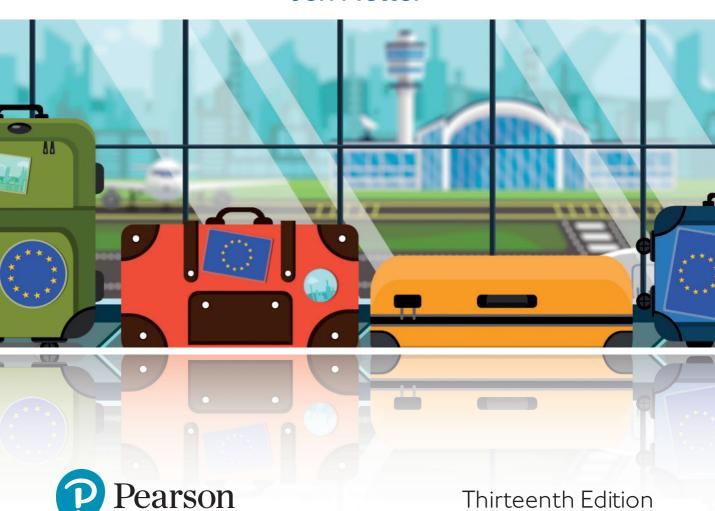
FOUNDATIONS SERIES

FAIRHURST, MORANO-FOADI AND NELLER'S

LAW OF THE EUROPEAN UNION

Sonia Morano-Foadi Jen Neller



FAIRHURST, MORANO-FOADI AND NELLER'S LAW OF THE EUROPEAN UNION

Fairhurst, Morano-Foadi and Neller's Law of the European Union

Table of Contents

Front Cover

Half Title Page

Title Page

Copyright Page

Brief contents

Contents

Preface for educators

Preface for students

Acknowledgements

Table of cases before the Court of Justice of the European Union (numerical)

Table of cases before the Court of Justice of the European Union (alphabetical)

Table of cases before the European Court of Human Rights

Table of cases before national courts

Table of European Union Decisions

Table of European Union Treaties

Table of other Treaties, etc.

Table of European Union Regulations

Table of European Union Directives

Rules of Procedure of the Institutions of the European Union

Table of Statutes



Table of Statutory Instruments List of abbreviations

Equivalences

Part 1 Constitutional and administrative law of the European Union

1 An introduction to the European Union

Learning objectives

1.1 The European Union today

- 1.1.1 Values and objectives
- 1.1.2 Institutions
- 1.1.3 Union membership
- 1.1.4 EU law
- 1.1.5 Economic aspects of the Union
- 1.1.6 The EU in the world

1.2 History of the European Communities and the EU

- 1.2.1 Lessons from the World Wars
- 1.2.2 The European Coal and Steel Community 23 July 1952
- 1.2.3 The European Economic Community and Euratom 1 July 1958
- 1.2.4 Enlargement 197386
- 1.2.5 The Single European Act 1 July 1987
- 1.2.6 The Treaty on European Union 1 November 1993
- 1.2.7 Enlargement 1 January 1995
- 1.2.8 The Treaty of Amsterdam 1 May 1999
- 1.2.9 The Treaty of Nice 1 February 2003
- 1.2.10 Enlargement 200407
- 1.2.11 The Treaty of Lisbon 1 December 2009
- 1.2.12 The Treaty on Stability, Coordination and Governance 1 January 2013
- 1.2.13 Enlargement 1 July 2013

1.3 The Treaty of Lisbon

- 1.3.1 The failed Constitutional Treaty
- 1.3.2 Ratification of the ToL
- 1.3.3 Changes introduced by the ToL

