

Studien zum europäischen und deutschen Öffentlichen Recht

Edited by Christian Calliess and Matthias Ruffert

Public law is gaining momentum. It is primarily European integration which is presenting traditional structures and patterns of thought in theory and dogmatics with new challenges. The Treaty of Lisbon is also leading to new relationships between constitutional and administrative law. It is the goal of the *Studien zum europäischen und deutschen Öffentlichen Recht (EuDÖR)* series to capture this process in jurisprudence with current research studies.

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von Nordheim, Jakob

Der Netzausbauverbund

Strukturen des Energienetzausbaus im Europäischen Verwaltungsverbund

Volume 38
2021. Approx. 430 pages.
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The expansion of the Trans-European Networks for Energy is being undertaken within a multi-level system comprised of the EU, its member states and network operators. Jakob von Nordheim analyses the energy-grid specific legislation, identifies the structural elements of this cooperation and introduces the resulting grid development network (Netzausbauverbund) as a reference area of EU union of administration.

Mlynarski, Martin

Zur Integration staatlicher und europäischer Verfassungsidentität

Das europäische Demokratieprinzip des Art. 2 EUV als Maßstab der europäischen Vertragsänderungsverfahren?

Volume 37
2021. XXI, 422 pages.

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The inertia of European treaty changes can be overcome by an integration of national and European constitutional identity. Consequently, in addition to the national principle of democracy, the European principle of democracy also comes into focus as a guideline for the European treaty amendment procedures.

Rosenfeldt, Herbert

Frontex im Zentrum der Europäischen Grenz- und Küstenwache

Bestandsaufnahme, Unionsrechtmäßigkeit und Verantwortlichkeit

Volume 36
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The European Border and Coast Guard Agency Frontex lies at the heart of EU external border control. Herbert Rosenfeldt's study assesses the dynamic evolution of the agency in the confines of EU primary law. Procedural guarantees call for meaningful mechanisms to hold Frontex accountable in practice.

Symann, Malte

Schutz der Rechtsstaatlichkeit durch europäisches Haushaltsrecht

Plädoyer für einen neuen Sanktionsmechanismus

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Recent discussions in the European Union have explored the possibility of financial sanctions being used to tackle the rule of law crisis in certain EU member states. Malte Symann's study examines the legal issues such a sanction mechanism might entail and how it could help protect the rule of law more effectively.

Schnettger, Anita

Verbundidentität

Schutzgehalt, Funktionen und gerichtliche Durchsetzung des Art. 4 Abs. 2 S. 1 Var. 2 EUV

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Respect for national identity is a central pillar of the European Union as an entity. Anita Schnettger considers the importance of this imperative, which is caught between the need for ever closer union and the growing social need for more pluralism.

Faig, Hanna Dorothea

Genealogie der Grundfreiheiten

Tradition, Redaktion, Interaktion und Integration der Binnenmarktfreiheiten der Europäischen Union

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The fundamental freedoms have shaped the integration of the European Union. Hanna Faig outlines the history of the underlying intellectual ideas and evaluates the documents surrounding the founding treaties. In doing so, she examines the relationship between the fundamental freedoms and the envisaged economic integration.

Kullak, Elena Marie

Vertrauen in Europa

Entwicklung und Funktion als Verfassungsgrundsatz des Unionsrechts

Volume 32
2020. XVII, 288 pages.

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Mutual trust between member states constitutes a dynamic principle of European constitutional law. Elena Marie Kullak conceptualises the principle with regard to its reason and limits and analyses its contribution to the horizontal constitutionalisation within the European Union.

Vossen, Konrad

Rechtsschutz in der europäischen Bankenaufsicht

Zugleich ein Beitrag zum Rechtsschutz im Europäischen Verwaltungverbund

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In the new system of European banking supervision, there is diverse cooperation between European and national authorities. Konrad Vossen asks to what extent effective judicial protection is afforded and what changes are necessary to ensure integrated administration.

Mödinger, Maximilian

Bessere Rechtsetzung

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The European Union has long been trying to improve its legislation and make its regulations easier to understand. Maximilian Mödinger analyses whether actions taken by EU institutions have made things better.

Hwang, Shu-Perng

Europarechtsordnung als Rahmenordnung

Versuch einer Überwindung der dualistischen Konstruktion von staatlichen und überstaatlichen Rechtsordnungen

Volume 29
2020. XIII, 331 pages.

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Shu-Perng Hwang analyses how dualism has shaped prevailing opinion on the relationship among national, supranational and international law, and the problems it has created. In contrast, the author adopts a framework-orientated, dematerialized and in this sense monistic understanding of the European multi-level legal system.

