978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## INDEX

actors see economic actors; social actors arbitrary rule, constraint by constitutionalism 37-8 Austria real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 welfare system, type of 256 Belgium bilateral social security agreement with India 137 employee board representation 152 modification of constitution 105 real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 Beveridge welfare systems 253-4 bilateral social security agreements 137 Bismarckian welfare systems 253 'Blue Card Directive' adoption 124 operation 135-6 significance 145-6 'Blurring Boundaries' project 4-5 Bowen, William J., and corporate social responsibility 228 'broad economic policy guidelines' 108-9 Bulgaria, Societas Europaea, stakeholder protection 169 business case, corporate social responsibility as 229 Cadbury Code, importance of 235

Cadbury Committee Report on corporate governance 114 Canada, Hong Kong dual citizens 139 capitalism and corporate governance 153 employee protection as middle road 152 Rhenish 239 social see social capitalism styles of, and company law 10-11 varieties of see 'Varieties of Capitalism' welfare, 'three worlds' classification 230 - 1case studies see civic integration; corporate social responsibility (CSR); healthcare Cassis doctrine 26-7, 28, 166-7, 182, 194 chapter summaries 7-13 charitable donations, payroll giving of 237 - 8Charter of Fundamental Rights collective bargaining and industrial action 82 effect 57-8 enhanced role 107 legal certainty principle 216 non-discrimination rights 220-1 operation 59-62 status 180 circular migration arguments for 133 bilateral social security agreements 137 'Blue Card Directive' 135-6, 145-6 chapter summary 10 citizenship policies, influence on highly skilled migrants 146

309

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 310

## INDEX

circular migration (cont.) dual citizenship 138-9 European perspective 134-9 'guest worker' policies contrasted 124-5, 126 highly skilled migrants see highly skilled migrants historical perspective 126-31 international perspective 131-3 and Lisbon Strategy 123 main issues 123-6 national perspectives 126-31, 139-45 see also Germany; Netherlands; Sweden and national policies 125-6 return of migrants, measures for 137-9 and Stockholm Programme 123 summary of issues 145-7 'triple win situation' 123-4 citizenship constitutionalisation of rights 31-2 difficulty obtaining 141 dual see dual citizenship empowerment of market or social? 49 layers of 38 Lisbon Treaty provisions 50, 57, 59-62 overseas 139, 147 policies, influence on highly skilled migrants 146 and welfare provision 255-6 civic integration chapter summary 11-12, 200 Directives 201-2 European context 200-3 'European integration', meaning 200 Europeanisation 221-2 framework emergence of 199-200 EU Framework see EU Framework on Integration 'integration', meaning 200 and legal certainty principle 215-17 main issues 199-200 national policies common deficits 214 context of civic integration 203

elements transferred to EU level 201 external dimension 203-8 internal dimension 208 mandatory nature 217-18 material scope 205-6, 210-12 non-discrimination 219-21 personal scope 207, 212-14 proportionality 214 public intended purpose 203-10, 218-19 role of civic integration in 200 subjective nature 215-17 summary of issues 223-4 collective (industrial) action balancing with free movement 82-91 Charter of Fundamental Rights provisions 82 as fundamental right 86 issues as to 62-72 prevalence over economic freedoms 85 realisation 40 Treaty provisions 56-9, 89 commodification promotion of 5 third sector as alternative to 251-2, 255 of welfare state 254, 256-62 Common Market creation 24 establishment 34 free movement 26-7 legal framework 25 non-discrimination 104 purpose 95 state aid compatibility with 272 'common principles' for European external policies 53 company law abuse of European law 165-7 chapter summary 10-11, 149 circumvention of national law 165-7 company recognition 157-8 constituencies of company, relationships between 149–52 and corporate governance 150-1

