

Brokering Europe

Euro-Lawyers and the Making of a
Transnational Polity

Antoine Vauchez



CAMBRIDGE
UNIVERSITY PRESS

Contents

<i>Series Editors' preface</i>	page x
<i>Acknowledgements</i>	xi
Introduction	1
Part I Unity through law: inventing Europe's 'integration programme'	
1 Three Treaties, one Community: institution-building and legal strategies to unify Europe	19
Claiming objectivity: the European Commission and the guardianship of the Treaties	22
The constitutional doctrine of Professor Hallstein	24
A ministry of law	28
Europe's political laboratory: the European Parliament and the building of a collective expertise in institutional reform	35
The politicians of the law	37
Euro-parliamentarism and the institutional unity of Europe	42
A supreme court? The European Court and its constitutional doctrine	44
The impossible Court of Justice	45
A contested interpreter	49
Judicializing the Court	51
A supranational market? Euro-lawyers and Europe's economic constitution	56
Brussels as a new marketplace	58

Euro-lawyers as corporate brokers	63
Conclusion	70
2 The force of a weak field: the transnational field of European law and the formation of Europe's polity	72
The genesis of a transnational legal field	73
State knowledge and European heresies	73
Academic and judicial endorsement	80
A field at the crossroads of Europe	91
A functional decoupling	92
Caesurae and censorings at the national level	95
Proximities and exchanges under the aegis of European law	99
Professionals of European interdependence	103
Legal cosmopolitans	104
National brokers of Europe	108
3 The 'Van Gend en Loos moment'	116
Between predictions and hindsight: the making of a landmark decision	118
Mobilizing for judicial fiat	119
A polysemous decision	122
Judicial ventriloquism: Van Gend en Loos and its legal entrepreneurs	124
Manufacturing content: Van Gend en Loos and its 'implications'	127
Debating the 'logic' of the European Treaties	129
Dramatizing the stakes	130
Politicizing the issue of the legal logic of the European Treaties	133
Europe's integration programme	140
A new common sense	140
A Community of law	144
 Part II Jurisprudence, code, constitution: Europe's building blocks in the making	
4 'Jurisprudence': transnational esprit de corps and the Court's perpetual momentum	151
Perpetuating the founding fathers' spirit	155

A precarious setting	155
The commemorative undertaking	158
The making of jurisprudence: the Court's invented tradition	161
Stratifying and profiling the Court	165
The founding fathers: the Court's spokesmen and putative heirs	165
Paths of European judicial glory	168
5 'Code': the formation of the <i>acquis communautaire</i> and the legal objectification in Europe	172
Calculating Europe	174
A legal artefact	175
Europe's corpus juris	180
A common platform for Europe's polity	185
Shaping jurisprudence	185
Monitoring implementation	188
Envisioning political unity	191
Representing Europe	194
6 'Constitution': the fragmentation of the Treaties and Europe's constitutional fetishism	198
The constitutionalist push	201
The academic <i>aggiornamento</i> and the 'constitutionalization of Europe'	202
The rationalizing pressure of EU jurisconsults	206
The European Parliament's constitutional strategy	213
A shared assumption? The 'need' for a European Constitution	217
A common constitutional ethos	217
Constitutionalizing Europe	221
Conclusion: <i>constitutio non moritur!</i>	230
<i>Bibliography</i>	232
<i>Index</i>	258