

An Introduction to the EU Legal Order

Carefully structured and supported with a wealth of examples, Elise Muir provides a clear, concise introduction to the EU legal order. Drawing upon her years of teaching experience, Muir outlines the history of the EU, its key actors, modes of action and its daily relevance. Offering students and instructors an up-to-date textbook, Muir pays attention to the latest developments, including the impacts of Brexit and the Covid-19 crisis. Written for students from a range of disciplines and levels of study, this book explains how the EU legal order works. Muir illuminates the complex and technical areas of EU institutional law through explanatory illustrations, schemes, and textboxes. With this engaging and accessible resource, students will be well-equipped to understand the fundamentals and functioning of the EU legal order.

Professor Elise Muir is Head of the Department for International and European Law of the Faculty of Law of KU Leuven, where she teaches introductory as well as advanced courses on the EU Legal Order. She is also a Visiting Professor at the College of Europe, Bruges. She has published extensively in the field of EU law, including *EU Equality Law: The First Fundamental Rights Policy of the EU* (OUP, 2018). Her research has received a Starting Grant from the European Research Council, as well as scientific prizes (Edmond Hustinx, 2012).

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Preface

This book is intended to provide an accessible, yet solid introduction to the EU legal order. This legal order is understood as building on a number of foundational principles, fleshed out by a set of key actors, based on a sophisticated system of legal norms interacting intimately with national legal systems.

The European Union is hard work. It could be tempting, in a contemporary introduction to the EU legal order, to focus on the present and spare the reader the meanderings of a historical journey. Nevertheless, the EU is not a given. Its strengths and weaknesses can only be understood and critically examined when read in perspective, hence the attention paid to foundational principles developed over time (Chapter 1).

The European Union is alive. An approach to an introduction to EU law could have been to take the system of EU competences as the starting point, before setting out the institutional landscape. The approach chosen here instead looks at those who shape and flesh out the system of competences (Chapter 2), before insisting on the centrality of the principle of conferral and setting out the related system of EU norms (Chapter 3). This is because the boundaries and tools of EU law are ambitious, contested and subject to adjustments by key players.

Emphasis is placed on the main institutional features of the EU legal order, as well as the way it interacts with domestic legal systems in a unique fashion (Chapter 4), rather than on EU substantive law. My intuition is that the main institutional features remain insufficiently understood, and therefore focusing on the machinery of the EU and thereby setting the scene for a distinct study of EU substantive law is worth the time and effort. The extreme importance of the structures of EU law, and their relevance for our daily lives, is illustrated throughout the book, owing to multiple concrete examples of the relevant of institutional rules and their operation in context.

The approach chosen across all four chapters is decidedly legal. The text explicitly relies on concise direct quotes from primary sources of EU law and is supported with legal references. It is indeed addressed to those willing to gain familiarity with the legal specificities of the EU. The intention is to make the law accessible and to incentivise the reader to read directly from primary legal sources. Emphasis is on texts negotiated by Member States and the main EU political institutions, as well as on key samples from case law.

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The selection of sources thus reflects the strengths and weaknesses of the system of checks and balances representing the plurality of interests and related actors engaged in European affairs.

The book is also an exercise of doctrinal legal analysis. While trying to keep the narrative simple – for instance, by limiting abbreviations and acronyms, and avoiding unnecessary EU jargon – it does not shy away from using traditional EU law terminology and categorisations. Even if at times contested and demanding for the reader, these are commonly relied upon in EU affairs; their understanding is thus both necessary to whoever wishes to understand the dynamics of EU law, and a precondition to any convincing critical analysis – and possible attempts at deconstructing and reconstructing – in more advanced academic scholarship.

The approach is purportedly contextual. The narrative often sets out how legal texts originate in, or are fleshed out by, legal practice and/or occur in response to a specific set of events. The choice has been made not to put forward specific theoretical arguments, and instead to seek to explain the main features of the mechanics of the EU legal order. The intention is not to replace, or even pretend to undertake historical work, nor to deny the importance of theories of European integration. It is rather to humbly point to the multitude of complex challenges that the EU construct seeks to address, often on a case-by-case basis and as a result of sensitive negotiations.

The book is cautiously normative, equally critical and openly forward-looking. The author believes that working towards a peaceful EU, focused on ensuring the well-being of its people, is worth a try; and also that such efforts can only have a chance of success if they are accompanied by a self-critical process, acknowledging that challenges must be addressed through deliberation, making space for doubts, experimentalism and nuance. With that purpose in mind, the choice has been made to point to key areas of controversy within the process of European integration rather than brushing them away, to identify the main components of the debate, and to let the reader make the final evaluation.

The text is fairly concise, while trying to equip the reader with sufficient knowledge to be able to engage with EU law and to develop critical analysis through future studies or professional experience. Cartoons and schemes may help the reader to navigate particularly technical elements of the text. Academic references are kept to a minimum, and are mostly intended to provide direction for more advanced reading. More exhaustive and well-updated accounts may be found in Lenaerts, Van Nuffel and Corthaut's *EU Constitutional Law* (2021) and Schütze and Tridimas's *Oxford Principles of European Union Law* (2018), volume I. The materials are updated, to the best of my knowledge and abilities, as of 24 February 2022.

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Amélie, Hania and Pawel may not realise how much this work, as well as I, owe them – allow me to remind them and to let you know at the same time.

Abbreviations

AFET	European Parliament’s Committee on Foreign Affairs
AFSJ	Area of Freedom, Security and Justice
Brussels Treaty	Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence
BVerfG	German Federal Constitutional Court
CETA	Comprehensive Economic and Trade Agreement
CFEU	Charter of Fundamental Rights
CFSP	Common Foreign and Security Policy
Commission	European Commission
Coreper	Committee of Permanent Representatives
COSAC	Conference of Parliamentary Committees for Union Affairs
Council	Council of the European Union
CSDP	Common Security and Defence Policy
DG	Directorate-General
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECON	European Parliament’s Committee on Economic and Monetary Affairs
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
ECU	European currency unit
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community
EFTA	European Free Trade Association
EMS	European Monetary System
EMU	Economic and Monetary Union
EPPO	European Public Prosecutor’s Office
EU	European Union

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EU Treaties	Treaty on European Union and Treaty on the Functioning of the European Union
Euratom	European Atomic Energy Community
Fiscal Stability Treaty	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union
Frontex	European Border and Coast Guard Agency
GATT	General Agreement on Tariffs and Trade
GDPR	General Data Protection Regulation
High Representative	High Representative of the Union for Foreign Affairs and Security Policy
IGC	intergovernmental conference
JHA	Justice and Home Affairs
LIBE	European Parliament’s Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
MFF (Regulation)	Multiannual Financial Framework Regulation
NATO	North Atlantic Treaty Organisation
NGO	non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
OLP	ordinary legislative procedure
Parliament	European Parliament
TCA	Trade and Cooperation Agreement
TEC	Treaty establishing the European Community
TEEC	Treaty establishing the European Economic Community (Treaty of Rome/EEC Treaty)
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
WEU	Western European Union