co-decision 8, 217, 218, 222, 224–8, 235, 236

codes of conduct 26, 27–8

correlation 185–6, 187, 188; see also tight regulation

Cohesion Fund 134, 136, 137–40


commitment and control of resources 87

Committee of the Regions 134


Communitarization 10–11, 17, 201

Community method, see supranational governance

competence creep 32–3 level of 211–15, 223–4 treaty-based competences, see treaty-based competences competition 210, 211–15

Index

criminal law cooperation 182, 183, 188, 199, 200, 201
crisis management operations 157, 158–9, 162, 163–4, 165, 172
critical analysis 55–6
customary law 154, 155
customs cooperation 188
Czech Republic 140, 141, 142
decentralization 145, 146
decision-making procedures 105–6, 158, 211–15
environmental policy 117–19, 123
legal architecture 8, 217–24, 235
living architecture 224–30, 235
social policy 110–12, 123
see also under individual procedures
decisional instruments 25–6
decisions 107
JHA framework regulation 186–7
living architecture of the EU 230–35, 235–6, 237
declarations 107
defensive over-bureaucratization 143–4
Delors, J. 108
democracy 143
democratic accountability 204–5
principle of 39–40
Democratic Republic of Congo (DRC) 163–4
Denmark 183
differentiation 6–7, 8, 18
JHA domain 183
directives 24, 36, 107
environmental policy 119–22
JHA framework regulation 186–7
living architecture of the EU 230–35
social policy 113–15
Directorates-General (DGs) 66
discursive regulatory mechanisms 55–6, 60
diversity of JHA policy fields 182–3
dynamics of change 215–37
East–West relations 151
Eastern enlargement 135–42
economic integration 83, 89
Economic and Monetary Union 134
education/training policy 64–5
eEurope 2002 76
effectiveness
governance in the JHA domain 203–4
soft law as a new mode of governance 37–8
efficiency 143
governance in the JHA domain 203, 204
emergence of modes of governance 9–11
cohesion policy 135–42, 143, 146–7
justice and home affairs 181–4
multi-dimensional and multi-level approach 80, 83–7
soft law 25–32
emission-based standards 124–5
empirical observation 54–5
employment policy 64–5
enlargement of the EU 44
Northern 133
Southern 133
terprise policy 64–5
environmental policy 3, 8–9, 12–13, 14–15, 103–4, 107–8
comparison with social policy 122–7
modes of governance 116–22
interest intermediation 116–17, 122–3
legal instruments 119–22
modes of interaction 117–19, 122
Estonia 137
EU-ACP Cooperation 163
EU system, evolution of 16–19
EU Treaty 24
EUFOR RD Congo 163–4
Eurojust 194
European Capabilities Action Plan (ECAP) 165
European Commission 213
CFSP finance 161–3
‘A concerted strategy for modernising social protection’ 81–2
legal acts in the CFSP 159, 160
role in Pensions OMC 92–3
European Committee for Standardization (CEN) 28–9
Index

