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Their contributions reflect
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by the courts? Has it become
a mere source of confusion,
hampering the full
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Is the concept of Direct
Effect of EC Law out of
date? Or does it need to be
revamped as a keystone
doctrine of EC Law? This was
the central theme of the
international conference
organized in June 2001 at

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the University of Amsterdam
by the Hogendorp Centre, the
Amsterdam Law School, the
Amsterdam Centre of
International Law, the
Europa Instituut and the
Amsterdam Jean Monnet
Platform. The conference
brought together speakers
from The United Kingdom,
Belgium, France and The
Netherlands, to address the
topic not only from the
perspective of EC law, but
also from those of domestic
constitutional law and
public international law.
Their contributions reflect
the various dimensions of
direct effect as a central
doctrine of EC Law.

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External Relations The Law of the European Community begins by noting two common characteristics of legal analyses in the field of EU external relations. First, most legal analyses assume that EC external relations law cannot be studied or applied without a constant awareness of the underlying political dynamics. Yet, the same analyses fail to explain how these 'dynamics' are to be understood, assessed and systematically applied. This pragmatic outlook reduces the importance and value of a self-reflective, rational and coherent legal language. Second, most legal analyses

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tend to focus only on n.

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What are the basic principles underlying European Community Law? Although no one seeks a purely descriptive answer to this question, the discussion it gives rise to is of immense significance both for theoretical legal studies and for legal practice. Over the years, scholars have convened from time to time to re-examine the question in the light of new developments. This important volume offers insights and findings of the latest such conference, held at Stockholm in March 2007, and sponsored by the Swedish

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Network for European Legal Studies. The nineteen essays here printed are all final author-edited versions of papers first presented at that conference. Far from merely an updating of the First Edition, which marked a 1999 conference held under the same auspices at Malm, this book is entirely new. It underscores the importance of discovering the emergence of new general principles--linked, indeed, to such fundamental continuing concerns as democracy, accountability, transparency, direct effect, good administration, and European citizenship--as they develop in such

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increasingly important areas as the following: core aspects of competition and financial integration law; the ongoing process of European constitutionalization; the application of general principles in the new Member States; the growth of European private law; the successive creation of a jus commune europaeum; and the instrumental function of the EC Court. There is also special consideration attached to such overriding issues as the gap-filling function of the principles within the Community legal system, and the implications of the use of a comparative

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methodology. The authors include both eminent, well-known experts, many of whom took part in the 1999 Conference, and representatives of a new generation of younger scholars in the field. For the myriad parties involved in the evolution of the European project from a legal perspective, this book serves as a watershed, a thorough inspection of the foundations as they are perceived and understood at the present moment. It is sure to be consulted and cited often in the years to come.

With a view to recent

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developments in both the EU and the global legal order, International Law as Law of the European Union explores how, and to what extent, international law still forms part of, and plays a role in, the current legal order of the European Union.

The reform of the European Constitution continues to dominate news headlines and has provoked a massive debate, unprecedented in the history of EU law. Against this backdrop Monica Claes' book offers a "bottom up" view of how the Constitution might work, taking the viewpoint of the national courts as her starting

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point, and at the same time returning to fundamental principles in order to interrogate the myths of Community law. Adopting a broad, comparative approach, she analyses the basic doctrines of Community law from both national constitutional perspectives as well as the more usual European perspective. It is only by combining the perspectives of the EU and national constitutions, she argues, that a complete picture can be obtained, and a solid theoretical base (constitutional pluralism) developed. Her comparative analysis encompasses the law in France, Belgium, Denmark,

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the Netherlands, Germany, Ireland, Italy and the United Kingdom and in the course of her inquiry discusses a wide variety of prominent problems. The book is structured around three main themes, coinciding with three periods in the development of the judicial dialogue between the ECJ and the national courts. The first focuses on the ordinary non-constitutional national courts and how they have successfully adapted to the mandates developed by the ECJ in Simmenthal and Francovich. The second examines the constitutional and other review courts and discusses the gradual

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transformation of the ECJ into a constitutional court, and its relationship to the national constitutional courts. The contrast is marked; these courts are not specifically empowered by the case law of the ECJ and have reacted quite differently to the message from Luxembourg, leaving them apparently on collision course with the ECJ in the areas of judicial Kompetenz Kompetenz and fundamental rights. The third theme reprises the first two and places them in the context of the current debate on the Constitution for Europe and the Convention, taking the perspective of the national

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courts as the starting point for a wide-ranging examination of EU's constitutional fundamentals. In so doing it argues that the new Constitution must accommodate the national perspective if it is to prove effective.

This study analyses the case-law of the European Court of Justice on the freedom of establishment and the free movement of capital in matters of direct taxation. The author identifies two areas where cases from the European Court of Justice are especially important: what constitutes discrimination, and which

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circumstances may justify such discrimination. Among his specific approaches to the complex issues involved may be noted the following: the Court's interpretation of discrimination and restriction, both in general and in particular regarding the freedom of establishment and the free movement of capital; the grounds of justification, according to the rule-of-reason doctrine, accepted by the Court, such as the prevention of tax abuse, the preservation of fiscal coherence, the effectiveness of fiscal supervision, and the fiscal principle of territoriality; grounds rejected by the

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Court, such as lack of harmonisation, counterbalancing advantages, a new form of establishment being seen as subject to equal treatment, lack of Community competence in the field of tax treaty law, and the protection of tax revenue; the characteristics of national legislation on direct taxation that the Court has found to be in breach of the freedom of establishment and the free movement of capital; the neutrality between different forms of establishment, in the form of either a branch or a subsidiary (the pending Marks & Spencer case is subject to a thorough

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analysis in this respect); the degree of convergence between the freedom of establishment and the free movement of capital, especially in cases on direct taxation; and the territorial extension of the free movement of capital.

Although some provisions of the Directive are obligatory for all Member States, two key provisions have been made optional: the non-frustration rule, which requires the board to obtain the prior authorization of the general meeting of shareholders before taking any action that could result in the frustration of the

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bid; and the breakthrough rule, restricting significant transfer and voting rights during the time allowed for acceptance of the bid. Other relevant legal issues covered in the course of the analysis include the following: A { the right of establishment as a right of legal persons; A { vertical vs.

This book provides an analysis of the institutional and constitutional effects of EU international agreements, with a particular focus on their potential effects on private parties. The European Union has entered

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into a number of international agreements that raise serious fundamental rights concerns due to a lack of parliamentary and judicial scrutiny. The book addresses these issues in the context of developments contained in the Lisbon Treaty, focusing on primary and secondary sources, including German/French scholarship, as well as EU and national case law.

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werden, legt dieses Buch nahe, dass individuelle Rechte durch eine relationale Definition besser verstanden werden. Ein individuelles Recht nach EU-Recht kann somit als das Korrelat einer Verpflichtung definiert werden, das durch das Interesse eines Einzelnen an der Erfüllung dieser Verpflichtung ausgelöst wird. Das Buch untersucht die Rechtsprechung des EuGH und zeigt, dass diese Definition von individuellen Rechten dem Test der Zeit und den aufeinanderfolgenden Umgestaltungen der Rechtsordnung der EU widersteht. Catherine Warin,

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ausgezeichnet wurde.

Schütze's European Union Law
uses a distinctive three-
part structure to examine
the constitutional
foundations, legal powers
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uniquely engaging style, and
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