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

#### INDEX

creditor protection, consequences of lack of 151 employee protection, consequences of lack of 152 European legislation 167-72 European models 152-5 and free movement 156 fundamental freedoms as balancing test 163-5 general functions 151 main issues 148-9 new mode of 170-2 relationship between national and European 155-8 seat transfer Cadbury Schweppes case 165 Cartesio case 160, 161-3, 166 Centros case 159, 161, 164 Daily Mail case 158-9 Factortame case 166 fundamental freedom 158 incorporation theory 157-8, 161 Inspire Art case 159-60, 161, 164, 165 - 6letter box companies 165-7 mutual recognition see mutual recognition principle national rules restricting 158 - 63real-seat theory 157-8, 161 Societas Europaea 169 tensions between EU law and national laws 160-1 Überseering case 159, 161, 164 shareholder protection, consequences of lack of 151 summary of issues 172-3 competences, balancing/division of ECJ judgments 34 economic constitutionalism 103-4, 111, 112 shared competences 32, 199 social policy 51-3, 54-6 with third countries 134-5 Treaty provisions 32, 178-9, 180 competition law ECJ application 182 effect 35-6

311

interpretation 45, 108 restrictions on economic actors 25 third sector healthcare providers see third sector Treaty provisions 25, 29 Constitutional Treaty, rejection 3 constitutionalisation/ constitutionalism arbitrary rule, constraint of 37-8 conceptions of 72-3 construction of 9-10 dynamic process, as 18 economic see economic constitutionalism European Social Model see European Social Model (ESM) French Revolution, influence of ideals 101-2 governance as element 6 importance 65 'Polanyian' metaphor 7-8 see also Polanyi, Karl social see socially embedded constitutionalism success in reconciling economic and social dimensions 48 varieties of 49, 65 Convention on Mutual Recognition of Companies, Firms and Legal Persons, ratification 161 corporate governance Anglo-Saxon model 153-4 Cadbury Committee Report 114 and company law 150-1 continental model 154 debate on 113-15 legal foundations 151 corporate social responsibility (CSR) activities, range of 226 aim 225 as business case 229 chapter summary 12, 227 concept, ambiguity of 229-30 definition 245 EU policy conceptual framework 230-4 development 244-8 development of discourse 244-7

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 312

INDEX

corporate social responsibility (cont.) integration of theoretical approaches 232 possibility of 230 potential for, factors in considering 234 second Communication 247-8 socio-economic perspectives 230 - 4legal effect of 233 literature, review of 227-30 main issues 225-7 national varieties 234-43 political economy perspectives 226-7 political science perspectives 226 shareholder value, primacy of 227 - 30as soft law 232-3 and stakeholder theory 228-9 summary of issues 248-50 trade union attitude to 245 creditor protection, consequences of lack of 151 Cross-Border Merger Directive 167-8 Cyprus incorporation theory, adherence to 157 Societas Europaea, stakeholder protection 169 Czech Republic incorporation theory, adherence to 157 Societas Europaea, stakeholder protection 169 de-commodification social policy as 30 third sector as means of 254-5 welfare state's aim of 30 decision-making conflict areas arising from 66 divergence between economic and social spheres 48 economic constitutionalism 104 Lisbon Treaty provisions 56–9

#### Denmark

bilateral social security agreement with India 137

company seat, restriction on transfer of 159 immigration policies 125-6 incorporation theory, adherence to 157 passport agreements 129-30 social model 93 Societas Europaea, stakeholder protection 169 direct effect of Treaty articles 25-7, 89, 91, 111 dual citizenship availability 132 importance 146-7 models of 138-9 economic actors competences, provisions as to 100 competition law restrictions 25 and constitutionalism 43-4 empowerment by Cassis doctrine 28 and European Court of Justice 6-7, 9,26 and open method of co-ordination 32 - 3and self-governance 39 social actors, interplay with 23-4 social policy, role in 30 value choices 102 economic and monetary union and economic governance 53-4 as guiding policy principle 105 progress 24 Treaty provisions 105, 106 economic constitutionalism absence of European economic constitution 112-13 analysis of, applied to economic governance 116-18 analytical framework, summary of 45 - 6balancing of rights 102-3 changed role 99-100 chapter summaries 7-8, 9, 18 choice of economic order 101-2 components 100-5 decision-making instruments 104 development 96-100

