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978-1-107-01005-5 - The Judiciary, the Legislature and the EU Internal Market

Edited by Phil Syrpis

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## THE JUDICIARY, THE LEGISLATURE AND THE EU INTERNAL MARKET

By tracing the way in which the CJEU and national courts react to legislation and Treaty reform, and the way in which the Member States, Commission and other actors in the legislative process react to judicial interventions, this collection of essays explores the nature of the dynamic relationship between courts and legislatures within the EU. It is clear that the boundaries between the legal and political realms are contested, and that the judiciary and the legislature are engaged in a struggle, not so much about the substantive contours of the internal market project, but rather about their relative institutional positions. The contributors consider all aspects of the internal market project, from goods to capital and citizenship, examining areas where there has been significant Treaty change as well as those in which the Treaty framework has remained substantially unaltered.

PHIL SYRPIS is Reader in law at the University of Bristol. He has written extensively in EU law, including articles on the relationship between economic and social rights in Europe, the Treaty of Lisbon, subsidiarity, the open method of co-ordination and regulatory competition.

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## CONTRIBUTORS

NINA BOEGER is Senior Lecturer at the University of Bristol Law School. Her publications include *Perspectives on Corporate Social Responsibility* (2008), co-edited with Charlotte Villiers and Rachel Murray, as well as articles and book chapters on EU economic law, especially the regulation of services of general interest in the EU.

CAROLINE CAUFFMAN is Assistant Professor at the Universities of Maastricht and Antwerp. She has published widely on comparative and European contract law, consumer law and competition law.

GEERT DE BAERE is Assistant Professor at the Katholieke Universiteit Leuven. He studied law at the University of Antwerp and at King's College, Cambridge. From January 2007 to December 2009, he worked as a référendaire in the chambers of Advocate General Sharpston at the CJEU. His publications include *Constitutional Principles of EU External Relations* (2008).

BRUNO DE WITTE is Professor of European Union Law at Maastricht University and part-time Professor at the Robert Schuman Centre of the European University Institute (EUI) in Florence. Previously, from 2000 to 2010, he was Professor of EU Law at the EUI, and co-director of the Academy of European Law there. He is the author of many publications on European constitutional law and on the law of cultural diversity.

DIMITRIOS DOUKAS is Senior Lecturer in European Law at the School of Law, Queen's University, Belfast. He is the author of *Werbefreiheit und Werbebeschränkungen* (2005) and *Media Law and Market Regulation in the European Union* (forthcoming).

AMANDINE GARDE is Senior Lecturer at Durham Law School. She writes on European consumer and advertising law, and specifically on the role

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which the regulation of unfair commercial practices can play in improving public health. She is author of *EU Law and Obesity Prevention* (2010).

LAURENCE W. GORMLEY is Professor of European Law and Jean Monnet Professor, University of Groningen, and Professor at the College of Europe, Bruges. His recent publications include *EU Law of Free Movement of Goods and Customs Union* (2009); he is Joint Series Editor of Cambridge Studies in European Law and Policy.

CLAIRE KILPATRICK is Professor of International and European Labour Law at the European University Institute, Florence. Her research explores labour law in Europe from a number of perspectives such as court-centred developments, legislative and policy co-ordination and the relationships of the internal market with labour law systems.

PANOS KOUTRAKOS is Professor of European Union Law and Jean Monnet Chair in European Law at the University of Bristol Law School. He is the author of, amongst others, *EU International Relations Law* (2006), the editor of *European Foreign Policy – Legal and Political Perspectives* (2011) and the co-editor of *Beyond the Established Legal Orders – Policy Interconnections Between the EU and the Rest of the World* (2011) (with Malcolm Evans) and *Mixed Agreements Revisited* (2010) (with Christophe Hillion). He is the joint editor of the *European Law Review*.

RYAN MURPHY is Lecturer in Law at Aston University. He is completing a PhD on exceptions to the free movement of capital in EU law at the University of Bristol.

NIAMH NIC SHUIBHNE is Professor of European Union Law at the University of Edinburgh. She is joint editor of the *European Law Review*. She writes on internal market law and the legal implications of EU citizenship. Her publications include *Regulating the Internal Market* (2006) and *Coherence and Fragmentation in EU Free Movement Law: Constructing Boundaries for the Court of Justice* (forthcoming).

GERT STRAETMANS is Professor and Dean of the Faculty of Law at the University of Antwerp and Visiting Professor at the Universities of Bonn and Toulouse Capitole I. He is Associate Member of the International Academy of Comparative Law, and Member of the Acquis Group and the



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European Consumer Law Compendium Group. He has published widely, including on European consumer law.

PHIL SYRPIS is Reader in Law at the University of Bristol Law School. He has published widely on EU internal market and social policy law, and is author of *EU Intervention in Domestic Labour Law* (2007).

HERWIG VERSCHUEREN is Associate Professor of International and European Labour and Social Security Law at the University of Antwerp. He is also Visiting Professor at the University of Brussels (VUB). He has written extensively on European social law and more specifically on the legal position of migrant workers and persons with regard to labour and social security rights.

FERDINAND WOLLENSCHLÄGER holds a chair for public law, European law and public economic law at the University of Augsburg. He has published on a broad range of subjects in EU, constitutional and administrative law, including a monograph on Union citizenship and free movement '*Grundfreiheit ohne Markt*' – *A New Fundamental Freedom Beyond Market Integration* (2007).

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## PREFACE

Work on this project began towards the end of 2008, as part of an application I made for study leave from the University of Bristol for the 2009–10 academic year. The intention – based on my knowledge of the law on posted workers and citizenship – was to develop a detailed understanding of the interactions between the Court and the Union legislature across the four internal market freedoms, with the ultimate aim of reconsidering the relationship between primary, secondary and judge-made law in the EU internal market context. It quickly became clear that this project called for collaboration between a number of experts from across the EU. To this end, preparations were made for a two-day Jean Monnet Workshop at the University of Antwerp in March 2010, which was generously funded by the Jean Monnet Chair in European Law at the University of Bristol, and the University of Antwerp Faculty of Law and Centre of Law and Cosmopolitan Values. The proceedings of the Workshop formed the basis of a proposal for an edited collection, which was approved by Cambridge University Press in the autumn of 2010.

Thanks are due to the Research Committee at the University of Bristol Law School; to Terry Amssons at the University of Antwerp for all her help in organising the Workshop; to Gareth Davies, Alexia Herwig, George Pavlakos, Hans Schulte-Nölke and Jukka Snell, all of whom participated in the Workshop but did not write chapters for the book; to Dimitrios Doukas and Laurence Gormley, who wrote chapters for the book despite not participating in the Workshop; to the remainder of the contributors, who provided papers for the Workshop and chapters for the book, from whom I have learned a great deal, and whose patience I have, in return, tried on many occasions; and to Sinéad Moloney, Elizabeth Spicer, Richard Woodham and others at Cambridge University Press for all their editorial support.

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