Contents

List of Tables, Boxes and Figures vii

Foreword by William E. Paterson ix

Preface xi

Introduction 1

1 The Court in the European Institutional System 5
    • Composition and functioning 6
    • From international to constitutional justice 16
    • Conclusion: the birth of a constitutional jurisdiction 34

2 The Constitutionalization of the Community Legal Order 36
    Direct effect 37
    Supremacy 41
    Ensuring the effectiveness of EC law 46
    The delimitation of Community competences 56
    The protection of human rights 62
    Conclusion 66

3 The Court and the Dynamics of Integration 70
    The Court as a law-maker 71
    Integration through law 78
    The Court as a policy-maker 82
    Conclusion: the dynamics of legal integration 94

4 The Juridification of the Policy Process 97
    Gaining access to the courtroom: the saga of the European Parliament 97
    The development of judicial politics 104
    The strategic use of litigation 109
    Conclusion: judicial policy-making and its limits 114
Contents

5 The Paradox of Compliance 117
   Systemic factors 120
   The behaviour of the Court of Justice 123
   The Court and its interlocutors 135
   Conclusion: environmental factors as a determinant of judicial behaviour 146

6 The Structural Roots of Judicial Self-Restraint 148
   A retreat from activism? 148
   A new institutional context 154
   Maastricht and the threat of political overruling 162
   Judicial politics after Maastricht 169
   Integration as disintegration 173
   Conclusion 176

7 Conclusion: The ECJ as an Integration Catalyst 177
   The ECJ as a strategic actor 178
   Looking at the future 179
   The dangers of constitutionalization 185

Appendix A: Table of Equivalence between the Former and the Renumbered Versions of the Treaty on European Union 187

Appendix B: Table of Equivalence between the Former and the Renumbered Versions of the Treaty Establishing the European Community (The EC Treaty or Treaty of Rome) 188

Guide to Further Reading 193
Bibliography 195
Index of Cases Cited 202
General Index 206