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

INDEX

313

division of competences 103-4, 112 and economic governance 113-19 enforcement mechanisms 104-5, 111-12 foreign policy elements 105 free movement see free movement fundamental freedoms as basis 171 - 2fundamental rights 102-3 main issues 17-18, 95-6 modification mechanisms 105, 112 ordoliberal model see ordoliberal model of economic constitution other components 104-5 summary of issues 119-20 surveillance/supervision mechanisms 104-5, 111-12 transition mechanisms 105, 112 Treaties as example 105-13 values 99-100 via individual rights 5 economic decision-making, divergence from social politics 48 economic governance broadening of scope 116-18 chapter summary 9 development from corporate governance 113-16 economic constitution analysis, uses of 116-18 and economic constitutionalism 113-19 and monetary union 53-4 task force for, recommendations by 116-17 Working Group 116 economic integration see also economic constitutionalism approaches to 24-9 broad economic policy guidelines 108 - 9and companies see company law; corporate social responsibility (CSR) Lisbon Treaty provisions 25, 28-9 non-economic goals 95 open method of co-ordination 28 - 9

purpose 95 and social integration case analysis see Laval case; Viking case company law see company law decoupling 5 divergence in decision making 48 'flux' between 9-10 integration possibilities 5-6 interrelation in actuality 13 interrelation under Treaties 33-6 multilayered polycentric self-governance model 68-9 multilevel approach to integration 6 political science perspective see political science perspective on integration success in reconciling 47-8 tensions increasing 1-4, 47-8 theoretical approaches 75-8 societal perspective 24-9 economic policy of EU, integration with foreign policy 53 EEC/EC Treaty see Treaty of Rome embedding see economic constitutionalism; socially embedded constitutionalism; transnational embedding of markets employee protection consequences of lack of 152 as middle road between capitalism and socialism 152 real-seat theory 157-8 scope for 149 Societas Europaea 169-70 employee representation in companies and change of company form 162 in company law models 148-9, 152 - 5national legislation 168 Societas Europaea 169-70 employees as company constituency 149-52 payroll giving of charitable donations 237-8

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 314

#### INDEX

employment law cases see Laval case; Viking case free movement disputes 1-3 see also Laval case; Viking case Maastricht Treaty provisions 32 Esping-Andersen, Gøsta, 'three worlds of welfare capitalism' classification 230-1 Estonia real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 Viking case see Viking case EU Framework on Integration Common Basic Principles (CBPs) 202 - 3as soft law 200-1 'Europe 2020' strategy, criticism of 3-4 European Central Bank (ECB), Lisbon Treaty provisions 53-4 European Commission and circular migration 134-9 and corporate social responsibility development of discourse 244-7 second Communication 247-8 Directive proposals 161, 167 economic integration provisions 27 - 8'Europe 2020' strategy 3-4 European Court of Justice (ECJ), relationship in policy advancement 92-3 role analysis of 20 Treaty of Lisbon provisions 53-4, 57 and services of general economic interest 178 European Company Statute 168-70 European Council and circular migration 134-5, 136-7 Lisbon Treaty provisions 53-4, 57 PWD proposals 93-4 European Court of Human Rights (ECtHR) and legal certainty principle 216 non-discrimination as to immigration 221

European Court of Justice (ECJ) balancing of fundamental rights 108, 110 competition rules, application of 182 as embedding or disembedding agent 91-2 enforcement by, as governance mode 6 European Commission, relationship to in policy advancement 92-3 judgments see also Table of cases as to balancing of competences 34 case analysis see company law, seat transfer; Laval case; Viking case effectiveness 148-9 practical and political consequences 93-4 as to primacy of Treaty 25-7 reactions to 1-3, 75 services of general economic interest 182-94 social interpretation of Treaty provisions 79-81 third sector healthcare providers 271 - 3role analysis of 20-1 scrutiny of company law 171 - 2Treaty of Lisbon provisions 57 - 8and state-centred perspectives on integration 20-1 European integration meaning 200 tensions with national policies see national policies European Parliament, Lisbon Treaty provisions 53-4, 57 European Social Model (ESM) concept 75-6 constitutionalisation 4 future of 81 improved co-ordination 52 and Laval case 87-8 welfare state as pillar of 253