Klenk, Lars

Die Grenzen der Grundfreiheiten

Volume 28
2019. XX, 476 pages.

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The fundamental freedoms of the European Union do not constitute a general right to commercial freedom. In theory, this is undisputed. Lars Klenk analyzes whether this statement also holds true with regard to the jurisprudence of the European Court of Justice.

Heller, Timo Sebastian

Gewinn und Verlust der Bundesbank

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2019. XXII, 225 pages.

ISBN 9783161575969
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The financial crisis and the measures taken to deal with it led to profound changes in how national central banks operate in the euro area. As a consequence, the balance sheet of Germany's Federal Bank has also grown lengthier, which could lead to higher gains – or bigger losses. Timo Sebastian Heller takes a close look at both current regulations for the distribution and disposition of banks' profits as well as possible ways to deal with heavy losses.



Rathke, Hannes

Sondervertragliche Kooperationen

Systemrationalität einer Handlungsform der europäischen Integration am Beispiel der Kooperationen der EU-Mitgliedstaaten in der europäischen Staatsschuldenkrise

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2019. XXIX, 412 pages.

ISBN 9783161568503
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The European sovereign debt crisis revealed functional deficits in the common economic and financial constitution. To preserve the euro area as a whole, the member states chose the path of special contractual cooperations. Based on an analysis of the Fiscal Stability Treaty, EFSF and ESM as reference cooperations, Hannes Rathke examines the premises and potential of this form of action as an alternative instrument for European integration.

Almhofer, Martina

Die Haftung der Europäischen Zentralbank für rechtswidrige Bankenaufsicht

Volume 25
2018. XXIII, 486 pages.

ISBN 9783161560798
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With regard to the extensive conferral of prudential supervisory tasks and powers on the European Central Bank (ECB), Martina Almhofer analyses under which conditions the ECB might be held liable for losses caused by supervisory misconduct pursuant to Article 340(3) of the Treaty on the Functioning of the European Union.

Mönning, Jarah Elena Tabea

Internationales Staatensanierungsverwaltungsrecht

Programmierung der Sanierungsverwaltung im Verbund

Volume 24
2018. XVII, 329 pages.

ISBN 9783161555985
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The author analyses and evaluates the structures for providing conditional finance assistance to solve European national debt crises. She takes an administrative law approach and assigns the conditionality legal framework as well as the (network/ composite) structures of the European Stability Mechanism and the International Monetary Fund to international administrative law. In this way, problems previously perceived as mainly political are given a legal perimeter able to compensate existing democratic legitimization deficits.

Schoenfleisch, Christopher

Integration durch Koordinierung?

Rechtsfragen der Politikkoordinierung am Beispiel der nationalen Wirtschaftspolitiken

Volume 23
2018. XIX, 287 pages.

ISBN 9783161556722
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The European crisis that from 2010 on followed in the wake of the global financial crisis ruthlessly revealed the Economic Union's functional deficits. An analysis of the reform of economic governance illustrates the repercussions for member states' budgetary and economic policies and the European model of dual legitimization.

Reyes y Ráfales, F. Joel

Die Warenausfuhrfreiheit: ein Beschränkungsverbot

Eine Synthese unionsverfassungsrechtlicher, rechtsökonomischer und rechtsprechungsbasierter Auslegung zu einem »Wettbewerbsgleichheits-Rechtswahlmechanismus«

Volume 22
2017. XLIX, 853 pages.

ISBN 9783161553332
cloth 149,00 €

The author reflects critically on the methodology used to interpret EU fundamental freedoms, taking Article 35 TFEU's guarantee to export goods as an example. According to him, the European Court of Justice's narrow reading of this should be abandoned in favour of a dual EU-constitutional law and law and economics approach that would enable exporters to deselect their own national law and choose the legislation of another member state instead.

Hölzer, Jannes M.

Vergaberecht im Verteidigungs- und Sicherheitsbereich der Europäischen Union

Volume 21
2017. XVIII, 177 pages.

ISBN 9783161555619
sewn paper 59,00 €

The European Union's increasing political responsibility for defence and security demands a strengthening of industrial and technological bases in these two sectors. Against this backdrop, Jannes M. Hölzer investigates whether a functioning single market can be established in the defence and security sector using the current regulatory framework.

Wörner, Thorsten

Rechtlich weiche Verhaltenssteuerungsformen Europäischer Agenturen als Bewährungsprobe der Rechtsunion

Wirkungen und Grenzen abstrakt-genereller unverbindlicher Rechtssetzung durch Regulierungsagenturen am Beispiel von Leitlinien und Empfehlungen der Europäischen Finanzaufsichtsagenturen

Volume 20
2017. XXVIII, 604 pages.

