance distributive justice, and ensure protection of dignity. By way of detailed example, the author examines reforms of employment contract law and economic migration law in France, and for purposes of comparison illustrates parallel movements in defining the principle of equality as manifested in U.S. law. Thorough and incisive, this analysis of the constraints imposed by EU law on the exercise by domestic institutions of their competence in regulating labour markets is valuable not only to lawyers and academics in employment law, but also of great interest to jurists and policymakers in the wider field of European law as an accurate overview of the tensions between EU constraints and the tools used by national policy makers.

The Anatomy of Corporate Law Reinier H. Kraakman 2017 Businesses using the corporate form give rise to three basic types of agency problems: those between managers and shareholders as a class; controlling shareholders and minority shareholders; and shareholders as a class and other corporate constituencies, such as corporate creditors and employees. After identifying the common set of legal strategies used to address these agency problems and discussing their interaction with enforcement institutions, The Anatomy of Corporate Law illustrates how a number of core jurisdictions around the world deploy such strategies. In so doing, the book highlights the many commonalities across jurisdictions and reflects on the reasons why they may differ on specific issues. The analysis covers the basic governance structure of the corporation, including the powers of the board of directors and the shareholder meeting, both when management and when a dominant shareholder is in control.

Impact Assessment in EU Lawmaking Anne C. M. Meuwese 2008-01-01 Recent constitutional thinking has directed its attention to the profound impact of 'soft' norms on the way legislation is made. This book identifies the European Union's impact assessment regime as a source of these norms. In 2002 the European Commission - later followed by the European Parliament and the Council of Ministers - committed to performing rigorous assessment of the economic, social and environmental impacts of policy options before adopting (legislative) proposals. Applying a 'constitutional lens' to this 'regulatory' topic, Anne Meuwese examines both the details and the framework of IA in EU lawmaking to date, drawing attention to its strengths, its contradictions, and its power to enhance the deliberative quality of legislative debates. Integrating the perspectives of political scientists and economists with the concerns of legal scholars and practitioners, Dr Meuwese describes and interrelates such aspects of the subject as the following: the potential role of impact assessment as a catalyst of legal principles, by emphasising or overriding norms that govern both the procedural and the substantive aspects of the EU legislative process; the

'constitutional tasks' of impact assessment as applied to European legislative proposals, especially relating to subsidiarity, proportionality, and the precautionary principle; the formal and informal extension of the scope of impact assessment beyond the co-decision procedure; the question whether impact assessment crosses the line between informing the legislator and fettering legislative discretion. In the course of her analysis Dr Meuwese develops models for possible usages of IA in EU lawmaking, analyses the implementation of impact assessment processes in the European Commission, the European Parliament and the Council as well as the roles of relevant 'co-actors', and offers results of empirical research in the forms of a survey of EU legislative practice and in-depth case studies of four EU legislative dossiers.

Anti-dumping in the WTO, the EU, and China Dr. Yan Luo 2010-01-01 Country Driving illuminates the vast, shifting landscape of a traditionally rural nation that, having once built walls against outsiders, is building the roads and factory towns that will shape the twenty-first century. --Book Jacket.

The Role of Financial Stability in EU Law and Policy Gianni Lo Schiavo 2016-04-24 Since the outbreak of the 2008 financial crisis, European Union (EU) institutions and Member States have engaged in a major effort to repair the architecture of economic governance of the European Economic and Monetary Union (EMU). This book takes as its starting point the unclear notion of financial stability, which only recently has received a more detailed legal analysis. It examines the evolution of the concept of financial stability during the financial crisis and provides a conceptual framework in order to demonstrate that financial stability has become a foundational objective in Europe and has set a new normative framework in EU law and policy. Arguing that financial stability is a foundational objective in EU law and policy based on certain normative instruments, this ground-breaking book provides an in-depth and original understanding of the newly developed framework to attain supranational financial stability. In its analysis of the legal implications of these new instruments, the study examines topics and issues such as the following: - the concept and normative instruments of financial stability at European level; - the renewed economic governance in Europe; - the financial assistance mechanisms developed in Europe; - the new regulatory environment for banks at European level; - the Single Supervisory Mechanism and the role of the European Central Bank (ECB) therein; and - the new framework for banking resolution, with specific focus on the Single Resolution Mechanism. The author shows in detail how an appropriate level of supranational regulation, supervision, burden-sharing and rescue measures strengthen financial stability. Thereby, the book will appeal to officials in EU institutions and agencies as well as lawyers and academics in EU law and in banking/financial law to gain a clear understanding of role of financial stability and its normative instruments in EU law and policy. Gianni Lo Schiavo is currently working as a lawyer at the ECB. He obtained a PhD in EU Law at King's College, London, and has written numerous articles and chapters in EU administrative law, EU financial/banking law and EU competition law.