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

Finland incorporation theory, adherence to 157 passport agreements 129-30 Societas Europaea, stakeholder protection 169 Viking case see Viking case foreign policy of EU, integration with economic policy 53 France civic integration material scope 206, 210-11 non-discrimination 219-20 personal scope 207-8, 212-13 proportionality 217-19 public intended purpose 204-5, 208-9, 218-19 company law reforms 161 company stakeholder protection 154 - 5Constitutional Treaty, 'no-voters' attitudes 3 free movement disputes 2 French Revolution, ideals of 101-2 German-French initiative on migration 140 immigration policies 125-6 modification of constitution 105 real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 welfare system, type of 256 free movement balancing with national social aims 182 balancing with social rights 82-91, 93 - 4and company law 156 direct effect 26 in economic constitution 119-20 and European Social Model (ESM) 75-6 judgments 1-3, 25, 26, 34, 74, 79, 87 see also Laval case; Viking case mutual recognition principle 166-7 national policies 129-30 nature of rules 194

## INDEX

315

restriction of 90 role of 107 Treaty provisions 24, 25, 32-3, 38, 99, 106 violation of 85, 90 Friedman, Milton, and corporate social responsibility 227-8 fundamental freedoms balancing with social rights 82-91 and company law 163-5 direct effect, ECJ judgments as to 25 - 7economic constitution based on 171 - 2and EU constitutionalism 40-1 Treaty basis 25 fundamental rights balancing, procedures for 102-3 Charter see Charter of Fundamental Rights direct effect 111 ECJ judgments 86, 87-8 economic constitutionalism 102-3 Lisbon Treaty provisions 59-62, 70 Germany bilateral social security agreement with India 137 civic integration material scope 207, 211 non-discrimination 219-20 personal scope 208, 213 proportionality 217-19 public intended purpose 205, 209-10, 218-19 company control 152 company law reforms 161-3 company recognition, real-seat theory 157 company registrations in UK 161, 165 - 7company seat, restriction on transfer of 159 company stakeholder protection 154 - 5

constitutional ruling on Lisbon Treaty 59

corporate governance model 154

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 316

Germany (cont.) corporate social responsibility constitutional basis 239 description 238-43 UK compared 243 Cross-Border Merger Directive, implementation 168 ECJ judgments 92-3 employee participation, Societas Europaea 170 German-French initiative on migration 140 'guest worker' policy 127 immigration policies 125-6, 127 incorporation theory, adherence to 157 ordoliberal model see ordoliberal model of economic constitution real-seat theory, adherence to 157 Rhenish capitalism 239 'social market economy' concept 154 Societas Europaea, stakeholder protection 169 as standard model of social market economy 238-9 unchangeable elements in constitution 105 welfare system 253 Global Commission on International Migration, and circular migration 132-3 globalisation, Lisbon Treaty provisions as to governance of 53 governance blurring of distinction between types 13 corporate see corporate governance economic see economic governance as element in constitutionalism 6 of globalisation, Lisbon Treaty provisions 53 importance for integration 6-7 modes 6 'new governance', meaning 43 self-governance institutional rules, types of 68-9

## multilayered polycentric model 68–9

#### INDEX

and socially embedded constitutionalism 39 Greece, Societas Europaea, stakeholder protection 169 'guest worker' policies contrasted with circular migration 124-5, 126 Hall, P. A. see 'Varieties of Capitalism' hard law clarity of role of 13 enforcement as governance mode 6-7 harmonising law clarity of role of 13 enforcement as governance mode 6-7 Havek, Friedrich, on law and liberty 48 healthcare chapter summary 12-13, 251-2 as conflict area 2 main issues 251-2 summary of issues 274-6 systems, national comparison as to level of commodification 256 - 62third sector providers see third sector highly skilled migrants influence of citizenship policies on 146 national policies 142-3 Hong Kong, Canadian dual citizenship 139 human rights 'common principles' as to 53 and socially embedded constitutionalism 38-40 Hungary company seat, restriction on transfer of 159-60 incorporation theory, adherence to 157 recruitment agreement with Sweden 130 Societas Europaea, stakeholder protection 169 Iceland, passport agreements 129–30 immigration *see* circular migration;