ISBN 9783161554667
sewn paper 79,00 €

Instruments often classified as »soft law« or »informal rule-making« – more specifically, guidelines and recommendations issued by European agencies – play a key role in the regulation and supervision of the European financial sector. Regardless of their attractiveness, their legal status remains uncertain and they raise problems with respect to democratic legitimacy and the rule of law.

Orator, Andreas

Möglichkeiten und Grenzen der Einrichtung von Unionsagenturen

Volume 19
2017. XXX, 549 pages.

ISBN 9783161529726
cloth 129,00 €

EU agencies have become an indispensable mode of European governance. The author substantiates possibilities for and limits to establishing agencies under the current Treaty framework: What powers may be delegated to EU agencies? How are democratic accountability and effective judicial review to be organized? What role may alternative modes of legitimation play?

Delgado del Saz, Silvia

Vorsorge als Verfassungsprinzip im europäischen Umweltverbund

Rechtsvergleichende Überlegungen am Beispiel der Risiken der Mobilfunkstrahlung



Volume 18
2017. XVII, 222 pages.
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The precautionary principle has become widespread over the past years and has even gained constitutional status. However, its lack of precise content challenges its constitutional binding force. By analysing the risks associated with electromagnetic fields created by mobile communication base stations, Silvia Delgado del Saz's investigation defines the content and legal effects of the Precautionary Principle in different European jurisdictions.

Wagner, Julian

Das integrierte Konzept der IE-Richtlinie und seine Umsetzung im deutschen Recht

Zur Neuausrichtung des deutschen Anlagenzulassungsrechts

Volume 17
2017. XVII, 427 pages.
ISBN 9783161550751
sewn paper 84,00 €

The current German Environmental Permitting regime is segmented between the various environmental media whereas the European law favours a cross-media and therefore integrated approach. Based on principles of Swiss law, Julian Wagner develops a new concept for a German Permitting regime that retains the German legal regime's traditional structure but implements the European objective of protecting the environment as a whole.

Damm, Carolin

Die Europäische Union im universellen Völkergewohnheitsrecht

Volume 16
2016. XXI, 287 pages.
ISBN 9783161544088
sewn paper 69,00 €

According to Article 3 (5) of the Treaty of the European Union, the EU shall contribute to »the strict observance and the development of international law«. As a subject of international law, the EU is bound to customary international law. This volume examines the mutual relations between the legal order of the European Union and the rules of customary international law, exploring how these rules determine the external relations of the EU and how – vice versa – the union takes part in the development and enforcement of customary international law. The result is an evaluation of customary international law rules application within the EU legal order. Subordinate principles regarding the interaction between the two legal orders are summed up and defined in the light of the international legal order's constitutionalizing process.

Kiekebusch, Dirk

Der Grundsatz der begrenzten Einzelermächtigung

Volume 15
2017. XXIX, 491 pages.
ISBN 9783161546785
sewn paper 84,00 €

With continued European integration, member states are increasingly voicing misgivings about the EU's mushrooming competences and an associated loss of sovereignty. The legal substance of this fear is examined by Dirk Kiekebusch who questions whether the principle of conferral still ensures a clear delineation between the responsibilities of member states and the union.

European Economy and People's Mobility

Project Conference of the Jean Monnet Centre of Excellence Jena

Ed. by Matthias Ruffert

Volume 14
2016. VIII, 175 pages.
ISBN 9783161547652
sewn paper 54,00 €

This book is the result of a three-day conference about »European Economy and People's Mobility« which was held by the Jean Monnet Centre of Excellence Jena in May 2015. Within the internal market which lies at the heart of the European Union's rules, it is the free movement of persons that most drastically affects people's everyday lives in the Member States. In this book, the authors try to answer the questions arising from »People's Mobility« in the European Union from an interdisciplinary perspective. What are the manifestations of mobility? Have they changed in recent years/decades? What is the current grade of mobility? Are individuals more mobile today than in the past? Are there groups that are more mobile than others? What are the (social, economic, political, legal, psychological) preconditions for mobility, and which of these factors advance or impede mobility? Is mobility (socially, economically, politically, psychologically) desirable? What are its positive/negative effects, and how should mobility be increased or reduced?

Survey of contents

Jürgen Basedow: European Economy and People's Mobility. The Fate of the Internal Market

Social, social-psychological and economic aspects of market integration

Richard Münch: Das europäische Integrationsprojekt in der Krise. Zeichen eines tiefgreifenden Systemwandels? - Heather J.

