

Part I Basic Principles

1 Principles of an Economic Analysis of Public Law	3
1.1 A Study of Law from Outside the Legal Field: Functions and Orientation of an Economic Analysis of Law	4
1.1.1 Economic Analysis of Law: An Introduction	4
1.1.2 Economic Analysis of Public Law and Related Sciences . .	6
1.2 Theoretical Concepts	10
1.2.1 Basic Methodological Principles	10
1.2.2 Methodological Foundations of the Economic Analysis of Law	17
1.2.3 The Theory of Market Failure	32
1.3 Summary	52
References	52
2 State and Constitution	59
2.1 Principles of an Institutional Economics of the State and Constitution	60
2.2 Normative Constitutional Theory in the Form of Contract Doctrine	61
2.2.1 An Interpretation of Constitutional Democracy Based on Contract Theory	62
2.2.2 Forms of Government as a Subject of Economic Theory . . .	65
2.2.3 Economic Theory of Democracy	66
2.3 Functions of the State	81
2.3.1 Management of Institutions	82
2.3.2 Typological Overview of State and Government Functions (Fields of Action)	83
2.4 State Structure (Specifically Federalism)	88
2.4.1 The Question of Who Should Control the State: Separation of Powers (Horizontal)	89
2.4.2 Federalism: Separation of Powers (Vertical)	91
2.5 Open Statehood	101
2.5.1 The Need to Open Up the State to the Outside World	101

2.5.2	Principles of International Cooperation Between States . . .	102
2.5.3	Questions on the Content of International Law	109
2.6	Summary	111
	References	112
3	Economic Theory of Institutions and Organisations	119
3.1	Basic Principles	119
3.1.1	The Importance of Organisations	119
3.1.2	Approaches in Organisational Theory	120
3.2	Key Topics in Organisational Economics	122
3.2.1	Freedom and Restrictions in the Formation of Organisations	122
3.2.2	Decision-Making, Distribution and Control Problems in Organisations	123
3.2.3	External Relationships	123
3.2.4	Regulatory Challenges Related to Internal and External Relationships	124
3.3	Types of Organisations	125
3.3.1	The Firm	125
3.3.2	Interest Groups	131
3.3.3	The Media	135
3.3.4	Parties	140
3.4	Summary	145
	References	145
4	Theory of State Decision-Making	149
4.1	Decision-Makers	149
4.1.1	Politicians	150
4.1.2	The Administration (Bureaucratic Theory)	151
4.2	Regulation	158
4.2.1	Key Concepts	159
4.2.2	Capture Theory and Interest Groups	160
4.2.3	Legal-Impact Research	161
4.2.4	'Good Governance'	164
4.3	Summary	165
	References	166

Part II Focus Areas

5	Public Finance	171
5.1	State Budget	171
5.2	Government Spending	172
5.2.1	Normative Determination of the Optimal Government Share	172
5.2.2	State Decisions on Government Spending	174

5.3	Government Revenue	180
5.3.1	Taxes and Fees	182
5.3.2	Government Debt	197
5.4	Public Finances Under Federalism	210
5.4.1	Basic Principles	210
5.4.2	Spending Power	211
5.4.3	Revenue Powers, Especially Tax Sovereignty	212
5.4.4	Transfer Payments and Fiscal Equalisation Schemes	215
5.4.5	Macroeconomic Responsibility	216
5.5	Summary	216
	References	217
6	Public Economic Law	223
6.1	Basic Principles	223
6.1.1	General Economic History	223
6.1.2	Constitutional and European Legal Framework for Economic Policy	224
6.1.3	Topics in Legal Economics	225
6.2	State and Competition	227
6.2.1	Guarantee of Effective Competition Between Private Parties	227
6.2.2	State Activities Related to Competition	229
6.3	Economic Regulation	247
6.3.1	Basic Principles	247
6.3.2	Macroeconomic Policies (Business Cycle or Economic Stabilisation Policy)	248
6.3.3	Natural Monopolies and Options for State Regulation	251
6.3.4	Traditional Economic Oversight and Regulation	256
6.4	International Economic Relations and the Global Economic Constitution	257
6.4.1	Basic Principles	257
6.4.2	International Trade Law	259
6.5	Summary	266
	References	267
7	Environmental Economics	273
7.1	Principles of Environmental Economics	273
7.1.1	Market Failures in an Environmental Context	273
7.1.2	The Coase Theorem (Exchange and Negotiated Solutions)	275
7.1.3	Valuation of Environmental Damage	277
7.1.4	Evaluation Criteria for Environmental Policy	285
7.2	Environmental Policy Measures	287
7.2.1	Environmental Regulatory Law ('Direct Regulation', 'Command-and-Control Law')	288

7.2.2	Environmental Liability	291
7.2.3	Environmental Taxes and Charges	295
7.2.4	Financial Support Programmes	300
7.2.5	Environmental Certificate Trading	302
7.2.6	Informal Instruments of Environmental Policy	309
7.3	Instrument Variety and Instrument Mix	315
7.4	International Aspects of Environmental Policy	321
7.4.1	Dilemma Structure of Global Environmental Problems	321
7.4.2	Unilateral Measures by States	322
7.4.3	International Cooperation	323
7.4.4	Climate Policy as an Example of International Cooperation	324
7.5	Summary	330
	References	331