civic integration

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

India bilateral social security agreements 137 company stakeholder protection 154-5 Overseas Citizenship 139, 147 individual rights, constitutionalisation of economic integration via 5 institutional reform, Lisbon Treaty provisions 56-9 institutional rules as to self-governance 68 - 9integration actors' role see economic actors; social actors case studies see civic integration; corporate social responsibility (CSR); healthcare economic see economic integration governance's importance for 6-7 law-based approach 20-1 legal studies perspectives 23 liberal intergovernmentalism approach 20 meanings 19-24, 200 negative integration action resulting in 6-7 operation 155-7 policy areas see circular migration; company law; services of general economic interest (SGEIs) political science perspective see political science perspective on integration political science perspective, chapter summary 8 positive integration action resulting in 7 operation 155-7 social see social integration societal perspective approaches to 21-3 need for 19 sociological perspectives 22-3 state-centred perspective approaches to 20-1 meaning 19

INDEX

317

International Organisation on Migration (IOM), and circular migration 132 Ireland incorporation theory, adherence to 157 rejection of Lisbon Treaty 3, 52 Italy company law reforms 161 employee board representation 152 and German-French initiative on migration 140 immigration to Netherlands 128-9 recruitment agreement with Sweden 130 labour law see employment law Latvia Laval case see Laval case real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 Laval case chapter summary 8-9 conclusions from analysis 91-4 description of case 82-8 and European social constitutionalism 44 impact of 17-18 main issues 74-5, 82 reference to Treaties 34 law-based approach to integration 20 - 1legal certainty principle Charter of Fundamental Rights 216 civic integration 215-17 legal studies future contribution to research 45 meaning 20 and mutual recognition principle 28 perspectives on integration 23 letter-box companies, legality of 165-7 liberal intergovernmentalism approach to integration 20 liberal rights European constitutionalism and growth of 40-1 national constitutionalism and growth of 37–8

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 318

INDEX

'Lisbon process', failure of 48-9 Lisbon Strategy corporate social responsibility 244 goals 109, 123 and third sector 255 Lisbon Treaty see Treaty of Lisbon Lithuania, adherence to real-seat theory 157 Luxembourg Constitutional Treaty, 'no-voters' attitudes 3 real-seat theory, adherence to 157 Malta, adherence to incorporation theory 157 market economy see also social market economy context as to third sector and welfare state 252-6 'market economy clause' 33, 106 ordoliberal model 96-7 transformation to social market economy 35 UK as model of liberal 234-5 market freedoms European constitutionalism and growth of 40-1 national constitutionalism and growth of 37-8 precedence of 63-4 Member States see national policies migrants, highly skilled see highly skilled migrants migration see circular migration; civic integration monetary union see economic and monetary union Morocco, immigration to Netherlands 128 - 9multilayered polycentric self-governance model of welfare 68-9 mutual recognition principle acceptance 27-8 Cassis doctrine 26-7, 28, 166-7, 182, 194 Convention 161 development 166-7

legal studies view 28 Treaty provisions 161

National Health System (NHS) see United Kingdom (UK) national policies balancing of competences between EU and 54-6 case studies see civic integration; corporate social responsibility (CSR); healthcare civic integration see civic integration company law see company law constitutionalism originating 37-40 continuing dominance in social policy 58-9 EU legislation, impact of 1-3 and free movement see free movement integration possibilities 5-6 labour law see labour law migration see circular migration; civic integration multilevel approach to integration 6 negative integration, effect of 6-7 policy areas see circular migration; company law; services of general economic interest (SGEIs) positive integration, effect of 7 protection, demands for 17-18 research projects findings 4-5 tensions with EU law company law, seat transfers 160 - 1economic and social integration 1-4, 47-8nested systems of welfare, social integration in 5 Netherlands bilateral social security agreement with India 137 circular migration, reports on 124 civic integration material scope 205, 211-12 non-discrimination 219-20 personal scope 207, 213-14 proportionality 217–19