EU Ordre Public Tim Corthaut 2012-10-26 In a cogent, detailed analysis, the author ‘reconstructs’ the legal order of the European Union in a way that best gives meaning to the Treaties, the case law of the Court of Justice, and the various underlying principles of integration that have emerged over the decades. He focuses on instances, or touchstones, in relation to which EU law seems to be building and integrating an ordre public. Among these are the following: international trade law and arbitration; public international law; the ECHR and EctHR; public policy exceptions to the four freedoms; European citizenship; competition law; national and EU procedural law; and protection of social and labour standards. In-depth inquiry into questions which seem

subject to very specific limitations – such as when national or EU courts are under an obligation to raise issues of EU law of their own motion, or norms from which private parties may not deviate – captures the breadth of the EU ordre public, greatly clarifying the concept and the variety of ways it operates. Seeking to reconcile numerous strands and processes of EU law in a principled manner, the book reveals a significant potential for a deeper constitutional framework defining the EU ordre public and putting it into operation as a tool to help ensure unity in diversity. It will be welcomed and read closely by jurists, policymakers, and interested academics in Europe and wherever the matter of European integration is studied.

Cross-Border Mergers Thomas Papadopoulos 2019-09-28 This edited volume focuses on specific, crucially important structural measures that foster corporate change, namely cross-border mergers. Such cross-border transactions play a key role in business reality, economic theory and corporate, financial and capital markets law. Since the adoption of the Cross-border Mergers Directive, these mergers have been regulated by specific legal provisions in EU member states. This book analyzes various aspects of the directive, closely examining this harmonized area of EU company law and critically evaluating cross-border mergers as a method of corporate restructuring in order to gain insights into their fundamental mechanisms. It comprehensively discusses the practicalities of EU harmonization of cross-border mergers, linking it to corporate restructuring in general, while also taking the transposition of the directive into account. Exploring specific angles of the Cross-border Mergers Directive in the light of European and national company law, the book is divided into three sections: the first section focuses on EU and comparative aspects of the Cross-border Mergers Directive, while the second examines the interaction of the directive with other areas of law (capital markets law, competition law, employment law, tax law, civil procedure). Lastly, the third section describes the various member states' experiences of implementing the Cross-border Mergers Directive.

EU Law and the Harmonization of Takeovers in the Internal Market Thomas Papadopoulos 2010-01-01 Although some provisions of the Directive are obligatory for all Member States, two key provisions have been made optional: the non-frustration rule, which requires the board to obtain the prior authorization of the general meeting of shareholders before taking any action that could result in the frustration of the bid; and the breakthrough rule, restricting significant transfer and voting rights during the time allowed for acceptance of the bid. Other relevant legal issues covered in the course of the analysis include the following: A { the right of establishment as a right of legal persons; A { vertical vs.

Infringement Proceedings in EU Law Luca Prete 2016-04-24 Infringement proceedings constitute a signi¬ficant proportion of proceedings before the Court of Justice of the European Union and play a key role in the development of EU law. Their immediate purpose is to obtain a declaration that a Member State has, by its conduct, failed to ful¬l an obligation under the EU Treaties. The aim is to bring that conduct and its effects to an end and, ultimately, to eliminate infringements across the Union. This book – the ¬first comprehensive and detailed full-length work in English on infringement proceedings under Articles 258-260 TFEU – provides not only an in-depth discussion on the role and function of infringement proceedings within the EU legal order, but also a critical assessment of the procedures as they currently stand, complete with proposals for future changes. Recognizing that Member States' compliance with EU law is an integral part of the task of ensuring the rule of law throughout the Union, the author thoroughly explains the functioning of infringement proceedings, their requirements and related policies, including issues such as: – the Commission's discretion to bring a case before the Court; – the author of the

infringement, including national courts or private entities; – Member States' procedural and substantive defences; – the different procedures under Articles 258, 259 and 260(2) and (3) TFEU; – rights of private parties; – interim measures; – ¬financial sanctions; – Member States' liability; and – the roles played by the European Parliament and the Ombudsman. Particular attention is devoted to rules that have not yet been fully interpreted, or where the current interpretation or application of the rules seems problematic. The book tackles, in particular, whether infringement proceedings, as they stand, constitute an appropriate means of ensuring observance by Member States' authorities of the EU acquis, and, if not, what reforms should be implemented in order to achieve this in the future. Such a detailed and in-depth examination of this fundamental procedure of EU law will be of great and long-lasting interest to EU and Member State administrators, legal practitioners and academics. Luca Prete is currently a référendaire (Legal Secretary) for Advocate General Wahl at the Court of Justice of the European Union, on secondment from the Legal Service of the European Commission. He is also a member of the Centre for European Law of the Free University of Brussels (VUB). He has published several articles in the fi¬eld of EU law and is a regular speaker at EU law seminars and conferences.

