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Judicial Activism at the European Court of Justice



Judicial Activism At The European Court Of Justice

José Magone



Judicial Activism At The European Court Of Justice:

Judicial Activism at the European Court of Justice Bruno de Witte, Elise Muir, Mark Dawson, 2013-01-01 This well constructed and well written collection fills a gap in the scholarship It offers a rounded and plausible picture of the Court's role in Europe engaging with the complexity of the law without losing sight of the bigger political picture Well contextualised critical but nuanced discussions of the role of rights economics science and institutions and of the important particularities of EU adjudication will make this volume unmissable for those interested in the political role of the Court of Justice of the EU Gareth Davies VU University of Amsterdam The Netherlands This book delves into the rationale components of and responses to accusations of judicial activism at the European Court of Justice Detailed chapters from academics practitioners and stakeholders bring diverse perspectives on a range of factors from access rules to institutional design and to substantive functions influencing the European Court's political role Each of the contributing authors invites the reader to approach the debate on the role of the Court in terms of a constantly evolving set of interactions between the EU judiciary the European and national political spheres as well as a multitude of other actors vested in competing legitimacy claims The book questions the political role of the Court as much as it stresses the opportunities and corresponding responsibilities that the Court's case law offers to independent observers political institutions and civil society organisations Judicial Activism at the European Court of Justice will appeal to researchers and graduate students as well as to EU and national officials

The European Court of Justice and "judicial Activism" Francis Geoffrey Jacobs, 1995* The European Court of Justice Patrick Neill, 1995

Regional Integration and Courts of Justice Katrin Nyman-Metcalf (jurist.), Ioannis Papageorgiou, 2005 The success of European integration and the political stability and economic prosperity it offers to its members has found followers elsewhere Several countries in different parts of world have been inclined to embark on projects of regional integration Though the majority of them are limited to economic integration objectives some in particular regional groups in Latin America profess to attain ambitious political goals and are constructed emulating the EU institutional structure In some cases this structure includes a regional court of justice entrusted with telling community law and solving differences between Member States The aim of this book is to study the importance of such courts of justice as institutional actors for the development of regional integration In such a project the study of the EU and the European Court of Justice immediately presents itself as most relevant and important However the book expands the study beyond an examination of the EU to encompass a comparative approach with other regional courts of justice in particular the Central American Court of Justice and subsidiarily the Andean Court of Justice Such a comparison allows both to assess the important differences between the courts as well as between the integration processes and to draw certain common features at present and for the future institutional evolution of other regional integration blocs Katrin Nyman Metcalf has a PhD in Law from Uppsala University in Sweden specialised in Public International and EU law She is Associate Professor at Riga Graduate School of Law Latvia and

Concordia University Estonia as well as visiting professor at several other European universities Apart from the academic work she works as a legal consultant mainly in East and Central Europe with legislation institution building and EU accession preparation Ioannis Papageorgiou has studied Law in Athens Comparative Politics in Paris and holds a PhD in Development Cooperation with specialization in Latin America from the Universit Libre de Bruxelles ULB He is an attorney at law in Athens a consultant on migration and refugee matters and since 2002 he teaches international migration in the School of Sociology of the University of the Aegean He also taught EU Politics and Constitution in the Aristotle University of Thessaloniki

Judicial Activism of the European Court of Justice and the Development of the European Social Mode in Anti-discrimination and Consumer Law Hans-W. Micklitz, European University Institute. Law Department, 2009