1.4 Future of the European Union

- 1.4.1 Future enlargements
- 1.4.2 Future contractions



1.4.3 Future directions for the Union

Chapter summary

2 Institutions of the European Union

- 2.1 Introduction to the institutions
- 2.2 The European Council
 - 2.2.1 The function of the European Council
 - 2.2.2 Composition of the European Council
 - 2.2.3 Working procedures of the European Council
- 2.3 The Commission
 - 2.3.1 The functions of the Commission
 - 2.3.2 Composition of the Commission
 - 2.3.3 Working procedures of the Commission
- 2.4 The Council
 - 2.4.1 The functions of the Council
 - 2.4.2 Composition of the Council
 - 2.4.3 Working procedures of the Council
- 2.5 The High Representative of the Union for Foreign Affairs and Security Policy
 - 2.5.1 The Role of the High Representative
 - 2.5.2 The appointment of the High Representative
- 2.6 The European Parliament
 - 2.6.1 The functions of the European Parliament
 - 2.6.2 Composition of the Parliament
 - 2.6.3 Working procedures and conduct of the Parliament
- 2.7 Court of Justice of the European Union
 - 2.7.1 The Court of Justice
 - 2.7.2 The General Court
 - 2.7.3 Specialised courts
- 2.8 Other institutions
 - 2.8.1 Court of Auditors
 - 2.8.2 The European Central Bank
 - 2.8.3 The European Investment Bank
 - 2.8.4 The European Economic and Social Committee (EESC)
 - 2.8.5 The Committee of the Regions
 - 2.8.6 Agencies



- 2.9 Democratic accountability and transparency
 - 2.9.1 Democratic accountability
 - 2.9.2 Transparency

Chapter summary

3 Sources of European Union law (including general principles of law and fundamental rights)

Learning objectives

- 3.1 Introduction to the sources of EU law
- 3.2 The EU Treaties
 - 3.2.1 Origins of the Treaties
 - 3.2.2 Role of the Treaties
 - 3.2.3 Scope of the Treaties
 - 3.2.4 Negotiating and amending the Treaties
- 3.3 General principles (including fundamental rights)
 - 3.3.1 Administrative procedural principles
 - 3.3.2 Fundamental rights
- 3.4 Secondary legislation regulations, directives and decisions
 - 3.4.1 Regulations
 - 3.4.2 Directives
 - 3.4.3 Decisions
 - 3.4.4 Procedures for adopting legislative acts
 - 3.4.5 Legal validity and grounds for annulment of legal acts
- 3.5 Decisions of the Court of Justice of the European Union
- 3.6 Soft law
 - 3.6.1 Recommendations and opinions
- 3.7 International sources of law
 - 3.7.1 International treaties negotiated by the Union
 - 3.7.2 International treaties negotiated by EU Member States

Chapter summary

4 Competence and supremacy of the Union

- 4.1 Introduction
- 4.2 Competence of the Union
 - 4.2.1 The conferral of competence



- 4.2.2 Types of competence
- 4.2.3 Competence to adopt secondary legislation
- 4.2.4 The principles of subsidiarity and proportionality
- 4.3 The supremacy of EU law
 - 4.3.1 Recognition of the supremacy of EU law
 - 4.3.2 Challenges to the supremacy of EU law
- 4.4 The incorporation and extrication of Union powers in the UK
 - 4.4.1 The European Communities Act 1972
 - 4.4.2 Division of competences in Brexit negotiations

Chapter summary

5 Judicial methodology and preliminary rulings of the Court of Justice

Learning objectives

- 5.1 Introduction
- 5.2 Judicial methods of interpretation
 - 5.2.1 Precedent
 - 5.2.2 Literal interpretation
 - 5.2.3 Historical interpretation
 - 5.2.4 Contextual interpretation
 - 5.2.5 Teleological interpretation
- 5.3 Preliminary Rulings under Article 267
 - 5.3.1 The jurisdiction of the Court of Justice to interpret Union law
 - 5.3.2 Discretion or obligation to refer
 - 5.3.3 Questions on the interpretation or validity of Union law
 - 5.3.4 Questions that are necessary to enable a national court to give a judgment
 - 5.3.5 Courts against whose decisions there is no judicial remedy under national law
- 5.4 Special forms of procedure
 - 5.4.1 Simplified procedure
 - 5.4.2 Accelerated (or expedited) procedure
 - 5.4.3 Urgent preliminary ruling procedure

