

Contents

| | |
|--------------------------------------------------------|---------|
| <i>Series editors' preface</i> | page xi |
| <i>Preface</i> | xiii |
| Prologue | 1 |
| Examining European constitutionalism | 1 |
| A relational concept of constitution | 9 |
| Constitutional law as higher law | 10 |
| Constitutional culture and constitutional theories | 15 |
| An outline of the book | 17 |
| Part I: General characteristics | |
| 1 Relationality | 21 |
| Constitutional dimensions | 21 |
| Constitutional functions | 28 |
| Transnational and national constitutionalism | 37 |
| 2 Interlude: the framing juridical constitution | 45 |
| Constituting the European legal system | 45 |
| Claiming the autonomy of European law | 53 |
| Positioning European law | 59 |
| Pre-emption as a sub-principle of supremacy | 72 |
| General principles | 74 |
| 3 Perspectivism | 78 |
| Perspectives on legal perspectivism | 78 |
| Legal diversity | 81 |
| Legal pluralism | 86 |
| European fundamental rights pluralism | 88 |
| Conflict or dialogue? | 102 |

| | | |
|----------------------------------------------------|--------------------------------------------------------------------------------|------------|
| 4 | Discursiveness | 108 |
| | Revolutionary and evolutionary constitutionalism | 108 |
| | European constitutional discourse | 112 |
| | Perspectives on constitutional discourse | 120 |
| Part II: Sectoral constitutionalization | | |
| 5 | The triumph of the microeconomic constitution | 127 |
| | Origins of a concept | 127 |
| | The process of economic constitutionalization | 136 |
| | Underlying controversies | 150 |
| | The European economic constitution and national constitutions | 164 |
| | Implications for the political dimension | 169 |
| 6 | Mutation of the macroeconomic constitution | 174 |
| | From Rome to Maastricht | 174 |
| | The Maastricht principles | 178 |
| | Underlying economic assumptions | 183 |
| | From crisis prevention to crisis management | 187 |
| | Strengthening European economic governance | 192 |
| | The new roles of the ECB | 195 |
| | The constitutional basis of the Eurozone regime | 199 |
| | Still a Union based on the rule of law? | 209 |
| | Legitimacy concerns | 217 |
| 7 | The European social constitution: between solidarity and access justice | 227 |
| | Is there a European social constitution? | 227 |
| | Why does the national welfare state have primacy? | 232 |
| | Restrictions on free movement | 234 |
| | Extension of internal market law to welfare services | 237 |
| | Welfare services for mobile workers and citizens | 243 |
| | Denationalization and deterritorialization of welfare services | 248 |
| | Consequences of macroeconomic constitutionalization | 251 |
| | Regulatory private law | 257 |
| | Two notions of justice: complementary or conflicting? | 265 |

| | |
|-----------------------------------------------------------------------|----------------|
| 8 The insecure security constitution | 269 |
| The paradox-ridden relationship between the constitution and security | 269 |
| From Trevi to Maastricht | 273 |
| The significance of Amsterdam | 278 |
| Lisbon and after | 284 |
| From state of emergency to security | 289 |
| Freedom, security and justice | 296 |
| Security and fundamental rights | 301 |
| Constitution or anti-constitution? | 312 |
| Epilogue | 319 |
| Towards a general theory of the European constitution | 319 |
| Perspectivism of legal disciplines | 340 |
| Final comment | 358 |
| <i>Bibliography</i> | 359 |
| <i>Index</i> | 373 |