On Law and Policy in the European Court of Justice Hjalte Rasmussen, 1986-06-24 **EU Values Before the Court of Justice** Luke Dimitrios Spieker, 2023 The European Union's values enshrined in Article 2 TEU have come under severe pressure in several Member States In response the Court of Justice has set a spectacular development in motion With its ruling in *Associação Sindical dos Juizes Portugueses* it activated the Union's common values and positioned Article 2 TEU at the very heart of its jurisprudence Turning Article 2 TEU into an operational judicially applicable provision the Court has begun to assess the Member States constitutional structures against these yardsticks Since then the jurisprudence has evolved with remarkable speed EU Values Before the Court of Justice provides a first comprehensive study of the judicial mobilisation of Article 2 TEU It starts by developing the foundations of this emerging jurisprudence in empirical doctrinal and theoretical terms In this book Spieker seeks to advance a new understanding of Article 2 He argues that the provision should be understood as having a dual character that resonates between two dimensions namely an EU dimension limited to the EU legal order and a *Verbund* dimension that extends to the common whole of the Union and its Member States Article 2 plays different roles in these two spheres as thick constitutional core of the EU legal order and as thin constitutional frame for the *Verbund* This dual character should guide the provision's future judicial development The book sets out to explore the multifaceted potential of Article 2 TEU in each of these two dimensions As such it goes far beyond the current focus on illiberal developments in Member States and strives to broaden our horizon for the judicial mobilisation of EU values The book closes by assessing the risks of placing an activated Article 2 into the hands of Luxembourg judges and proposes ways to recalibrate the jurisprudence

The Limits of Legal Reasoning and the European Court of Justice Gerard Conway, 2012-01-12 Gerard Conway explains how judges of the ECJ should be understood as sharing the same interpretative perspective as the law maker

Judicial Activism of the European Court of Justice and the Development of the European Social Mode in Anti-discrimination and Consumer Law Hans-W. Micklitz, 2009 *Judicial Authority in EU Internal Market Law* Viliya Velyvyte, 2022-11-17 This book examines the role of the European Court of Justice in the regulation of the internal market from a competence perspective However rather than focusing on the Court's role in enforcing the limits of EU

competence in the EU's political decision making it explores a related albeit understudied question to what extent does the Court observe the constitutional limits of EU competence and its own institutional powers in the interpretation of EU internal market law laid down in the Treaties The book provides an answer to this question through the analysis of EU free movement case law in light of the constitutional principles that govern the allocation of competences and powers in the EU conferral subsidiarity and proportionality on the vertical level and institutional balance on the horizontal level Why should the Court be bound by these principles What do they mean when applied to judicial practice To what extent are they observed in the free movement case law The book argues that the Court's observance of the four principles has been inconsistent thereby creating substantive and constitutional tensions in the EU's relationship with the Member States and upsetting the institutional balance of powers between the EU legislature and judiciary Shortlisted for the UACES Best Book Prize 2023 Runner up of the 2024 Peter Birks Prize for Outstanding Legal Scholarship , The Court of Justice of the European Union and the Politics of Law Sabine Saurugger, Fabien Terpan, 2017-08-24 The Court of Justice of the European Union CJEU is one of the central institutions of the EU and has played a decisive role in European integration As one of the most powerful international courts at a time when political systems around the world are becoming more judicialized it is a key actor to understand in world affairs Yet it is not without controversy As both an interpreter of law and as a political power influencing policy making through its bold case law it has become increasingly criticized in recent years for its perceived activism and distance from the European people Combining the perspectives of a legal scholar and a political scientist this important new text gives a uniquely broad ranging account of the CJEU It introduces readers to the role and function of the Court and explains how it fits into the broader political system and historical evolution of the European Union It examines the constitutional contributions made by the Court and the part it plays in policy making in areas such as the environment gender equality and human rights Drawing on the latest research the book takes full account of recent changes to the place of the Court in the European political system and shows how new forms of governance such as the open method of coordination have had a significant impact on the role the Court is able to play **The Power of the European Court of Justice** Susanne K. Schmidt, R. Daniel Kelemen, 2014-06-11 The European Court of Justice ECJ has played a vital role in promoting the process of European integration In recent years however the expansion of EU law has led it to impact ever more politically sensitive issues and controversial ECJ judgments have elicited unprecedented levels of criticism Can we expect the Court to sustain its role as a motor of deeper integration without Member States or other countervailing forces intervening To answer this question we need to revisit established explanations of the Court's power to see if they remain viable in the Court's contemporary environment We also need to better understand the ultimate limits of the Court's power the means through which and extent to which national governments national courts litigants and the Court's other interlocutors attempt to influence the Court and to limit the impact of its rulings In this book leading scholars of European