Reverse Discrimination in EC Law Alina Tryfonidou 2009-01-01 Discrimination is an incongruity in the contemporary EC. Then, the author provides an in-depth analysis of two of the post-Maastricht developments in the context of free movement: the establishment of the status of Union citizenship by the Treaty of Maastricht in 1993 and the development of that status through the Court's recent jurisprudence; and the formal completion of the internal market in 1993, as required by the provisions inserted into the EC Treaty by the Single European Act. Focusing on the central issue of whether reverse discrimination is - and should remain - outside the scope of EC law, the author explains what has been the impact of each of these developments on the question of the permissibility of reverse discrimination in EC law. A brief discussion of the available solutions to the problem and their advantages and disadvantages concludes the presentation. This is a ground-breaking study in an area of European law that has received scant academic attention so far and is just beginning to be explored. In it, scholars, policymakers and practitioners will discover a firm foundation from which to pursue and ultimately define the limits of reverse discrimination in EC law.

External Relations Law of the European Community Rass Holdgaard 2008-01-01 External Relations Law of the European Community begins by noting two common characteristics of legal analyses in the field of EU external relations. First, most legal analyses assume that EC external relations law cannot be studied or applied without a constant awareness of the underlying political dynamics. Yet, the same analyses fail to explain how these 'dynamics' are to be understood, assessed and systematically applied. This pragmatic outlook reduces the importance and value of a self-reflective, rational and coherent legal language. Second, most legal analyses tend to focus only on n.

European Communications Law and Technological Convergence Pablo Ibáñez Colomo 2011-12-14 This book presents a thorough critical examination of the European regulatory reaction to technological convergence, tracing the explicit and implicit mechanisms through which emerging concerns are incorporated into regulation and competition law, and then goes on to identify the patterns that underlie these responses so as to establish the extent to which the issues at stake, and the implications of intervention, are fully understood and considered by authorities. Focusing on 'conflict points' – areas of tension inevitably arising among overlapping regimes – the analysis covers such elements as the following: the provision of 'multiple-play' services; the

advent of ‘convergent devices’; the interchangeability of transmission networks; subscription-based (‘pay television’) services; the diversification of television services (such as on-demand and niche-theme channels); the relative scarcity of (premium) content; the ‘migration’ of television content with cultural and social relevance to pay television; and the emergence of ‘bottleneck’ segments in the communications value chain. Endorsing the adjustment of existing rules to meet pluralist objectives, the author outlines a single, coherent regulatory approach. He shows how a careful analysis of the implications of technological convergence helps to solve conflicts between regimes. Specifically, the analysis addresses the level – national or EU – at which particular regulatory responses should emerge, the objectives guiding action, and the tools through which these objectives may be pursued. These conclusions command the attention of policymakers, regulators, and lawyers active in the ongoing development of communications law.

EU Law and Obesity Prevention Amandine Garde 2010-01-01 Since the 1980s, there has been an alarming increase in the prevalence of obesity in virtually every country in the world. As obesity is known to lead to both chronic and severe medical problems, it imposes a cost not only on affected individuals and their families, but also on society as a whole. In Europe, the Obesity Prevention White Paper of May 2007 - followed by the adoption of an EU School Fruit Scheme, the acknowledgement that food advertising to children should be limited, and proposed legislation to make nutrition labeling compulsory - has firmly placed obesity on the EU agenda by laying down a multi-sectoral strategy and a basis for future action. In accordance with this growing sense of urgency, this is the first book to offer an in-depth legal analysis of obesity prevention, with particular reference to Europe. It describes what the EU has done and could do to support Member States in fighting the obesity epidemic, and clearly shows the way to locating advocacy strategies within the framework of EU law. The thorough analysis includes a discussion of the following issues: the need to address nutrition and physical activity as important health determinants; the emphasis traditionally placed at EU level on food safety rather than food quality; the need for the development of databases on nutrition and physical activity, comparable common indicators and risk assessment mechanisms; mainstreaming public health into all EU policies; the scope of EU powers in the case law of the Court of Justice; the role of information in the EU's obesity prevention strategy; the Commission's proposed Mandatory Nutrition Declaration; the Food Claims Regulation; the regulation of food marketing to children, and in particular the role of the Audiovisual Media Services Directive, the Unfair Commercial Practices Directive and industry self-regulation; food reformulation; the use of economic instruments in the EU's obesity prevention strategy, with an emphasis on the Common Agricultural Policy and the EU's taxation policy; and EU action in the fields of sport, occupational health and safety, and transport policy. The author convincingly shows that conflicts of interest inherent in market forces demand a strong EU intervention, preferably through legislation than self-regulation. She also demonstrates the urgent need to reach an agreement, on the basis of reliable data, about what is effective in practice to improve lifestyles. The study acknowledges that the law is not a panacea, but nonetheless has an influential role to play in making the healthy choice an easier choice, and must move decisively towards ensuring that the societal costs associated with obesity are sustainable, and that the ultimate goal of a healthy population is achievable. The book is essential reading for everyone involved or interested in the development of the EU's obesity prevention policy.

