

Contents

<i>Acknowledgements</i>	<i>v</i>
<i>List of Tables and Figures</i>	<i>xi</i>
1. Introduction	1
Summary	1
A. The Main Claim	1
B. The Structure	3
i. The Premise	3
ii. Contribution	4
C. The Outline	6
i. Chapter Two	7
ii. Chapter Three	7
iii. Chapter Four	9
iv. Chapter Five	9
v. Chapter Six	10
vi. Chapter Seven	11
vii. Chapter Eight	12
D. In Sum	13

PART I THE ANALYTICAL FRAMEWORK

2. Context-Conscious Judging	17
Summary	17
A. Four Perspectives on Context-Conscious Judging	17
i. Maximising Legal Values with Sound Legal Arguments	18
ii. Maximising Power with Strategic Solutions	20
iii. Maintaining Authority	23
iv. Minimising Conflict by Muddling Through	24
B. The Court's Reasoning and Power	25
3. Good Judgment	29
Summary	29
A. From Good Judging to Good Judgment	29
i. The Baseline: Model Application of Law and the Structure of Typical Justification	30
ii. Non-Binary Decisions: An Illustration	32
iii. Conflicting Interests	34
iv. Distinctions	37

B.	Three Types of Good Judgment.....	40
C.	Conclusion.....	41
4.	Operationalising Good Judgment	42
	Summary.....	42
A.	Three Steps of the Analysis	42
B.	The Parameters of Case-law	43
	i. Legal Characteristics.....	44
	ii. Case Characteristics	47
C.	Annotation	49
	i. Methodological Choices.....	49
	ii. A Note on the Role of the Researcher	51
D.	Conclusion to Part I	51

PART II

THE MECHANICS OF GOOD JUDGMENT

5.	Persons.....	57
A.	Introduction.....	57
B.	The Rules Governing the Free Movement of Persons and European Citizens.....	59
	i. Treaty Rights, Legislative Acts, and the Competence to Regulate Free Movement	59
	ii. Citizenship Rights Directive: Consolidating Legislative Instruments, Case-Law and Conflict	64
C.	Free Movement Disputes: Legal Issues	74
D.	The Parameters of Good Judgment.....	76
	i. Non-Sanctioning Europeanisation of National Policies	76
	ii. Individual Protection and Deferral of Authority in Judgments Upholding European Rights and Principles	79
	iii. Bounded Undesirable Interpretation	81
	iv. Relevant Information about Free Movement of Persons Cases	84
E.	Emblematic Judgments: A Close Up	87
	i. Non-Sanctioning Europeanisation of National Policies: <i>Groener</i>	88
	ii. Differential Upholding of European Rights: <i>Vaassen-Göbbels</i>	91
	iii. Bounded Undesirable Interpretation: <i>Blaizot</i>	94
F.	Upholding Conflicting Interests: The Long Term 1954–2022.....	97

6. Goods	100
A. Introduction.....	100
B. The Legal Framework of Free Movement of Goods.....	105
i. The Ambiguous Heart of the System	105
ii. Rights at Stake and Interests at Play in the Case-Law	110
C. Free Movement Judgments: An Overview of Legal Questions.....	112
D. The Parameters of Good Judgment.....	115
i. Non-Sanctioning Europeanisation of National Policies	115
ii. Deferral of Authority in Judgments Upholding Free Movement Rights and Principles.....	117
iii. Bounded Undesirable Interpretation	118
iv. Relevant Information about Free Movement of Goods Cases	119
E. Emblematic Judgments.....	120
i. Non-Sanctioning Europeanisation of National Policies: <i>Schmidberger</i>	120
ii. Deferential Judgment Upholding Free Movement Rights: <i>Brasserie du Pêcheur</i>	128
iii. Bounded Undesirable Interpretation: <i>The Newcastle Disease</i>	135
F. Upholding Conflicting Interests: The Long Term.....	143

PART III

THE MECHANISMS OF GOOD JUDGMENT

7. The Court as a Context-Conscious Lawmaker	149
Summary.....	149
A. Introduction.....	149
i. Main Findings.....	151
ii. Unpacking the Findings: The Roadmap	156
B. Case-Motivated Good Judgment	157
i. The Applicants.....	159
ii. The Case.....	162
iii. The Institution: Idiosyncratic Good Judgment	170
C. Context-Motivated Good Judgment	173
i. Recognising the Stakes	175
ii. Honouring Fragile Consensus.....	179
iii. Adjusting to the Climate	182
D. Alternative Tools of Context-Conscious Judging.....	185
i. Reframing Disputes.....	187

ii. Mixed Signals	190
iii. Low Stakes.....	192
E. Appraisal	194
8. Conclusion	197
A. The Argument.....	197
B. Contribution.....	202
C. Is Good Judgment a Good Idea?.....	203
<i>Bibliography</i>	205
<i>Index</i>	213