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From a mere market integration to an 'espace social'?

Achim Seifert: Free movement of services and national labour law of Member States in conflict. The case of posting of workers

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Matthias Ruffert: European Integration – the Challenge of Mobility

Dittrich, Lars

Die Bedeutung des Rechts für die Stabilität des Geldes

One European Central Bank task is to secure price stability. What role does law play here? What can the bank do if its stipulations are not met? Which forms and limits does it oversee? Lars Dittrich develops the first theoretically-founded system of rights for monetary stability from these key questions.

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2016. XXII, 284 pages.

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cloth 74,00 €

Hartmann, Moritz

Europäisierung und Verbundvertrauen

Die Verwaltungspraxis des Emissionshandelssystems der Europäischen Union

As part of its bid to reduce greenhouse gas emissions, the European Union set up a scheme for allowance trading, based on the »cap and trade« principle, in 2005. Against this backdrop, Moritz Hartmann's comparative study examines the legal dialectics of the scheme from an EU administrative constitutionalism perspective which has its basis in the normative foundations of Europeanization.

Volume 12
2015. XVII, 389 pages.

ISBN 9783161538292
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Putzer, Max

Gerichte, Terror und Verfahren

Eine rechtsvergleichende Untersuchung zur Gewährleistung justizieller Grundrechte anhand verfassungsgerichtlicher und höchstrichterlicher Rechtsprechung in Deutschland und Israel

When democratic societies that are threatened by terrorism recalibrate the relationship between liberty and security, there tends to be an erosion of the individual's fundamental rights – not only the defendant's access to justice but also his right to a fair trial. Max Putzer undertakes an examination of the constitutional jurisprudence of Germany and Israel – in the context of their respective security cultures – in order to investigate how the tension between security interests and fundamental rights can be resolved.

Volume 11
2015. XIII, 373 pages.

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Göke, Morten

Der Einzelne im Spannungsfeld von Teleologie und Deontologie in der Rechtsprechung des EuGH

Zugleich ein Beitrag zur Folgeorientierung bei der Auslegung der Verträge



Volume 10
2015. XVIII, 481 pages.

ISBN 9783161535253
sewn paper 89,00 €

Judges are able to orientate their decision on the consequences which are attached to them or on the consequences of independent rules. Whichever system they choose, only the method according to which they make their decision, influences the position of the individual in a legal community. Morten Göke shows that on a European level, court ruling and interpretation praxis deserves to have teleology and deontology recognized as two equally essential directives in judgment making.

Stockhaus, Heidi

Regulierte Selbstregulierung im europäischen Chemikalienrecht

Eine Untersuchung der kontrollierten Eigenverantwortung für den Schutz der Umwelt unter der REACH-Verordnung

Volume 9
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The Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation is based on the concept of regulated self-regulation and therefore gives companies in the chemical industry the primary responsibility for the safety of chemicals. By referring to implementation experience gained to date, Heidi Stockhaus assesses whether the state and the European Union still fulfil their special responsibility for the protection of the environment.

Burchardt, Dana

Die Rangfrage im europäischen Normenverbund

Theoretische Grundlagen und dogmatische Grundzüge des Verhältnisses von Unionsrecht und nationalem Recht

Volume 8
2015. XIII, 383 pages.

ISBN 9783161537929
cloth 99,00 €

Dana Burchardt shows how the complex relationship between the law of the European Union and the law of its member states can be conceptualized with reference to a norm based framework. In so doing, the author addresses the central issue of the hierarchy of these legal bodies.

Rung, Christoph

Strukturen und Rechtsfragen europäischer Verbundplanungen

In many policy areas, the European Union and its Member States perform their duties jointly with the help of instruments for planning. Christoph Rung studies the solutions which have been developed for this purpose in established law. He shows their recurring structures and documents three types of cooperative planning procedures. He answers those basic legal questions which are type-specific and which generally arise in connection with the cooperative planning procedures. In doing so he makes a contribution to the constitutional and democratic order of European administrative law.

Volume 7
2013. XXVI, 469 pages.

ISBN 9783161527128
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Europäische Solidarität und nationale Identität

Überlegungen im Kontext der Krise im Euroraum

Hrsg. v. Christian Calliess

Volume 6
2013. VIII, 244 pages.

ISBN 9783161528149
sewn paper 54,00 €

European solidarity is a concept that is often referred to in the context of the sovereign debt crisis in the European Union. Solidarity has been the key to European integration and is now regarded as a constitutional principle of the European Union. The scope and consequences of this concept however remain unclear – how can it be combined with national identities and how could a European identity evolve? This book, based on the authors' contributions to the corresponding conference in 2012 at the Jean Monnet Chair for European Law at the Free University of Berlin, provides an interdisciplinary discussion of these questions.