European Council 9, 10, 12, 15–16
EDA 166–7
ESDP/CSDP 157
Tampere 195–6
European Court of Justice (ECJ) 36, 112–13, 119, 133
European Defence Agency (EDA) 166–7
European Defence Community (EDC) 150
European Economic Community (EEC) Treaty 110, 117
European Employment Strategy (EES) 30, 60
European Environmental Agency 117–19
European External Action Service 157
European integration, see integration process
European Parliament (EP) 213
CFSP finance 161–3
democratic accountability and the JHA domain 204–5
participation in legislation 8, 217–19, 221–4, 235, 236
procedures and living architecture 224–8, 236
soft law 22, 39–40, 44
European Police College (CEPOL) 194, 195, 200
European Political Cooperation (EPC) 149–55, 156, 168
motivations for creating 151 phase model 153–4
as the run-up to the CFSP 149–52
European Regional Development Fund (ERDF) 133
European Research Area (ERA) 75–6
European Security and Defence Policy (ESDP) 10, 13, 156, 157, 163–6, 172, 214
finance 163, 164
source of innovation 172
Europeaization 34–5, 150, 214
Europol 194, 200
evaluation of modes of governance 14–16
cohesion policy 142–5
justice and home affairs 203–5
soft law 37–43
evolution of modes of governance 11–14
CFSP 167–71
cohesion policy 133–5, 143–4
justice and home affairs 195–203
soft law 34–7
execution of new modes of governance CFSP 158–67
soft law 32–4
extensions of legal acts
economic policy 119–22
social policy 113–15
external division of powers 39, 40–41
external governance 187, 188, 193, 196
extra-Community coordination 68, 69–70
Falkner, G. 37, 54, 185
family structure 88
financial standards 28–9, 36
financial strains 88
financing the CFSP 161–4
fiscal surveillance 64–5
flexibility 150
Fouchet plans 150
fragmentation 6–7
framework regulation 185, 186–7, 188, 202
trends in use 196–201
Frontex 194, 202
functional target-setting 190
‘garbage can’ model 85
gatekeeper, state as 143–4
Genscher–Colombo initiative 153
Germany 125, 154
governance 4, 103, 104–5, 181
modes of, see modes of governance; new modes of governance
governamental 60
graduated normativity (continuum view) 22–3
green papers 26
Gulf War 154
habits 154, 155
hard law 23, 29, 107
complementarity of soft law and 35–6
environmental policy 119–22
social policy 113–15
see also binding instruments
haunting centralization 143
Headline Goal Task Force 165
Helsinki Force Catalogue 165
Héritier, A. 181
hierarchical direction 106
hierarchy 210, 211–15, 235, 236
High-level Working Group 82
High Representative for the CFSP 157
Hooghe, L. 135
horizontal issues 188, 200–201
Hungary 140
hybridization 13, 14, 18, 171–2
JHA 201–3
immigration policy 64–5, 71, 188, 199, 200–201
independence of the judiciary 39, 41
indicators 65, 66–7
information 217, 218, 222
informative communications 25
informative instruments 25
instability 143–4
institutional balance 39, 40
institutional factors 85–6
Pensions OMC 89–91, 97
institutional soft law 25–6
institutionalism 168–70
new 83–5
institutionalization
CFSP 150, 153–5, 168, 170
of coordination processes 9, 67–8, 69
EU governance in the JHA domain
193–5
integration process 16–18, 43–4
national governments’ preferences
126–7
vs national welfare states 89–91
OMC and 59
integrative spiral 6, 17
interaction, modes of, see modes of interaction
interest intermediation 103, 105
environmental policy 116–17, 122–3
social policy 108–10, 122, 123
intergovernmental conferences (IGCs)
16–17
intergovernmentalism 5, 18
CFSP 3, 168, 169, 170, 171, 172
emergence of new modes of governance 83–5
intergovernmental negotiation as mode of interaction 106, 110–12, 117
legal architecture of the EU 214, 221–3
renewed 44
interinstitutional agreements 21, 26
17 May 2006 161–3
Better Lawmaking 27
interinstitutional communications 25
internal market programme 88, 123–4, 134
International Financial Reporting Standards (IFRS) 29, 36
international law 44
International Monetary Fund (IMF) 69–70
interpretative instruments 25–6
Ireland 125, 183
Italy 15, 95–6
Jacobsson, K. 30–31, 55
joint actions 156, 158, 159
joint decision-making 106, 110–12, 117, 213–14, 221–3
Joint Report on Objectives and Working Methods 82
judicial cooperation
in civil matters 182
in criminal matters 183, 199, 200, 201
judicial independence 39, 41
judicial review 204
justice and home affairs (JHA) 3, 8, 10–11, 13–14, 15, 180–209
diversity of JHA policy fields 182–3
emergence of modes of governance 181–4
evaluation of EU governance 203–5
evolution trends of EU governance 195–203
main types of EU governance
185–95
Index