law and politics investigate how the ECJ has continued to support deeper integration and whether the EU is experiencing an increase in countervailing forces that may diminish the Court's ability or willingness to act as a motor of integration This book was published as a special issue of the Journal of European Public Policy *Cambridge Yearbook of European Legal Studies Vol 2, 1999* Angela Ward, 1999 The Cambridge Yearbook of European Legal Studies provides a new forum for the scrutiny of significant issues in European Union Law the Law of the Council of Europe and Comparative Law with a European dimension and particularly those which have come to the fore during the year preceding publication The contributions appearing in the collection are commissioned by the Centre for European Legal Studies CELS Cambridge which is the research Centre of Cambridge University Law Faculty specialising in European legal issues The papers presented are all at the cutting edge of the fields which The Role of the Court of Justice in EU Labour Law Silvia Rainone, 2023-05-17 In an unresolved ongoing debate the Court of Justice of the European Union CJEU is often included among the institutional actors responsible for the declining condition of labour law in Europe Has its case law been more protective of employers interests than of workers rights This innovative book greatly enhances the discussion by bringing to light the judicial lawmaking logic other than those pertaining to the balancing of social and business values that drive the CJEU's reasoning in its interpretation of the labour law provisions enshrined in the European Union EU law with particular attention to the directive on transfer of undertakings Addressing fundamental issues such as uneven bargaining power labour as a commodity coexistence of workers rights and the market economy in the context of judicial lawmaking the author clearly defines the tensions at work What normative models underlie the approaches of EU institutional policymakers with respect to labour law Does the CJEU have its own vision of the socioeconomic model to which the Union should adhere How does the CJEU's interpretative approach stand in relation to the transformation processes that regulators impose on labour law Is the CJEU particularly attentive to the preferences expressed by national governments especially those from the most politically influential states or rather reflect the political pressure of the European Commission What is the role of trans judicial dynamics in shaping the CJEU's reasoning in labour law cases The study is extraordinarily thorough drawing on a wide range of policy documents scholarly and doctrinal research and the entire body of the CJEU's case law on transfer of undertakings The legal arguments that the CJEU has developed over the years are mapped and classified according to their affinity with the labour law functions that underlie them With its comprehensive assessment of the normative implications of EU policymaking in the labour and social domains its thorough exploration of the CJEU's judicial lawmaking dynamics and its extensive empirical legal analysis of the CJEU's case law on transfer of undertakings the book has no peers in revealing the forces that guide the CJEU's decisions in the realm of labour law Of particular value to scholars and researchers interested in EU social policies and constitutional law the book will also prove of immeasurable value to labour law practitioners aiming to use the case law of the CJEU as well as to in house counsel industrial relation specialists and trade unionists *Routledge*

Handbook of European Politics José Magone, 2014-12-17 Since the Treaty of the European Union was ratified in 1993 the European Union has become an important factor in an ever increasing number of regimes of pooled sovereignty This Handbook seeks to present a valuable guide to this new and unique system in the twenty first century allowing readers to obtain a better understanding of the emerging multilevel European governance system that links national polities to Europe and the global community Adopting a pan European approach this Handbook brings together the work of leading international academics to cover a wide range of topics such as the historical and theoretical background the political systems and institutions of both the EU and its individual member nations political parties and party systems political elites civil society and social movements in European politics the political economy of Europe public administration and policy making external policies of the EU This is an invaluable and comprehensive resource for students scholars researchers and practitioners of the European Union European politics and comparative politics

Judging Europe's Judges Maurice Adams, Henri de Waele, Johan Meeusen, Gert Straetmans, 2013-10-16 After successive waves of EU enlargement and pursuant to the entry into force of the Lisbon Treaty the European Court of Justice finds itself on the brink of a new era Both the institution itself and the broader setting within which it operates have become more heterogeneous than ever before The issues now arriving on its docket are also often of great complexity covering an unprecedented number of fields The aims of this volume are to study the impact of these developments examine the legitimacy of the Court's output in this novel context and provide an appraisal of its overall performance In doing so specific attention is paid to its most recent case law on four topics the general principles of EU law external relations the internal market and Union citizenship Featuring contributions by Maurice Adams Henri de Waele Johan Meeusen and Gert Straetmans Koen Lenaerts J n Maz k and Martin Moser Stephen Weatherill Jukka Snell Michael Dougan Daniel Thym Eileen Denza Michal Bobek and Joseph Weiler