A Legal Analysis of NGOs and European Civil Society Piotr Staszczyk 2019-06-26 Amid widespread awareness and discussion of “the democratic deficit” and “shrinking civil space,” the role of nongovernmental

organizations (NGOs) becomes increasingly important. Yet the precise legal status of such bodies is ill-defined. Here, for the first time, is a thorough commentary and analysis of the position of NGOs and European civil society in the European Union (EU) constitutional system, bringing to the fore existing and desirable means of public participation in EU lawmaking. Recognizing that NGOs have historically been designed to meet the ends of civil society, the analysis focuses on the following topics and issues: means in EU law of advocating for the collective interests of civil society; unofficial means of influencing the EU institutions; access to documents and the European Citizens' Initiative as means of exerting pressure on EU legislation; relations between the EU institutions and NGOs, including lobbying activities; bringing actions in the common good before courts and other institutions; the special role of NGOs in environmental protection; complaints to the Commission and the European Ombudsman; EU funding for NGOs; and transboundary philanthropy. Drawing on a broad spectrum of sources of law, including CJEU case law and relevant legal literature, the book offers insightful proposals leading to the democratization of the EU's internal procedures that will allow enhanced cooperation of civil society representatives across national borders. In its thorough examination of legal tools that can respond to the "democratic deficit," this book makes a distinctive contribution to the public debate on the future of the European Union, especially in the context of emerging threats to further integration. It will prove of great value not only to civil activists, academics and policymakers but also to everyone interested in European integration and affordance for social participation.

Multilingual Interpretation of European Union Law Mattias Derlén 2009-01-01 At head of title: Kluwer Law International

Adoption of Squeeze-out and Sell-out Rights of Shareholders in Ukraine on the Basis of a Comparison of EU, Germany and USA Anton Babak 2012 Currently there are debates in Ukraine regarding implementation of squeeze-out and sell-out rights of shareholders. This paper thesis stands for granting these rights to shareholders in Ukraine. Firstly, the research compares EU, Germany and USA regulations of squeeze-out and sell-out rights focusing on regulatory framework, legal thresholds and fair price definition of squeeze-out or sell-out procedures. Based on the comparative research, this thesis elaborates a squeeze-out and sell-out model for its implementation in Ukraine. This model should adopt the takeover squeeze-out and sell-out rules from the EU Takeover Directive. At the same time, corporate squeeze-out and sell-out should be as well enabled mainly by borrowing provisions from the German legislation. The liberal provisions regarding the legal threshold should be adopted from the U.S.

The Legal Framework Applicable to the Single Supervisory Mechanism Giovanni Bassani 2019-02-11 In this innovative book a leading expert directly involved in the development and implementation of the framework compellingly demonstrates the necessity of removing differences in banking legislation across national borders within the Banking Union. The author analyses all the cases where the European Central Bank (ECB) is required to apply national legislation in accordance with the country of establishment of the credit institutions under its direct supervision within the Single Supervisory Mechanism (SSM). Drawing on the case law of the European Court of Justice concerning the transposition of EU Directives the book also develops an analytical methodology to assess the derivation of national legislation from EU law with application to several concrete cases. In an in-depth analysis of the complex legal environment in which the ECB, as prudential supervisory authority, has been operating, the author thoroughly answers the following questions: – What are the supervisory tasks and powers of the ECB in the micro and macroprudential spheres? – When is the ECB required to apply national legislation? – What are the 'direct' and the 'indirect' supervisory powers of the ECB vis-à-vis

significant supervised entities? – What are the options and discretions available in EU law? – What are the most important prudential options the ECB has exercised for significant supervised entities? – What are the main legal obstacles to the establishment of a truly single supervisory jurisdiction within the Euroarea with actual fungibility of capital and liquidity for cross-border banking groups? The legal analysis in this book supports, with great authority, the demands for a leap forward in the full harmonisation of key prudential requirements within the Banking Union. Legal and banking practitioners, officials in national and European authorities, banking law scholars and policymakers will benefit enormously from the lessons it contains for the way forward of the Banking Union and, more generally, the future of the European Union itself.

