Detailed table of contents

1.	Europe's Judges	1
	The origins of the Court	3
	The members of the Court and its working methods	7
	The Court of First Instance and the future of the Community	
	judicature	14
Leg	gal foundations	
2.	The jurisdiction of the Court	21
	Enforcement actions against Member States	22
	The rights and duties of the Commission	23
	The responsibilities of the Member States	26
	The effectiveness of enforcement proceedings	29
1	The action for annulment	31
	Introduction	31
	The position of the European Parliament	34
	Légitimation passive	35
	Légitimation active	36
	An assessment of the Court's case law	38
	The standing of private parties	40
	The Court takes a strict approach	41
	The Court softens its approach	42
1	The ruling in Codomiu: a false dawn?	44
	An assessment of the current position	46
	The preliminary rulings procedure	49
	Introduction	49
	Who can refer and what can be referred?	51
	The discretion conferred on inferior national courts	56
	Preliminary rulings on validity	60
	Courts of last resort	65
	The jurisdiction of the Court after the Treaty of Amsterdam	69
3.	The relationship between Treaty provisions and the national	
	laws of the Member States	75
1	The decision in Van Gend en Loos	77
	The Opinion of Advocate General Roemer	80
	The judgment of the Court	82

	An assessment of the Court's decision	84
	The direct effect of positive provisions of the Treaty	87
	The horizontal direct effect of Treaty provisions	89
	Treaty provisions not producing direct effect	91
	The doctrine of primacy	95
	The response of the national courts	100
		4.0.7
4.	The direct effect of Community legislation	106
	Direct applicability and direct effect	107
	The status of decisions and directives	110
	Grad v Finanzamt Traunstein	111
	SACE v Italian Ministry for Finance	113
	van Duyn v Home Office	115
	Nederlandse Ondernemingen v Inspecteur der Invoerrechten en Accijnzen	116
	Pubblico Ministero v Ratti	117
	Becker v Finanzamt Münster-Innenstadt	119
	Can directives have horizontal direct effect?	120
	Grasping the nettle	122
	The reasoning of the Court in Marshall	123
	Mitigating factors	126
	The duty of construction	126
	The Marleasing case	128
	Vertical cases and the duty of construction	131
	The notion of State	133
	Pressure for change	137
	The incidental effect of directives	140
	Conclusion	142
5	European rights, national remedies	143
J.	The initial phase: judicial restraint	144
	The principle of national procedural autonomy	144
	The application of the principle of national procedural autonomy	145
	A right to damages?	149
	The need for legislation	151
	The second phase: judicial interventionism	154
	An end to restraint?	154
	The right to effective protection under Directive 76/207	155
	A general right to effective protection	159
	The duties of Member States	160
		162
	Limitation periods Interim protection	
	Interim protection The principle of State liability	164 169
	The principle of State liability	
	The third phase: redressing the balance?	174

	Detailed table of contents	XVII
	The demise of Emmott	174
	Can a national court be prevented from raising points of	
	Community law of its own motion?	178
	The conditions under which State liability arises	181
	The incidental effect of the principle of State liability	184
	An assessment of the Court's current approach	187
6.	General principles of law and fundamental rights	190
	Specific principles	192
	Legal certainty	192
	Legitimate expectations	194
	Non-retroactivity	197
	Proportionality	199
1	Non-discrimination or equality	201
,	Fundamental rights	203
	The general principle of respect for fundamental rights	204
	The response of the Member States and the other institutions	209
	The Treaty of Amsterdam	217
	An assessment of the Court's contribution	219
	ostantive law	
7.	The free movement of goods	. 227
	The scope of Article 28 (ex 30)	228
	The Dassonville formula	231
	The effect of Dassonville	233
	What is a 'measure'?	237
	Article 30 (ex 36)	238
	General considerations	238
	Public policy and public security	241
	Public morality	245
	Industrial and commercial property	251
	Basic principles	252
	Specific subject matter and exhaustion	254
	The trade marks directive	259
	The importance of trade marks in the Court's case law	260
	Non-discriminatory barriers to trade and the rule of reason The relationship between the rule of reason and Article 30	262
	(ex 36)	265
	What is a discriminatory rule?	269
	Testing the limits of Article 28 (ex 30)	275
	The demise of the Dassonville formula?	282
1	The Sunday trading cases	282