Constitutional Sovereignty and Social Solidarity in Europe Jeffrey Ellsworth, Johan van der Walt, 2015-05-21 The essays in this book respond in different ways to questions regarding sovereignty constitutionality and social solidarity in the European Union A common theme in the book is a perception that the people and peoples of the European Union have drifted into a quagmire of political paralysis within which essential features of the paralysis lack of constitutionality lack of sovereignty and lack of social solidarity feed off one another Some of the essays put forward a more positive view They associate the demise of sovereignty in Member States of the European Union with an emergence of new forms of democracy or new formations of political legitimacy in the complex structures of multi level governance in the European Union Between them the essays provide the reader with a comprehensive study of the key issues of European politics and law today

European Union Law Jessica Guth, 2019

The Horizontal Effect Revolution and the Question of Sovereignty Johan van der Walt, 2014-08-25 That the recent turn in European Constitutional Review has effectively brought about a revolution in European law has been observed before At issue are two major developments in European judicial review On the one hand the European Court of Human

Rights has been collapsing traditional boundaries between constitutional law and private law with a series of decisions that effectively recognized the horizontal effect of Convention rights in the private sphere. On the other hand the European Court of Justice has also given horizontal effect to fundamental liberties embodied in the Treaty on the Functioning of the European Union in a number of recent cases in a way that puts established boundaries between Member State and Union competences in question. This book takes issue with these developments by bringing to the fore a key issue that the horizontality effect debate has hitherto largely overlooked namely the question of sovereignty. It shows with detailed references to especially the American debate on state action and the German debate on *Drittwirkung* that horizontal effect cannot be understood consistently without coming to grips with the conceptions of state sovereignty that inform different approaches to horizontal effect.

Judicial Activism At The European Court Of Justice: Bestsellers in 2023 The year 2023 has witnessed a remarkable surge in literary brilliance, with numerous compelling novels enthralling the hearts of readers worldwide. Lets delve into the realm of popular books, exploring the engaging narratives that have charmed audiences this year. The Must-Read : Colleen Hoover's "It Ends with Us" This heartfelt tale of love, loss, and resilience has captivated readers with its raw and emotional exploration of domestic abuse. Hoover skillfully weaves a story of hope and healing, reminding us that even in the darkest of times, the human spirit can prevail. Uncover the Best : Taylor Jenkins Reids "The Seven Husbands of Evelyn Hugo" This intriguing historical fiction novel unravels the life of Evelyn Hugo, a Hollywood icon who defies expectations and societal norms to pursue her dreams. Reids compelling storytelling and compelling characters transport readers to a bygone era, immersing them in a world of glamour, ambition, and self-discovery. Judicial Activism At The European Court Of Justice : Delia Owens "Where the Crawdads Sing" This evocative coming-of-age story follows Kya Clark, a young woman who grows up alone in the marshes of North Carolina. Owens weaves a tale of resilience, survival, and the transformative power of nature, captivating readers with its evocative prose and mesmerizing setting. These top-selling novels represent just a fraction of the literary treasures that have emerged in 2023. Whether you seek tales of romance, adventure, or personal growth, the world of literature offers an abundance of compelling stories waiting to be discovered. The novel begins with Richard Papen, a bright but troubled young man, arriving at Hampden College. Richard is immediately drawn to the group of students who call themselves the Classics Club. The club is led by Henry Winter, a brilliant and charismatic young man. Henry is obsessed with Greek mythology and philosophy, and he quickly draws Richard into his world. The other members of the Classics Club are equally as fascinating. Bunny Corcoran is a wealthy and spoiled young man who is always looking for a good time. Charles Tavis is a quiet and reserved young man who is deeply in love with Henry. Camilla Macaulay is a beautiful and intelligent young woman who is drawn to the power and danger of the Classics Club. The students are all deeply in love with Morrow, and they are willing to do anything to please him. Morrow is a complex and mysterious figure, and he seems to be manipulating the students for his own purposes. As the students become more involved with Morrow, they begin to commit increasingly dangerous acts. The Secret History is a brilliant and thrilling novel that will keep you speculating until the very end. The novel is a cautionary tale about the dangers of obsession and the power of evil.

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