The European Union Legal Order After Lisbon Patrick Birkinshaw 2010-01-01 In June 2009 the Institute of European Public Law of the University of Hull assembled a range of experts in relevant fields to offer papers and reach some consensus on what has been achieved in the EU legal order and what the future holds for that order given local tensions and global uncertainty.

The Ne Bis in Idem Principle in EU Law Bas van Bockel 2010-01-01 The legal principle of ne bis in idem restricts the possibility of a defendant being prosecuted repeatedly on the basis of the same offence, act, or facts. This book describes obstacles that stand in the way of a single, autonomous, and uniformly applicable general ne bis in idem principle of EU law.

International Trade and Business Law Review Gabriel Moens 2013-01-11 Compiled by leading international trade law practitioners and academics from across the globe, this volume provides legal and business communities with information, knowledge and an understanding of recent developments in international trade, business and international commercial arbitration. Scholarly in style, this volume contributes to the discussions surrounding the developments whilst being informative and of practical use to the business community and lawyers. Covering the areas of international trade and business law, arbitration law, foreign law and comparative law, with one section devoted to the Willem C. Vis International Commercial Arbitration Moot, it contains: leading articles comments case notes book reviews. International Trade and Business Law Review is an invaluable resource for post-graduate students and business and legal professionals, primarily studying and working in the UK, USA and Australia.

Directory of EU Case Law on the Preliminary Ruling Procedure René Barents 2009-01-01 Article 234 EC ensures that a divergent application of the EC Treaty or of the statutes and acts of its institutions is not allowed in any Member State. Unsurprisingly, its pivotal importance has given rise to a huge number of ECJ judgments and orders - about 700 by the beginning of 2009. Very often, a practitioner needs to establish whether the preliminary ruling procedure called for by Article 234 EC is required in a particular case being pursued in a national court, and any relevant ECJ ruling or order must be located. Herein lies the great value of this book. Dr Barents' very useful volume sorts paragraphs of the 700 judgments and orders by subject, making it easy to establish the relevance of a particular Community court ruling to a particular national court proceeding. In this book paragraphs of the judgments and orders are presented in the form of extracts sorted by subject. The subject headings are arranged according to a hierarchical system, descending from such overarching concepts as scope and participation to such precise categories as the following: situations outside the scope of community law; bodies not considered to be courts or tribunals; arbitration; third persons; rights of participants; formulation of preliminary questions; presumption of relevance of a preliminary reference; violation of the obligation to refer; requirement of a pending dispute; interim measures; modification of preliminary questions; questions rejected by the

submitting court; new elements presented during the preliminary procedure; questions lacking precision; retroactive effects of judgments. Paragraphs of judgments relating to more than one subject are included under each relevant heading, where necessary accompanied by cross references to other headings. Under each extract or summary, the judgments and orders are referred to by case number in ascending order. The articles of the EC Treaty are cited according to the new method of citation pursuant to the renumbering of the articles of that treaty brought about by the Treaty of Amsterdam. There is no doubt that the book's technique of presenting case law in the form of separate extracts and summaries arranged by topic and sub-topic improves the accessibility of the material. This very practical, time-saving feature will be greatly appreciated by practitioners throughout Europe. This is a reference every European lawyer will want to have on hand.

EU Agricultural Law Jens Hartig Danielsen 2013-05-01 The European Union‘s common agricultural policy is without question the most economically significant policy area in EU law, as well as the area in which Union regulation has been implemented most consistently and intensely. This book contends that today, considering this comprehensive regulation of issues that are of prime economic importance – and the rich case law that this EU policy has generated – EU agricultural law cannot be treated as an isolated discipline, but must be seen in the context of general Union law. The author first deeply explores in an unprecedented way what is meant by the expressions ‘agriculture’, ‘agricultural activity’, and ‘agricultural producer’ found in current EU legislation, and goes on to provide a detailed legal analysis in contexts from Member States to the World Trade Organization. In the course of the presentation he examines the following, among much else: the principle of unified markets or common prices; structural funds for promoting regional agricultural development; encouragement of local strategies based on partnership and experience-sharing networks; environmentally friendly agricultural measures; the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD); whether a person or undertaking produces agricultural products or processes them; food safety measures; animal welfare; agricultural training and research; ensuring a fair standard of living for the agricultural community; interventions concerning storage or production limitation; State aid schemes; marketing standards; geographical indications; trade with third countries; support for improving the environment and the countryside; payment of aid pursuant to the single payment scheme; and WTO rules on domestic support measures, import duties and restrictions, and exports. As a full-length, in-depth analysis of EU agricultural law, this book has no peers. It is sure to be welcomed not only by legal academics, but by all who are professionally engaged in dealing with issues of Union agricultural law, whether lawyers, professional interest groups, or administrative authorities.