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

public intended purpose 203-5, 209, 218-19 company control 152 company recognition, incorporation theory 157-8 Constitutional Treaty, 'no-voters' attitudes 3 'guest worker' policy 128-9 health system EU competition rules 267-8, 269, 271 level of commodification 260 - 2third sector, role of 262, 265-6 type of 256 highly skilled migrants 142-3 immigration policies 125-6, 128-9, 141 - 3incorporation theory, adherence to 157 modification of constitution 105 Societas Europaea, stakeholder protection 169 'new governance', meaning of 43 NHS (National Health System) see United Kingdom (UK) non-discrimination Charter of Fundamental Rights 220 - 1civic integration 219-21 Common Market through 104 principle 31-2 Norway passport agreements 129-30 real-seat theory, adherence to 157 open method of co-ordination (OMC) characteristics 28-9 as governance mode 6 introduction 233-4 and third sector 255 Treaty basis 7 use 32-3 weaknesses 59 ordoliberal model of economic constitution, influence of 95 - 100

INDEX

319

payroll giving of charitable donations 237 - 8Poland ECJ judgments 92-3 and German-French initiative on migration 140 real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 Polanyi, Karl influence of theories in ECJ cases 79-81 social embedding theory 7-8, 77-8 see also socially embedded constitutionalism policy areas see circular migration; company law; services of general economic interest (SGEIs) political science perspective on integration approaches to 21-2 balancing of social and economic dimensions 51-6 chapter summary 8 citizenship 59-62 collective action 56-9 corporate social responsibility 226 fundamental rights 59-62 institutional reform 56-9 Lisbon Treaty content of provisions 50-62 rules in practice 62-72 significance of Treaty 50-1 main issues 47-50 summary of issues 72-3 welfare issues 62-72 Portugal employee board representation 152 real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 Posting of Workers Directive (PWD), opposition to strengthening 93-4 primacy of Treaty articles 25-7 private law and European social constitutionalism 43-5 proportionality and civic integration 214

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

### 320

INDEX

increased use of 54-6, 57 real-seat theory adherence to 157 description 157-8, 161 employee protection 157-8 RECON project, contribution to research 4-5 Rhenish capitalism 239 Romania, Societas Europaea, stakeholder protection 169 seat transfer see company law secondary legislation enforcement as governance mode 6 - 7impact on national policies 1-3 self-governance and socially embedded constitutionalism 39 services of general economic interest (SGEIs) analytical framework of ECJ 185 - 91case law 182-94 chapter summary 11 development in Treaties 176-81 exemption under TFEU 182-94, 273 - 4healthcare see healthcare main issues 174-6 protocol 106-7, 111 state aid to 272 summary of case law developments 194 summary of issues 195 summary of Treaty developments 181 shareholder protection, consequences of lack of 151 skilled migrants see highly skilled migrants Slovakia, adherence to incorporation theory 157 Slovenia real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169

qualified majority voting (QMV),

social actors aims 75 arbitrary rule emanating from 37-8 constitutionalism constructed by 9 - 10economic actors, interplay with 23-4 and European Court of Justice 27 and 'new governance' 43 and open method of co-ordination 32-3 research focus on 19-20, 21-2 response to ECJ rulings 75 social embedding, role in 13 social policy, role in 30 social practice of law 42 transnational actors emergence 14 and European Court of Justice 9 transnational mobilisation 79-80 types 75, 81 use of constitutional law 8 social capitalism survival 64, 71-2 transformation 8 'social Europe' policy see social integration social exclusion, social integration becoming instrument of 3 social integration see also socially embedded constitutionalism approaches to 29-33 balancing of competences 54-6 and companies see company law; corporate social responsibility (CSR) development lacking 3-4, 5 and economic integration case analysis see Laval case; Viking case company law see company law decoupling 5 divergence in decision making 48 'flux' between 9–10 integration possibilities 5-6 interrelation in actuality 13 interrelation under Treaties 33-6 multilayered polycentric self-governance model 68-9