Survey of contents

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Vorwort

Peter-André Alt: Grußwort des Präsidenten der Freien Universität Berlin – *Christian Calliess:* »In Vielfalt geeint« – Wie viel



Solidarität? Wie viel nationale Identität? Eine Einführung in das Tagungsthema – *Ingolf Pernice*: Solidarität in Europa – Eine Ortsbestimmung im Verhältnis zwischen Bürger, Staat und Europäischer Union – *Peter L. Lindseth*: European Solidarity and National Identity: An American Perspective – *Roland Bieber*: Gegenseitige Verantwortung – Grundlage des Verfassungsprinzips der Solidarität in der Europäischen Union – *Henrik Enderlein*: Solidarität in der Europäischen Union – Die ökonomische Perspektive – *Frank Schorkopf*: Nationale Verfassungsidentität und europäische Solidarität: Die Perspektive des Grundgesetzes – *Thomas Risse*: Solidarität unter Fremden? Europäische Identität im Härtesten – *Lutz Meyer*: »Brüssel ist nicht Bionade« – *Hans Michael Heinig*: Solidarität im föderalen Verbund: Rückwirkungen auf den Status des Bürgers und seiner Rechte – *Eleanor Sharpston*: European Citizenship and Social Rights? – The Views of the Advocates General and the Court – *Peter Altmaier*: Die Ergänzung der Währungsunion durch die sogenannte »Fiskalunion«: Europapolitischer Irrweg oder europäische Notwendigkeit? – *Hans H. Klein*: Die Stabilitätsgemeinschaft des Maastricht-Urteils. Aspekte zwischen »Fiskalunion« und Budgetrecht des Bundestages – *Ulrich Häde*: Rechtliche Bewertung der Maßnahmen im Hinblick auf eine »Fiskalunion« – *Bodo Herzog*: Die Zukunft Europas – Zwischen Regelbindung und Politischer Union – Autorenverzeichnis

Lippert, André

Der grenzüberschreitende Sachverhalt im Unionsrecht

Eine Analyse anhand der Rechtsprechung des Europäischen Gerichtshofs zu den Kontrollkompetenzen

Volume 5
2013. XXVI, 474 pages.
ISBN 9783161525506
cloth 119,00 €

In European Union law, the cross-border facts of a case are generally seen as imperative. When however do these exist? The European Court of Justice at any rate applies quantitative economic criteria. If however the acceptance and the democratic legitimation of European decisions are to be ensured on a permanent basis, legal criteria have to be found which consider the special structure of the European Union as an association of countries and constitutions.

Lee, Eun-Kyung

Umweltrechtlicher Instrumentenmix und kumulative Grundrechtseinwirkungen

Überlegungen am Beispiel des Energierechts

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2013. XII, 250 pages.
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The growing creativity of environmental lawmakers on the European, national and regional level has increasingly resulted in innovative regulatory structures. While the legislature is hoping for a more precise behavioral control, the basic rights of those concerned can be threatened by cumulative impacts.

Braams, Beate

Koordinierung als Kompetenzkategorie

The coordination of economic, employment and social policy in the EU is one of the areas where the EU does not act through binding Community law, but uses a non-binding multilateral surveillance procedure. Beate Braams examines this policy instrument under a legal perspective and calls for an explicit inclusion of a category of competence in the Treaty of Lisbon in order to increase the transparency and legitimacy of the coordination instrument.

Volume 3
2013. XXI, 289 pages.
ISBN 9783161527982
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Kohtamäki, Natalia

Die Reform der Bankenaufsicht in der Europäischen Union

As an answer to the financial crisis of 2008/2009, the European Union established the European System of Financial Supervision (ESFS) starting on 1 January 2011. Resulting from this development, the nationally fragmented financial supervision gained a European dimension. Natalia Kohtamäki analyzes the new institutional structure and discusses the legal questions which have arisen due to the reform.

Volume 2
2012. XVII, 249 pages.
ISBN 9783161517914
sewn paper 64,00 €

Peuker, Enrico

Bürokratie und Demokratie in Europa

Legitimität im Europäischen Verwaltungsverbund

Volume 1
2011. XIII, 303 pages.

ISBN 9783161509049
cloth 79,00 €

The democratic legitimacy of governance in the integrated European administration is insufficient. Enrico Peuker explains this deficiency and compensates for it with a theory of bureaucratic legitimacy based upon Max Weber.