EU Law of the Overseas Dimitry Kochenov 2011-01-01 Millions of British, Dutch, French, Danish, Spanish, and Portuguese nationals permanently reside in the overseas parts of their Member States. These people, like the companies registered in such territories, often find it virtually impossible to determine what law applies when legal decisions are required. Although Article 52(1) of the EU Treaty clearly states that EU law applies in the territory of all the Member States, most Member State territories lying outside of Europe provide examples of legal arrangements deviating from this rule. This book, for the first time in English, gathers these deviations into a complex system of rules that the editor calls the 'EU law of the Overseas'. Member States' territories lying far away from the European continent either do not fall within the scope of EU law entirely, or are subject to EU law with serious derogations. A huge gap thus exists between the application of

EU law in Europe and in the overseas parts of the Member States, which has not been explored in the English language literature until now. This collection of essays sets out to correct this by examining the principles of Union law applicable to such territories, placing them in the general context of the development of European integration. Among the key legal issues discussed are the following: internal market outside of Europe; the protection of minority cultures; EU citizenship in the overseas countries and territories of the EU; Article 349 TFEU as a source of derogations; The implications of Part IV TFEU for the overseas acquis; participatory methods of reappraisal of the relationship between the EU and the overseas; implications for the formation of strategic alliances; voting in European elections; what matters may be referred by courts and tribunals in overseas countries and territories; application of the acquis to the parts of the Member States not controlled by the government or excluded from ratione loci of EU law; interplay of the Treaty provisions and secondary legislation in the overseas; customs union; wholly internal situations; free movement of capital and direct investments in companies; the euro area outside of Europe; duty of loyal cooperation in the domain of EU external action; territorial application of EU criminal law; and territorial application of human rights treaties. Twenty-two leading experts bring their well-informed perspectives to this under-researched but important subject in which, although rules abound and every opportunity to introduce clarity into the picture seems to be present, the situation is far from clear. The book will be welcomed by serious scholars of European Union law and by public international lawyers, as well as by policy-makers and legal practitioners.

Finance for SMEs: European Regulation and Capital Markets Union Patrizio Messina 2019-06-19 With the European Commission’s announcement of the Capital Markets Union in 2016, a major step was at last taken to provide for the special needs of small and medium enterprises (SMEs). This book presents the first in-depth legal analysis of the challenges that SMEs have to face when managing their balance sheets and trying to attract investors, what alternative financing tools are most effective and how recent legislation reaches fair and convenient conditions for SMEs. The analysis focuses specifically on the Capital Markets Union structure and on other European initiatives that support and enhance SMEs’ raising money on capital markets in order to better diversify their investments and plan a growth and development strategy. An updated description of the European framework is provided, together with references to relevant national systems. Issues and topics covered include the following: need for long-lasting access to funds; securitization for SMEs; SME Z-score; crowdfunding; and peer-to-peer, minibond and accounts receivables financing. Case study analyses furnish a deep understanding of the financial structures and their main features. Appendices include English texts of the main European Union (EU) legal documents pertaining to SMEs. For SMEs discouraged by over-regulation designed for larger businesses, and who find themselves in difficulties when they have to face the required process, this book will prove to be of immeasurable practical value. This book represents one of the first publications on SMEs and finance and contains data and information resulting from a deep and well-focused research on the topic. The added value of this study will allow the academics to understand the main issues related to this topic and will provide for a steady basis for further research and analysis with regards to law and economics for SMEs. Furthermore, it will be also warmly welcomed by practitioners in the area of SME financing and will be useful to support them in the selection of the most appropriate tools for their clients. Banks and interested EU officials will also value its clear and straightforward approach to the subject.

The Eclipse of the Legality Principle in the European Union Leonard F. M. Besselink 2011-01-01 Legality is a traditional normative concept to regulate the