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

INDEX

321

multilevel approach to integration 6 political science perspective see political science perspective on integration success in reconciling 47-8 tensions increasing 1-4, 47-8 theoretical approaches 75-8 EU-level development 5 Lisbon Treaty provisions 32 and national policies see national policies in nested systems of welfare 5 new concept 3 open method of co-ordination 32 - 3purpose originally 3 social actors see social actors weakness of institutional reform in advancement of 58-9 social market economy aim of 34, 35 attainability 41 concept 98-9 Germany as standard model 238-9 transformation from open market economy 35 social policy balancing of competences 51-3, 54 - 6as de-commodification 30 social politics, divergence from economic decision-making 48 social security see also healthcare bilateral agreements 137 social services, Taylorism applied to 254 socialism corporate social responsibility as step to 227 employee protection as middle road 152 socially embedded constitutionalism analytical framework, summary of 45 - 6chapter summary 7-8, 18 European-level development 40–5 European practice 42–3

Lisbon Treaty as test case 49 Lisbon Treaty provisions 50-1 main issues 17-18 national origins 37-40 and private law 43-5 process European level 41-5 national level 38-40 requirement 36 and self-governance 39 theory 7-8, 77-8 Societas Europaea (SE) legislation 168-70 sociological perspectives on integration 22 - 3soft law advantages 232-3 clarity of role of 13 disadvantages 233 enforcement as governance mode 6-7 increased use 233-4 open method of co-ordination see open method of co-ordination (OMC) types 232 Soskice, D. W. see 'varieties of capitalism' Spaak Report, on purpose of Common Market 112-13 Spain company control 152 company law reforms 161 dual citizenship arrangements 139 and German-French initiative on migration 140 immigration to Netherlands 128 - 9real-seat theory, adherence to 157 Societas Europaea, stakeholder protection 169 stakeholder protection, company law 149-52, 154-5 stakeholder theory and corporate social responsibility 228–9 state aid to services of general economic interest 272

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 322

INDEX

Stockholm Programme and circular migration 123, 136-7 Sweden bilateral social security agreement with India 137 collective action, upholding of prevalence 85 company control 152 immigration policies 129-31, 143-5 incorporation theory, adherence to 157 Laval case see Laval case passport agreements 129-30 recruitment agreements 130 social model 93 Societas Europaea, stakeholder protection 169 task force for economic governance, recommendations by 116-17 Taylorism (management theory), social services application 254 TEU (Treaty on European Union) see Treaty of Maastricht third countries, balancing of competences with 134-5 third-country nationals (TCNs), migration of see circular migration; civic integration third sector as alternative to commodification 251-2, 255 comparison of European and US approaches 255 and competition law analytical structure 266-7 applicability of rules 267-8 Treaty provisions 268-74 context as to welfare state and market economy 252-6 de-commodification, as means of 254 - 5ECJ judgments 271-3 and healthcare provision 262-6 meaning 251, 255 special status of 262 'three worlds of welfare capitalism' classification (Esping-Andersen) 230-1

trade unions and corporate social responsibility 245 'tragedy of the commons' methodologies for dealing with 68-9 progress towards 64-5 response to 64-6 transfer of company seat see company law transnational embedding of markets case analysis see Laval case; Viking case ECJ's role 79-81 Treaties as economic constitution absence of European economic constitution 112-13 balancing of rights 107-10 division of competences 111 fundamental rights 107-10 modification mechanisms 112 other components 111-12 values 106-7 Treaty of Amsterdam civic integration 199 services of general economic interest 177 - 8social integration provisions 32 Treaty of Lisbon balancing of social and economic dimensions 51-6 balancing of social policy competences 54-6 citizenship 50, 57, 59-62 civic integration 199 collective action provisions 56-9 constitutionalism 18, 41-2, 45-6, 50 - 1continuity with previous Treaties 51 - 3decision-making provisions 56-9 economic and monetary union 53-4 economic integration provisions 25, 28 - 9entry into force 3-4 fundamental rights 59-62 governance economic 53-4 of globalisation 53

