



EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis (European Monographs)

Dimitry Kochenov

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Millions of British, Dutch, French, Danish, Spanish, and Portuguese nationals permanently reside in the overseas parts of their Member States. These people, like the companies registered in such territories, often find it virtually impossible to determine what law applies when legal decisions are required. Although Article 52(1) of the EU Treaty clearly states that EU law applies in the territory of all the Member States, most Member State territories lying outside of Europe provide examples of legal arrangements deviating from this rule. This book, for the first time in English, gathers these deviations into a complex system of rules that the editor calls the ‘EU law of the Overseas’. Member States’ territories lying far away from the European continent either do not fall within the scope of EU law entirely, or are subject to EU law with serious derogations. A huge gap thus exists between the application of EU law in Europe and in the overseas parts of the Member States, which has not been explored in the English language literature until now. This collection of essays sets out to correct this by examining the principles of Union law applicable to such territories, placing them in the general context of the development of European integration. Among the key legal issues discussed are the following: internal market outside of Europe; the protection of minority cultures; EU citizenship in the overseas countries and territories of the EU; Article 349 TFEU as a source of derogations; The implications of Part IV TFEU for the overseas acquis; participatory methods of reappraisal of the relationship between the EU and the overseas; implications for the formation of strategic alliances; voting in European elections; what matters may be referred by courts and tribunals in overseas countries and territories; application of the acquis to the parts of the Member States not controlled by the government or excluded from ratione loci of EU law; interplay of the Treaty provisions and secondary legislation in the overseas; customs union; wholly internal situations; free movement of capital and direct investments in companies; the euro area outside of Europe; duty of loyal cooperation in the domain of EU external action; territorial application of EU criminal law; and territorial application of human rights treaties. Twenty-two leading experts bring their well-informed perspectives to this under-researched but important subject in which, although rules abound and every opportunity to introduce clarity into the picture seems to be present, the situation is far from clear. The book will be welcomed by serious scholars of European Union law and by public international lawyers, as well as by policy-makers and legal practitioners.

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Tara Smith:

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