

# The Rule of Law's Anatomy in the EU

*Foundations and Protections*

Edited by  
Allan Rosas  
Juha Raitio  
and  
Pekka Pohjankoski

• H A R T •

OXFORD • LONDON • NEW YORK • NEW DELHI • SYDNEY

# *Contents*

<i>Acknowledgements .....</i>	<i>v</i>
<i>List of Contributors .....</i>	<i>ix</i>

1. *Introduction: The Rule of Law's Anatomy in the EU .....* 1  
Allan Rosas, Juha Raitio and Pekka Pohjankoski

## PART I FOUNDATIONS

2. *Democracy and the Rule of Law: Odd Bedfellows or Siamese Twins? .....* 11  
Allan Rosas
3. *The Rule of Law and the EU: Responsibility, Independence and Rights .....* 29  
Paul Craig
4. *Illiberal Democracy and Rule by Law from an EU Perspective .....* 45  
Sanja Bogojević and Xavier Groussot
5. *The Rule of Law and Legal Certainty .....* 59  
Juha Raitio
6. *The Primacy of the Rule of Law and Member States' Constitutional Identities .....* 73  
Leonard FM Besselink
7. *EU Minimum Requirements for Judicial Independence and Impartiality as Interpreted by the European Court of Justice .....* 89  
Niilo Jääskinen

## PART II PROTECTIONS

8. *An Active EU Rule-of-Law Policy.....* 105  
Werner Schroeder
9. *Acting Before it is Too Late: Promoting Democracy and the Rule of Law in the Member States of the EU .....* 123  
Paul Nemitz

10. <i>Infringement Proceedings as a Tool for Enforcing the Rule of Law in EU Member States – A Critical Review .....</i>	139
Joni Heliskoski	
11. <i>Of Carrots and Sticks: Constitutional Limits to Rule-of-Law Conditionality .....</i>	157
Pekka Pohjankoski	
12. <i>Tackling EU Conditionality with the Hungarian Legal Manoeuvres.....</i>	171
Katalin Miklóssy	
13. <i>Promoting the Rule of Law in EU External Relations: A Conceptual Framework .....</i>	189
Inge Govaere	
14. <i>The EU’s Magnitsky Act: An Innovative Tool Fit for the Enforcement of Human Rights and Rule of Law Worldwide?.....</i>	207
Steven Blockmans	
Annex: <i>A Declaration on the Rule of Law in the European Union – Helsinki Rule of Law Forum .....</i>	223
Index .....	227