# CAMBRIDGE

Cambridge University Press

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

institutional provisions 56-9 mid-term review 3-4 mutual recognition principle 161 national constitutional rulings as to 59 potential impact chapter summary 50 content of provisions 50-62 main issues 47-50 in practice 62-72 questions over 49 summary of issues 72-3 qualified majority voting, increased use 54-6, 57 reconciliation of economic and social dimensions, provisions for 50-62 rejection initially 3 scholarly debates over impact 49 services of general economic interest 178 - 80social integration provisions 32 support for social policy 13-14 as test case 49 weakness as to social policy 58-9 welfare 62-72 Treaty of Maastricht 'common principles' for external policies 53 economic integration provisions 24 EU's objectives and values, provisions as to 52 institutional provisions 53-4 policy principles 106-7 social integration provisions 33-6 Treaty of Nice, social integration provisions 32 Treaty of Rome economic integration provisions 25 'market economy clause' 33, 106 mutual recognition principle 161 policy principles 106 primacy, ECJ judgments as to 25-7 services of general economic interest 176 - 7social integration provisions 33–5 Treaty on the Functioning of the European Union (TFEU)

#### INDEX

323

'broad economic policy guidelines 108 - 9citizenship 60-1 'common principles' for external policies 53 constitutionalism 41-2 economic and monetary union 53-4 economic integration provisions 24 - 9freedom of establishment, balancing test 163-5 fundamental rights 60-1, 82, 108, 158 and governance of globalisation 53 harmonisation provisions 156 policy principles 106 services of general economic interest 182-94, 273-4 social integration provisions 29-33, 34-5, 52, 55 third sector healthcare providers 268 - 74and Viking case 89-91 welfare state 255-6 Treaty provisions enforcement as governance mode 6-7 interpretation 108 social interpretation by ECJ 79-81 Turkey, immigration to Netherlands 128-9 United Kingdom (UK) Cadbury Code, importance of 235 Cadbury Committee Report on corporate governance 114 circular migration, reports on 124 company control 152 company recognition, incorporation theory 157-8 company seat, restriction on transfer of 158-60 company stakeholder protection 154 - 5corporate governance model 153-4 corporate social responsibility description 234–8

Germany compared 243

978-1-107-00681-2 — European Economic and Social Constitutionalism after the Treaty of Lisbon Edited by Dagmar Schiek , Ulrike Liebert , Hildegard Schneider Index

More Information

## 324

United Kingdom (UK) (cont.) employee board representation 152 employee participation, Societas Europaea 170 German company registrations 161, 165 - 7and German-French initiative on migration 140 immigration policies 125-6 incorporation theory, adherence to 157 as model of liberal market economy 234 - 5National Health System (NHS) 262 diverging systems 256-7 England 257-9, 263-4 EU competition rules 267-8, 269, 271 third sector, role of 262, 263-5 Wales 259-60, 264-5, 267-8, 269 opposition to strengthening **PWD 93** payroll giving of charitable donations 237-8 recruitment agreement with Sweden 130 reference to ECJ cases 93-4 Societas Europaea, stakeholder protection 169 Viking case 89 welfare system 253-4 United Nations (UN) and circular migration 131-3 United States (USA) company control 152 company stakeholder protection 154 - 5employee participation in corporate governance 150 recruitment agreement with Sweden 130

#### INDEX

third sector approach contrasted with Europe 255

'varieties of capitalism' and corporate social responsibility 231 - 2theory 152-3 Viking case chapter summary 8-9 conclusions from analysis 91-4 description of case 88-91 and European social constitutionalism 44 impact of 17-18 main issues 74-5, 82 reference to Treaties 34, 89-91 UK proceedings 89 welfare Lisbon Treaty provisions 62-72

multilayered polycentric selfgovernance model 68-9 nested systems see nested systems of welfare political science perspectives 62-72 welfare capitalism, 'three worlds' classification 230-1 welfare state commodification 254, 256-62 context as to third sector and market economy 252-6 de-commodification, aim of 30, 254-5 fields of discussion 252-3 as pillar of European Social Model (ESM) 253 systems, development of 253-4 Treaty provisions 255-6 Working Group on Economic Governance 116 World Bank and circular migration 132