

RES JUDICATA

IN EUROPEAN UNION LAW

A MULTI-FACETED PRINCIPLE IN A MULTILEVEL JUDICIAL SYSTEM

CONTENTS

ACKNOWLEDGEMENTS	p. ix
LIST OF ABBREVIATIONS	p. xi
A NOTE ON TRANSLATION	p. xiii
CHAPTER 1. Introduction	p. 1
1.1. A short introduction to res judicata	p. 1
1.2. Introduction to the following chapters	p. 7
Chapter 2. The Specific Nature of Res Judicata in the EU Legal System	p. 11
2.1. The sources and origins of res judicata in EU law	p. 11
2.2. The nature of res judicata in EU law	p. 18
2.3. The scope of res judicata in EU law	p. 20
Chapter 3. The Constitutional Basis for Res Judicata in EU Law	p. 27
3.1. Legal certainty: res judicata as a guarantee for stability within the legal system	p. 28
3.1.1. Legal certainty as the basis for the EU's doctrine of res judicata	p. 28
3.1.2. Legal certainty and the EU law rules protecting res judicata	p. 31
3.2. Fundamental rights: res judicata as a guarantee for the rights of litigants	p. 35
3.2.1. Res judicata as a tool to ensure the judicial protection of litigants	p. 35
3.2.2. Res judicata and effective judicial protection in EU law	p. 38
3.2.3. Res judicata and ne bis in idem	p. 41
Chapter 4. National Res Judicata in the Judicial System of the EU	p. 45
4.1. National res judicata in the EU judicial system	p. 46
4.1.1. National res judicata in the preliminary reference procedure	p. 46
4.1.2. National res judicata and the enforcement of EU law	p. 49

4.2.	National res judicata and exceptions to procedural autonomy	p. 53
4.2.1.	A recognition of the importance of res judicata in national legal orders	p. 54
4.2.2.	Restrictions of res judicata justified by effectiveness.	p. 60
Chapter 5.	Res Judicata as a Basis for Inadmissibility	p. 65
5.1.	Preclusion: the traditional function of res judicata	p. 66
5.1.1.	The introduction of the negative function as the core of res judicata in EU law	p. 66
5.1.2.	The identification of res judicata within the decisions of EU Courts	p. 68
5.1.3.	The procedural conditions for the enforcement of the objection of res judicata before EU Courts	p. 73
5.1.4.	Other manifestations of the negative function of res judicata before EU Courts	p. 76
5.2.	The three criteria of identity	p. 78
5.2.1.	The first requirement: identical parties.	p. 79
5.2.2.	The second and third requirements: identical disputes.	p. 83
Chapter 6.	Res Judicata as a Form of Evidence.	p. 89
6.1.	The varied functions of res judicata in EU procedural law.	p. 89
6.1.1.	To ensure the stability of legal relationships	p. 90
6.1.2.	To manage relations between legal orders	p. 93
6.2.	Pleas based on violations of res judicata.	p. 96
6.3.	Res judicata and exceptional review procedures.	p. 100
6.3.1.	The revision of judgments	p. 100
6.3.2.	Third-party proceedings	p. 103
Chapter 7.	Res Judicata and Judicial Review	p. 107
7.1.	The concept of ‘absolute’ res judicata in EU law	p. 108
7.2.	The extended scope of res judicata of annulment judgments	p. 110
7.2.1.	The scope of absolute res judicata in EU law.	p. 110
7.2.2.	Res judicata and the dismissal of actions for annulment	p. 117
7.3.	Res judicata and objections of illegality	p. 121
Chapter 8.	Res Judicata and Preliminary References	p. 127
8.1.	The role of res judicata in preliminary references as a multilevel procedure	p. 128
8.2.	Res judicata and the impact of preliminary rulings on other courts	p. 133
9.	CONCLUDING REMARKS	p. 139
TABLE OF CASE LAW		p. 145
1.	COURT OF JUSTICE	p. 145
2.	ADVOCATE GENERAL OPINIONS AND VIEWS.	p. 158

CONTENTS

3. GENERAL COURT..... p. 163
4. CIVIL SERVICE TRIBUNAL..... p. 172
BIBLIOGRAPHY..... p. 175