Chapter summary

6 Review of the legality of Union acts

- 6.1 Introduction
- 6.2 Review of legality of Union acts under Article 263 TFEU



- 6.2.1 Grounds for judicial review
- 6.2.2 Reviewable acts
- 6.2.3 Locus standi (legal standing)
- 6.2.4 Time limits for applications
- 6.2.5 Consequences of annulment

6.3 Other procedures

- 6.3.1 Challenging a failure to act under Article 265 TFEU
- 6.3.2 Indirect challenges to a Union act

6.4 Damages for unlawful Union acts under Article 340 TFEU

- 6.4.1 Scope of liability
- 6.4.2 Liability for a lawful act
- 6.4.3 Remedies

Chapter summary

7 Infringement proceedings against Member States

Learning objectives

7.1 Introduction

- 7.1.1 The obligation on Member States
- 7.1.2 Actions by the Commission under Article 258 TFEU
- 7.1.3 Actions by another Member State under Article 259 TFEU

7.2 The stages of Article 258 TFEU proceedings

- 7.2.1 The administrative stage
- 7.2.2 The reasoned opinion
- 7.2.3 The judicial stage

7.3 Pecuniary penalties

- 7.3.1 Calculation of payments
- 7.3.2 Collection of payments
- 7.3.3 Article 260(3) TFEU

7.4 Interim measures

- 7.4.1 Interim measures ordered by the Court of Justice
- 7.4.2 Interim measures ordered by a national Court

7.5 Measures under Article 7 TEU

- 7.5.1 Rule of law in Poland
- 7.5.2 Rule of law in Hungary

Chapter summary

8 Direct effect, indirect effect and state liability



Learning objectives

- 8.1 Introduction
- 8.2 Direct effect
 - 8.2.1 The principle of direct effect
 - 8.2.2 The scope of direct effect
 - 8.2.3 Direct effect of directives
- 8.3 Indirect effect
 - 8.3.1 The principle of indirect effect
 - 8.3.2 Limitations to the principle of indirect effect
- 8.4 State liability
 - 8.4.1 State liability arising from unimplemented directives
 - 8.4.2 State liability arising from incorrect implementation
 - 8.4.3 Unimplemented directives revisited
 - 8.4.4 State liability arising from acts of the executive and the judiciary
- 8.5 The enforcement of EU law in the UK courts
 - 8.5.1 Direct effect of FU law in the UK
 - 8.5.2 Indirect effect of EU law in the UK

Chapter summary

Part 2 Substantive areas of EU law

9 European Union citizenship and free movement rights

- 9.1 Introduction to the free movement of persons
 - 9.1.1 Free movement of persons and non-discrimination
 - 9.1.2 EU citizenship
 - 9.1.3 Directive 2004/38
- 9.2 Free movement and EU citizenship
 - 9.2.1 Scope
 - 9.2.2 Rights of entry and residence
- 9.3 Free movement rights of family members of EU citizens
 - 9.3.1 Scope
 - 9.3.2 Rights of entry and residence
 - 9.3.3 Rights of family members in the event of death, departure or divorce
 - 9.3.4 Rights to equal treatment
- 9.4 Expulsion and restrictions on free movement rights



- 9.4.1 General protection from expulsion
- 9.4.2 Expulsion on grounds of public policy, public security or public health

9.5 Social benefits

- 9.5.1 Equal treatment regardless of nationality
- 9.5.2 Rights of economically inactive EU citizens to social benefits
- 9.5.3 Rights of EU students to social benefits

9.6 The Schengen acquis and its integration into the European Union

- 9.6.1 Development of the Schengen area
- 9.6.2 Participation in the Schengen acquis
- 9.6.3 Measures adopted by Schengen group members
- 9.6.4 The Schengen Information System (SIS)
- 9.6.5 Temporary reintroduction of border controls

