

## BOOK REVIEW

**Ester Herlin-Karnell, Gerard Conway and Aravind Ganesh, *European Union Law in Context*, Hart Publishing 2021, 288 pages, ISBN: 9781849467018**

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Throughout the decades of its existence, the EU has created an abundance of laws in the form of primary and secondary legislation, case law and legal doctrines, the entirety of it also known as EU *acquis*. What is more, the entanglement between constantly changing national and European laws in multi-layered governance presents an additional complexity which is difficult to grasp at first go. A student studying EU law for the first time will thus experience their personal Sisyphean moment at some point during their studies. Leading textbooks in this area, most notably Craig and de Búrca's 'EU Law'<sup>1</sup> covering all constitutional matters and Barnard's 'The Substantive Law of the EU'<sup>2</sup> on the four freedoms of the internal market, provide the dogmatic essentials in extensive format of what a law student ought to know before attempting an exam. For some, this can be a rather challenging endeavour.

This is precisely what 'European Union Law in Context' aims to address. A much lighter fare – both thematically and literally in terms of the number of pages – this book provides a very promising contextual understanding of the societal and political influences which have shaped EU law as it is now. In particular, it includes discussion of the most recent crises the EU had to face, such as the financial crisis 2008, the migration crisis 2015, the COVID-19 crisis 2020, and Brexit. Each one of these has affected various policy areas of EU law and is said to have a lasting impact on EU legislation and case law beyond the mere situation of crisis itself. This contextualisation of different aspects of EU law makes it easier for the reader to connect the dots and enhance a broader understanding of this area, which will be appreciated by students as supplementary reading in addition to their standard textbooks.

The book itself is divided into seven chapters. After an introductory Chapter One on EU Law in Context, Chapter Two discusses the Constitutional Framework of EU Law. By far the most extensive chapter is Chapter Three on Economic Challenges of Integration with sections on the four freedoms of the internal market, competition law, and the economic and monetary Union. Chapter Four then deals with the specific issues of the UK's withdrawal, Brexit. Chapter Five discusses selected themes under the Area of Freedom, Security and Justice. Chapter Six analyses the EU's role as an International Actor, before some conclusions are drawn in the final chapter, Chapter Seven.

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<sup>1</sup> Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases, and Materials* (7th edn, OUP 2020).

<sup>2</sup> Catherine Barnard, *The Substantive Law of the EU: The Four Freedoms* (6th edn, OUP 2019).

Chapters One and Two nicely set the scene and above all manage to make accessible in such brevity and clarity some of the more complex principles of EU constitutional law, such as the principles of conferral, subsidiarity, and proportionality, as well as issues on enforcement and judicial review, with reference to the current rule of law crisis in Poland and Hungary. For those who have not yet come in contact with EU law before, it will be a great starting point. For anyone who already studied the basics, this will be an easy read to refresh one's memory of the key facts as well as to understand the bigger picture, before getting into the more specific topics on EU law.

Chapter Three covers a range of specific topics which each present their own challenge in the European process of integration. It is unfortunate that these are all covered under the same chapter which not only makes this chapter the longest in the entire book, but also could result in a reader getting lost between the various headings and subheadings. While it is true that all four freedoms of the internal market as well as competition law and other economic policy areas covered in this chapter are all related, a separation into two or potentially three chapters would have perhaps been more beneficial in this case.

Another surprising feature of Chapter Three is that it includes a discussion of the relevant provisions under the EU-UK Trade and Cooperation Agreement (TCA) for each individual topic. Indeed, the withdrawal of the UK has posed enormous challenges on the EU's remaining Member States and the process of European integration. However, the rules regulating the internal market or competition law remain unaffected by Brexit and the negotiated international agreement with a now third country. Considering the fact that the subsequent Chapter Four is dedicated entirely to Brexit, the relevant TCA provisions shaping the new relationship between the EU and the UK would have perhaps been better placed there.

Chapter Four itself provides a lengthy overview of the various stages of the UK's inner political struggles with EU membership and their eventual withdrawal. Undoubtedly, Brexit lends itself as an excellent case study and is relevant to students on both sides of the Channel. In particular, the Miller litigation is relevant for understanding the initial delays in the withdrawal process as well as the subsequently concluded Withdrawal Agreement and the controversies surrounding the Northern Ireland Protocol. However, the great detail of the initial accession process, the UK's position during the different treaty amendments, or the (rejected) models of a future relationship, seem slightly out of place here. A more concise appraisal of the relevant facets of the UK's withdrawal process and its impact on EU law would have perhaps better suited the overall format of the book.

Chapters Five and Six discuss the policy areas under the former intergovernmental pillars pre-Lisbon, which are explained concisely and in a contextual manner with reference to some carefully selected and recent developments in EU criminal law cooperation and foreign policy. These make for some very interesting and highly topical case studies on security matters and artificial intelligence, the establishment of the European Public Prosecutor's Office, data protection (Chapter Five) as well as the extraterritoriality of European values and standards by means of international relations with third countries and the EU's role in international organisations (Chapter Six). Both chapters revert back to the original style found in the earlier Chapters One and Two.

The general impression thus given by the book is that there is a divide between Chapters One, Two, Five, and Six on the one hand and Chapters Three and Four on the

other hand. While the former seem to be written from an EU perspective and aimed at students studying in the EU, the latter's perspective is clearly that of the UK with UK students in mind. It is not evident from the outset; neither the book title nor the aims of the book outlined in the introduction suggest a British perspective or justify the divide. Rather, one would think that the book should have taken an overall European perspective. By no means would this have excluded UK law students reading EU law which is now separate to their own national legal framework.

All in all, the book deserves to be applauded for the very effective contextual approach taken, which is novel to the area of EU law. Regrettably, however, it fails to take a homogeneous perspective across its chapters, thus affecting its overall coherence.