relationship between those in power and those subjected to that power. The principle of legality protects the citizen against the arbitrary use of power, or, more precisely, it demands a legal basis (which itself must be of a certain standard) to legitimize State action. Is legality under siege in Europe? The authors contributing to this provocative and important book answer this question in the affirmative. Twenty-one outstanding European legal scholars expose a spectrum of ways in which the traditional legality principle is under pressure because of the creation of new legal orders, including that of the EU, and the interaction between these new orders and that of the State, combined with such factors as expertise driven governance, difficulties of international organizations to meet their objectives due to a lack of adequate powers, and lack of parliamentary control. The question of whether the main functions of legality - legitimating, attributing and regulating the exercise of public authority - are still fulfilled in the context of the overlapping, interacting, and mutually dependent legal orders of the EU, the ECHR, and the Member States is at the background of all the essays in this volume. Recognizing that legality, if it is to survive, demands rigorous reconsideration of its scope and application, the authors interrogate not only such fundamental democratic issues as who has legitimate power to perform legislative acts and through these to exercise of public power over citizens, but also such urgent European problems as the following: ; the use of the precautionary principle in EU decision-making; the scope of the principle that the exercise of public authority must rest on an act of Parliament; the extent to which the EU can provide a legal basis for action of Member State authorities in the absence of such a basis within Member State legal orders; the constitutional position of independent 'regulators'; the requirements that ECJ and ECHR case law impose on the exercise of public authority; whether legislative results are coherent in the sensitive area of equal treatment; transparency, legal certainty, enforceability, and implementation of EC Directives in the field of workers' involvement; new instruments as the Open Method of Coordination and the involvement of social partners in decision-making; the de facto harmonization of national criminal justice systems; and the prominent role of the EU in the field of data protection. There can be little doubt that the issue of legality and to whom it applies - in a world in which the role of the modern State is changing profoundly - is a crucial one. It is highly important in the context of the ongoing discussion on the meaning of democracy and citizenship. This volume, with its clear message that reconsidering legality demands taking serious issue with the uncertainty engendered by the processes of globalization, will resonate profoundly among practitioners and policymakers in this time of momentous change.

Takeover Law in the UK, the EU and China Joseph Lee 2021-05-20 This book investigates stakeholders’ interests, market players, and governance models for the takeover market in the changing global economic orders. Authors from the UK, Germany, the Netherlands, Australia, and China discuss takeovers in the context of China as a rising power in the global M&A market and re-examine takeover as an efficient method for corporate competition, consolidation, and restructuring. China has come to embrace takeovers as a market practice and is seeking directions for further reforms of its law, regulatory model, and banking system in order to compete with other economic powers. Yet, China is at a very different economic development stage and has different legal and political structures. State-owned enterprises dominate the Shanghai and Shenzhen stock markets – a very different landscape from UK and European exchanges. Researchers and policy makers are currently developing options in response to needs for reform. Recently, China has also announced the opening of its financial markets to foreign ownership. This book reflects on the UK and European models and focuses on the policy choices for China to transform its capital

market. The book is of interest to postgraduate students and researchers (LLM, PhD, postdocs), law and management/finance academics, and policy makers.

GDPR: General Data Protection Regulation (EU) 2016/679 Mariusz Krzysztofek 2018-11-01 Personal data protection has become one of the central issues in any understanding of the current world system. In this connection, the European Union (EU) has created the most sophisticated regime currently in force with the General Data Protection Regulation (GDPR) of 2016. This book on this major data protection reform offers a comprehensive discussion of all principles of personal data processing, obligations of data controllers and rights of data subjects. This is the core of the personal data protection regime. GDPR is applicable directly in all Member States, providing for a unification of data protection rules within the EU. However, it poses a problem in enabling international trade and data transfers outside the EU between economies which have different data protection models in place. Among the broad spectrum of aspects of the subject covered are the following: – summary of the changes introduced by the GDPR; – new territorial scope; – key principles of personal data processing; – legal bases for the processing of personal data; – marketing, cookies and profiling; – new information clauses; – new Subject Access Requests (SARs), including the 'right to be forgotten' on the Internet, the right to data portability and the right to object to profiling; – new data protection by design and by default; – benefits from implementing a data protection certificate; and – data transfers outside the EU, including BCRs, SCCs and special features of EU–US arrangements. This book references many rulings of European courts, as well as interpretations and guidelines formulated by European data protection authorities, examples and best practices, making it of great practical value to lawyers and business leaders. Because of the increase in legal certainty in this area guaranteed by the GDPR, multinational corporations and their customers and contractors will benefit enormously from consulting and using this book. For practitioners and academics, researching or advising clients on this area, and government policy advisors, this book provides an indispensable source of guidance and information for many years to come.

The 'Right to Damages' under EU Competition Law Veljko Milutinovic 2010-11-19 It is the provocative thesis of this book that the Commission's struggle for a more 'effective' system of private enforcement has gone from being a mere enhancement of a single EU policy (competition) to slowly but surely fuelling a paradigm shift in EU law.