9.7 Free movement rights after Brexit

Chapter summary

10 Free movement of workers

Learning objectives

10.1 Introduction to the free movement of workers

- 10.1.1 Primary legislation
- 10.1.2 Secondary legislation

10.2 Scope of the term 'worker'

- 10.2.1 Definition of a Union worker
- 10.2.2 Retention of worker status after cessation of employment

10.3 Rights of workers

- 10.3.1 Rights to free movement
- 10.3.2 Equal treatment in employment
- 10.3.3 Equal access to social advantages
- 10.3.4 Social security coordination

10.4 Work-seekers

- 10.4.1 Rights to free movement
- 10.4.2 Rights to social benefits

10.5 Family members of workers

- 10.5.1 Definition of a family member
- 10.5.2 Rights to free movement of family members
- 10.5.3 Rights to social benefits for family members

Chapter summary



11 Freedom of establishment and the free movement of services

Learning objectives

- 11.1 Introduction
 - 11.1.1 Primary legislation
 - 11.1.2 Secondary legislation
- 11.2 Scope of establishment and services
 - 11.2.1 Establishment
 - 11.2.2 Services
 - 11.2.3 The 'official authority' exception
- 11.3 Rights of service providers and their employees
 - 11.3.1 Rights to establishment and to provide services
 - 11.3.2 Rights of entry and residence
 - 11.3.3 Rights of posted workers
 - 11.3.4 Permissible restrictions on the rights of providers
- 11.4 Recipients of services
 - 11.4.1 Rights of recipients under the Treaties
 - 11.4.2 Rights of recipients to residence
 - 11.4.3 Rights of recipients under Directive 2006/123
 - 11.4.4 Rights of recipients to social advantages
 - 11.4.5 Permissible restrictions on the rights of recipients
- 11.5 Recognition of professional qualifications
 - 11.5.1 Treaty provisions
 - 11.5.2 Directive 2005/36: the recognition of professional qualifications
 - 11.5.3 Non-EU qualifications
 - 11.5.4 The internal situation

Chapter summary

12 Free movement of goods

- 12.1 Introduction to the free movement of goods
 - 12.1.1 Primary legislation
- 12.2 Customs duties and charges having equivalent effect (Arts 2830 TFEU)
 - 12.2.1 The customs union
 - 12.2.2 Scope of the term 'goods'
 - 12.2.3 Duties and charges having equivalent effect (CEEs)



- 12.2.4 Charges for the provision of a service
- 12.2.5 Customs duty or internal taxation?

12.3 Internal taxation (Art 110 TFEU)

- 12.3.1 Similar products (Art 110(1) TFEU)
- 12.3.2 Indirect protection (Art 110(2) TFEU)
- 12.4 Quantitative restrictions and measures having equivalent effect (Arts 34 and 35 TFEU)
 - 12.4.1 Quantitative restrictions
 - 12.4.2 Measures having equivalent effect to quantitative restrictions (MEEs)
 - 12.4.3 Distinctly applicable MEEs
 - 12.4.4 Indistinctly applicable MEEs: dual-burden rules
 - 12.4.5 Indistinctly applicable MEEs: equal-burden rules
 - 12.4.6 Quantitative restrictions and MEEs on exports (Art 35 TFEU)

12.5 Permissible quantitative restrictions and MEEs

- 12.5.1 Justifications under Article 36 TFEU
- 12.5.2 The Cassis rule of reason defences for indistinctly applicable measures
- 12.5.3 Derogations from harmonising legislation (Art 114 TFEU)
- 12.6 Free movement of goods after Brexit
 - 12.6.1 Models of EU trade arrangements with non-EU countries
 - 12.6.2 Northern Ireland and the Good Friday Agreement

Chapter summary

Glossary

Further reading

Index

Back Cover