sensitivity of JHA policy fields 181–2
strong operational dimension 183

Kingdon, J.W. 85
Kosovo crisis 159
Kyoto Protocol 42–3

labour market 88
Latvia 137
law-plus functions 35–6
left-of-centre governments 91–2, 94
legal architecture 3–4, 6, 7–9, 16–17, 213
modes of governance in 216–24, 235–7
legal instruments/output 107, 211–15
CFSP 158–61, 172
environmental policy 119–22
JHA 183
social policy 113–15, 122
types and living architecture 230–35, 235–6, 237
see also binding instruments; hard law; non-binding instruments; soft law
legalization 154–5, 168
legitimacy 143
governance in the JHA domain 204–5
of soft law as a new mode of governance 39–43
Lisbon strategy 10, 12, 55–6, 71–4, 74–5
Lisbon Treaty 1–2, 7, 8, 18, 19, 204–5, 236
CFSP 157–8, 170–71
coordination 214–15
legal architecture of the EU 217–24
OLP 11, 213, 217, 222, 235
OMC 9, 58, 69
Lithuania 137
living architecture 3–4, 7–9, 17, 213
modes of governance in 216–17, 224–37
London Report 152–3, 155
Lowi, T.J. 85
Luxembourg Agreement 26–7
Luxembourg/Davignon Report 152
Maastricht Treaty 8, 81
CFSP 152, 154, 155, 158
cohesion policy 134
living architecture of the EU 230–33, 236
population ageing 89–90
macroeconomic policy 64–5
coordination 89–90
majority voting 106, 156, 213, 219–20, 221, 222
qualified, see qualified majority voting (QMV)
Managing Authorities (MAs) 137–8
market 210
procurement and defence equipment market 166–7
Mayntz, R. 106
member states 15
and EU social and environmental policy 124–5, 126
financing of CFSP 163, 164
national welfare states vs European integration 89–91
new, see new member states
role in Pensions OMC 93–6
soft law 26–7
see also national governments
Middle East conflict 151
mixed modes of governance 132, 211–13, 216
mixed public–private acts (co-regulation) 27–8, 32, 33–4
modes of governance 4–5, 181
categorizations 210, 211–15
dimensions 103, 104–8
emergence, see emergence of modes of governance
evaluation, see evaluation of modes of governance
evolution, see evolution of modes of governance
forging 7–9
hybridization 13, 14, 18, 171–2, 201–3
mixed 132, 211–13, 216
new, see new modes of governance
modes of interaction 103, 105–6
environmental policy 117–19, 122
social policy 110–13, 122
monitoring committees (MCs) 139–40, 142
multi-dimensional and multi-level approach 80, 83–7
Pensions OMC 87–96, 97