	The ruling in Keck and Mithouard	286
7	What are selling arrangements?	291
	Nous ne regrettons rien	292
	Conclusion	295
8.	The free movement of workers	298
	Discrimination and the material scope of Article 39 (ex 48)	303
	The personal scope of Article 39 (ex 48)	310
	The rights of migrant workers	314
	Wholly internal situations	321
	Administrative obstacles to freedom of movement	324
	The state of the s	
9.	The right of establishment and freedom to provide services,	329
	The distinction between establishment and services	332
	Compensating for the failings of the Council: the question of direct	
	effect	335
	The beneficiaries of the Treaty	337
	The notion of a restriction on the rights conferred by the Treaty	340
	The mutual recognition of qualifications	343
	Directive 89/48	345
	Discrimination and the rule of reason	347
	Judicial restraint	354
	The Grogan case	354
	Other examples of restraint	359
		,
10.	Public policy, public service and official authority	364
	The public policy proviso	365
	Public service and official authority	370
	The response of the Member States	373
11.	The free movement of persons and services: supplementing	
	the basic principles	376
	The Treaty prohibition of discrimination on grounds of nationality	376
	Citizenship of the Union	383
	Legislative initiatives	388
	Expanding the scope of the Treaty	390
12	The law of competition	394
14.	The origins and development of Community competition law	394
	Vertical agreements	397
	The Commission's growing workload	401
	Horizontal agreements, concerted practices, and oligopolies	401
	The role of the national courts	408
	THE TOLE OF THE HALIOHAI COURTS	700

	Detailed table of contents	xix	
	Direct effect and provisional validity	408	
	The obligations of the Commission on receipt of a complaint	412	
	The importance of implementing legislation	414	
	Parallel proceedings	415	
	The territorial scope of the Treaty competition rules	417	
	The de minimis doctrine and the rule of reason	422	
	The de minimis doctrine	422	
	The rule of reason	424	
	Abuse of a dominant position	428	
	The relevant market	429	
	Dominance	430	-
	Abuse	434	
	The judgment in the Continental Can case	437	
	The procedural framework for the application of the Treaty		
	competition rules	439	
	Merger control	446	
	State aid	451	
/			
13.	Equal treatment for men and women	459	
	The legal framework	459	
	The provisions of the EEC Treaty on social policy and the		
	decision in Defrenne II	459	
	The importance of Defrenne II	462	
	Equal pay for work of equal value	465	
	The equal treatment directives	466	+
	Changes to the Treaty	468	
	The role of the Court	469	
	The material scope of the Community rules	470	
	What is pay?	470	
	The temporal effect of the Barber case	472	
	Levelling down	476	
	The relevance of actuarial considerations	477	
	An assessment of the case law	479	
	The material scope of Directive 76/207	482	
	Indirect discrimination	486	
	The general rule laid down by the Court	487	
	The application of the general rule	488	
	Pregnancy	494	
	Positive action	500	
	The social security directive	507	
	Concluding remarks	509	

The Court's general approach

14.	Methods of interpretation	515
	The drafting of Community provisions	517
	The multilingual nature of Community law	522
	An assessment of the Court's approach	525
15.	Precedent	528
	The Court of Justice	528
	The Court of First Instance	533
	An assessment	537
16.	Judging Europe's Judges	538
	The first phase: from consensus to qualified majority	539
	Making the system work	539
	Protecting the rights of individuals	542
	The second phase: from QMV to EU	544
	A reduced role for the Court?	544
	The momentum of the case law	545
	Making up for lost time	546
	Protecting the institutional balance	548
	The third phase: Maastricht and beyond	550
	Conferred powers, subsidiarity, and public opinion	550
	The Court's reaction	552
	The Treaty of Amsterdam	558
	The relationship between the Court of Justice and the national courts	
	of the Member States	559
	The legitimacy of the Court	561