Remedies and Procedures Before the EU Courts René Barents 2020-01-09 The ongoing reform in the organisation of the European Union courts makes an updated edition of this indispensable resource essential. Following the book established easy-to-use structure, the second edition offers a reliable, thorough guide to the renewed rules of procedure of the Court of Justice and the General Court as well as updated provisions and practice directions, including the relevant case law, together with a focus on the extensive treatment of remedies available in these courts and how to secure them. With the expert guidance of one of Europe foremost jurists, the book clearly explains which rules apply and how to proceed in the course of any kind of case and any situation likely to arise. From foundations and principles to specific issues regarding the assignment of cases, preliminary rulings, rules on evidence, annulment, illegality, failure to act, pleas, judgments and orders, appeal and much more, the book covers all essential elements of Court of Justice of the European Union procedure, including the following: division of competences between the Union courts; admissibility; rules regarding anonymity; service of documents; setting and extension of time limits, hearings, witnesses and experts; deposit and recovery of sums; application of competition rules, rules on

state aid and rules on trade protection; rules in cases concerning intellectual property rights; rules in actions brought on the basis of an arbitration agreement; rules governing access to documents; languages; legal aid; interim measures; damages; expedited procedures; and scope of the rules on costs. Any lawyer seeking appropriate remedies in any case before the European Union courts will benefit enormously from this book, whether used as a hands-on manual in particular cases or absorbed over time. It is sure to serve as an essential resource for many years to come.

Grenzen unternehmerischer Leitungsmacht im marktoffenen Verband Florian Möslein 2007-01-01 The search for the limits of entrepreneurial power involves an age-old core question of stock corporation law and at the same time a modern central subject in the corporate governance discussion. In general, the limits of entrepreneurial power to direct in open-market associations can only be determined logically in the interplay of rules governing stock corporations and takeovers and function mechanisms. The special feature of the present work is found in the interlinking examination of market and organization law.

The Agricultural Law of the EU René Barents 2022-05-13 European Monographs Series, Volume 9 This second and much-revised edition of the pre-eminent work on European Union (EU) agricultural law emphasises the sweeping changes that have led to the gradual expansion of the common agricultural policy to encompass the food chain as a whole. Although the new edition's purpose and methodology remain the same, the author presents a completely new overview of the field as it now exists, including the effects of the latest reform measures up to 2021 and their implications for the future. Imparting in-depth awareness of the multifunctional character of agriculture today – its importance for environmental protection, preservation of biodiversity, public health, mitigation of climate change, and rural development, as well as its international obligations – the book provides matchless insight and clarifications on such critical legal details as the following: analysis of the Green Deal, the Farm to Fork Strategy, and the Biodiversity Strategy for 2030; extensive treatment of the TFEU provisions on agriculture and the impact of international legal instruments; clear and easily accessible treatment of the legislation on market and price policy, competition, and the agri-food chain; thorough analysis of administrative law aspects, in particular, the rights and obligations of operators in the framework of numerous subsidy arrangements and related topics such as sanctions and force majeure; and in-depth treatment of the importance of the general principles of EU law for legal protection. Given that about one-third of the EU's budget is spent on agriculture – and that European legislation on agriculture is voluminous and complicated and case law is abundant – this well-organised and lucid exposition will be of immeasurable value to any practitioner asked to deal with a case involving agriculture anywhere in the EU. Academics aware of the growing intricacy of the field will welcome the author's reflections on the meaning and significance of EU agricultural law.

Takeover Law in EU and the USA:A Comparative Analysis Christin Forstinger 2002-09-26

Shaping EU Public Procurement Law Albert Sanchez-Graells 2018-09-14 The first part of the book offers a unique reflection on enduring themes in public procurement law such as the shaping of the scope of this regulatory regime, the development of tighter criteria for the exclusion of candidates and tenderers, the conduct of qualitative selection, the consolidation of the court's previous approach to technical specifications, new developments in tender evaluation, the inclusion of contract performance clauses with a social orientation, and, last but not least, the development of interpretive guidance concerning several aspects of the procurement remedies regime. The book shows that the period 2015–2017 has been an interesting and rather intense period for

the development of EU public procurement law, where the CJEU has not only consolidated some parts of its long-standing procurement case law but also introduced significant innovations that can create future challenges for the consistency of this regulatory regime. The first part of the book concludes with some thoughts on some of the salient aspects of this recent episode of silent reform of EU public procurement law through CJEU case law. The second part of the book contains the essential excerpts of forty-one chronologically ordered judgments issued by the CJEU in the period 2015–2017, which have been selected because they either raise new issues or important matters of public procurement law. Each of the selected judgments is followed by an exhaustive and critical in-depth analysis, highlighting and providing insight into its legal and practical issues and consequences. An exhaustive subject-index offers the reader quick and easy access to the case law treated in this book. This unique book, a ‘must-have’ reference work for judges and courts of all EU Member States and candidate countries and academics and legal professionals who are active in the field of procurement law, will also be valuable for law libraries and law schools across the world and for law students who focus their research and studies on EU law.