national governments 15
European integration vs welfare states 89–91
integration preferences 126–7
and JHA domain 181–2, 191
and social and environmental policy 124–5
see also member states
national strategy reports (NSRs) 82
negotiation 106, 210, 211–15
neo-functionalism 83–5, 89
neo-institutionalism 83–5
neoliberalism 60
network 210
policy networks 105, 109–10, 116
new member states 145–7, 183
emergence of new modes of governance 135–42
evaluation of new modes of governance 143–5
phases and new modes of governance 146–7
new modes of governance 5–7, 215–16
characteristics 21–2
OMC and 53–4, 57–61
Nice Treaty 8, 134, 221, 222, 223
types of legal acts of secondary legislation 231–2, 233, 234
non-binding instruments 13, 53–4, 201
environmental policy 119–22
living architecture of the EU 230–35
pre-Lisbon coordination initiatives 56
social policy 113–15
see also opinions; recommendations; soft law
non-governmental organizations (NGOs) 33, 140, 141, 142
non-state actors 33–4
norms 22–3
Northern enlargement 133
Nuttall, S. 153
ongoing regionalization 143–4
Open Method of Coordination (OMC) 2–3, 5, 8, 9, 17, 22, 52–79, 214
analytical table of OMC policy processes 62–6
comparing and classifying OMC policy processes 66–8
competitiveness fostering 60–61
complementary to the Community method 58–9
in Council press releases 71–4
current academic acquis 56–7
evaluation 14, 15, 74–6
instruments 64–5, 66–7
legacy of 75–6
levels of institutionalization 9, 67–8, 69
Lisbon strategy 10, 12, 55–6, 71–4, 74–5
methodological approaches 54–6
and new modes of governance 53–4, 57–61
Pensions OMC, see Pensions OMC as policy response 59–61
political experimentation 68, 70–71, 74–5
proliferation 12, 68–71, 74–5
social policy 61, 123
soft law as a core element of 29–31
substitutive of the Community method 57–8
welfare fostering 61
operational measures 183
opinions 24, 230; see also non-binding legal instruments
ordinary legislative procedure (OLP) 11, 213, 217, 218, 222, 235
Organisation for Economic Co-operation and Development (OECD) 69, 87
para-law functions of soft law 37
parliamentary participation 8, 217–19, 221–4, 235, 236
parliamentary procedures 224–8, 236
partnership principle 134, 135
new member states and 140, 141, 142, 143, 146–7
initial weaknesses 144–5
Index

peer reviews 65, 66–7
Pensions OMC 3, 14, 15, 80–102
institutional factors 89–91, 97
launch and first implementation 81–3
political factors and the role of national and European entrepreneurs 91–6, 97
socioeconomic factors 87–9, 97
performance measurement 60–61
permanent structured cooperation 158
pillar structure, see three-pillar structure
pluralism 105, 116
Poland 136, 140, 141, 142, 153
police cooperation 182, 188, 200
policy convergence capacities 53–4
policy expansion 16
policy failures 10
policy goals 32–4
policy instruments 103, 107; see also legal instruments
policy networks 105, 109–10, 116
policy processes
analytical table of OMC policy processes 62–6
comparing and classifying OMC policy processes 66–8
policy response, OMC as 59–61
political entrepreneurs 80–81, 86–7
Pensions OMC 92–6, 97
political events 91–2
political experimentation 68, 70–71, 74–5
political factors 85–6
Pensions OMC 91–6, 97
Political and Security Committee (PSC) 159
population ageing 87–8
positive welfare 94
pre-law functions of soft law 34–5
preparatory instruments 25
presidency conclusions 72, 74
pressure for EU conformity 143–4, 146–7
private soft law 27–9
alleviation of private actors’ lack of formal law-making capacity 33
legitimacy problems of 41–3

see also co-regulation; self-regulation; standard-setting
process standards 125–6
product standards 125–6
programme target-setting 190
programming 138–9, 145–6
project selection 139
promoting function of soft law 35
Putnam, R.D. 85
qualified majority voting (QMV) 8, 134
environmental policy 117, 118
legal architecture of the EU 219–20, 221, 222
living architecture of the EU 228–30
social policy 110, 111
Quintin, O. 92–3
Radaelli, C.M. 57
ratchet fusion 16–19, 168, 169
recommendations 24, 36, 107, 230; see also non-binding legal instruments
regional policy 133, 145
new member states 136–7
regulation policy (better regulation) 64–5
regulations 107
environmental policy 119–22
living architecture of the EU 230–35, 235–6, 237
new member states and cohesion policy 136
social policy 113–15
resolutions 107
Rhodes, M. 53, 55, 83
Royal Society for the Protection of Birds 117
Sabel, C.F. 59
Scharpf, F.W. 106
Schengen arrangements 183
Scott, J. 21–2
self-regulation 27–8, 38
Shelton, D. 22–3, 31
Single European Act 1986 (SEA) 117, 133, 152, 154
Slovakia 140
slow gradualism 144–5
Index

Smith, M.E. 154–5, 170
Social Dialogue 28
social partners 108–10, 140–41, 146, 147
social policy 3, 8–9, 12–13, 14–15, 22, 103–4, 107–8
comparison with environmental policy 122–7
modes of governance 108–15
interest intermediation 108–10, 122, 123
legal instruments 113–15, 122
modes of interaction 110–13, 122
OMC and 61, 123
social policy agencies 112
Social Protection Committee (SPC) 82
Social Protocol 108–9
socialization 168, 214
socio-economic factors 85–6
Pensions OMC 87–9, 97
soft law 2, 8, 21–51, 107
concepts 22–4
as a core element of the OMC 29–31
effectiveness as a new mode of governance 37–8
environmental policy 119–22
evaluation 37–43
evolution 34–7
explanations for its emergence as a new mode of governance 31–2
legitimacy as a new mode of governance 39–43
social policy 113–15
typology of EU soft law 25–9
undeclared policy goals of EU soft law 32–4
see also non-binding instruments
Solemn Declaration of Stuttgart 153
Southern enlargement 133
sovereignty 33, 132
sensitivity of JHA policy fields 181–2
Soviet Union, disintegration of 154
spillover 83, 86, 89
Stability and Growth Pact (SGP) 63, 64–5, 89–90
standard-setting 28–9, 36, 41–3
steering instruments 26
strategic orientations 87, 92–3, 94
Structural Funds 133, 136, 137–40, 141, 145
structural policy 134, 138–9, 145
substitution between OMC and the Community method 57–8
supranational centralization 106, 112–13, 117–19
supranational decision-making 5, 213, 221–3
supranational governance (Community method) 5, 6–7, 9–10, 17–18
CFSP 169, 170
environmental and social policy 122–3
evolution of modes of governance 13–14
legal and living architecture of the EU 8, 221–3, 235, 236
OMC as complementary to 58–9
OMC as substitute of 57–8
Sustainable Development Policy (SDP) 63
Taliban 159, 161
Tampere European Council 195–6
target setting
JHA domain 185, 187, 188, 190–91, 202, 204
trends in use 196–201
OMC 65, 66–7
taxation policy 64–5
technical standard-setting 28–9
territoriality 181–2
three-pillar structure 156
First Pillar 184, 200–203
JHA and
blurring of the pillar structure 201–3
divide between the First- and Third-Pillar fields 184, 200–201
Second Pillar 13, 156
see also Common Foreign and Security Policy (CFSP)
Third Pillar 13, 184, 200–203
tight regulation 185–6, 202
trends in use 196–201
time, and mapping OMCs 68, 69
Index

Tömmel, I. 210
training/education policy 64–5
transgovernmental governance 214, 221–3; see also intergovernmentalism
transnational corporations (TNCs) 33, 42
transparency 39, 40
treaty-based competences
environmental policy 117–19, 123
social policy 110, 111, 123
treaty-based ladder 16–17
treaty basis of OMCs 63, 64, 68, 69
Treaty on the Functioning of the European Union (TFEU) 24
Treib, O. 185
Trubek, D. 21–2
ultra vires soft law 34–5
unanimity 110, 111, 117, 118
legal architecture of the EU 219–20, 221, 222
living architecture of the EU 228–30
Unfair Commercial Practice Directive 28
unilateral action 106
Unit for the Evaluation of Pension Spending 96
United Kingdom (UK) 124, 125, 154, 183
Val-Duchesse social dialogue 108
Vandenbroucke, F. 93–5
visa policy 188, 198–9
volume of activity 195–6
voluntarism 53–4, 192; see also convergence support voluntary environmental agreements (VEAs) 28
welfare
fostering 61
positive 94
welfare states 61
active welfare state 94
and EU social policy 124
European integration vs national welfare states 89–91
Wessels, W. 168, 169
Western Europe Armaments Group 167
Western European Union (WEU) 156
white papers 26
windows of opportunity 80, 85–7, 91–2
workfarism 61
World Wildlife Fund 117
Yugoslavia, break-up of 154
Zeitlin, J. 59