

# 1999 INDEX

- Article 90 EC Treaty, 387–404
  - activities connected with traditional *jus imperii* of public authority, 392–393
  - aims of general interest covered, 392–397
  - application of principles to specific cases, 392–397
  - cases within public interest, 394–397
  - content of exclusion, 389–402
  - decisive factors, 390–392
  - irrelevant factors, 389–390
  - limits, 397–402
  - limits of exclusion, 389–402
  - non-ancillary activities of same body not excluded, 400–402
  - possible overlap with exclusion granted by court, 397–400
  - scope, 387–404
- Asylum and immigration in the European Union, 91–124
  - Article 39: role of European Parliament, 105–106
  - criticism, 108–121
    - closer cooperation, notion of, 113–118
    - conceptual relationship between First and Third Pillars, 120–121
  - First Pillar, 109–110
  - procedure, 108–120
  - Schengen Protocol, 118–120
  - substantive issues, 120–121
  - Third Pillar, 110–113
- First Pillar, 93–101
  - Article 68: Court's jurisdiction, 99
  - Article 69: the Protocols, 99–101
  - procedure applicable under Title IV, 96–99
  - substantive scope of new Title IV, 94–96
- procedural changes, 93–108
- proposals, 122–124
  - First Pillar, 122
  - provisions on closer cooperation, 123
  - Schengen Protocol, 123
  - Third Pillar, 122
- Schengen Protocol, 106–108
  - British position, 108
  - Danish position: flexibility within flexibility, 107
  - developing *acquis*, 107–108
  - integration of *acquis*, 106
  - Irish position, 108
- substantive changes, 93–108
- Third Pillar: new Title VI, 101–105
  - Court's jurisdiction, 104–105
  - procedure applicable, 102–104
  - substantive scope, 101–102
- Treaty of Amsterdam, after, 91–124
- Austria, 481–491
  - association, 484–485
    - definition, 484
    - dissolution, 484–485
    - formation, 484–485
    - legal personality, 485
  - electoral party, 485–486
    - definition, 485–486
    - dissolution, 486
    - formation, 486
    - legal personality, 486
  - electoral solicitation parties, 485–486
    - definition, 485–486
  - legal personality of political associations, 481–491
    - formulation of problem, 482–484
- parliamentary party/club, 490–491
  - definition, 490
  - dissolution, 490
  - formation, 490
  - legal personality, 490–491
- political party, 486–489
  - definition, 486–487
  - dissolution, 487–488
  - formation, 487–488
  - legal personality, 488–489
- provincial party, 489–490
- types of political associations for persons, 484–491

- Belgian foreign policy, 601–618
  - basic principles, 602
  - Belgian federal state, 601–602
  - conclusion of international treaties, 608–613
  - consultative bodies, 606–607
  - consultative structure, 604–608
  - cooperation agreements, 607–608
  - EU, towards, 615–617
  - exclusive treaties, 608–610
  - federated entities, 615–617
  - implementation of international and supranational law by federated entities, 604
  - Interministerial Conference on Foreign Policy, 605–606
  - international powers of Communities and Regions, 602–603
  - mixed treaties, 610–611
  - multilateral treaties falling within exclusive powers of federated entities, 612
  - permanent working groups and committees, 606–607
  - representation in international organizations, 614–615
  - signature of mixed treaties, 612–613
  - specific problems, 611–613
  - territorial reservations, 613
- Belgium, 155–166
  - Columberg Report, 155–166
    - background, 156–158
    - circular letters of Flemish government on application of linguistic facilities in Dutch language region, 158–159
    - critical assessment, 161–164
    - linguistic facilities in municipalities of Brussels periphery, 156–158
  - Resolution 1172 (1998), 164–166
- Community law,
  - new right available to individuals, 79–90
  - importance for rights available to individuals at national level, 83–86
  - unresolved problems, 86–89
  - obligations imposed on Member State during transposition of directive, 80–83
- Denmark, 492–499
  - debate on constitutional change, 492–496
  - decision of Supreme Court in *Tvind* case, 496–498
  - future prospects for constitutional life, 498–499
  - 150th anniversary of constitution, 492–499
- EC ban on British beef, 437–451
  - background to BSE crisis, 437–438
  - BSE and European Parliament, 449–450
  - challenge in Court of Justice, 443
    - grounds sustainable, whether, 444
  - early EC legislation on BSE, 438–439
  - European Community action, 441–442
  - lawfulness, 437–451
  - possible transmission of BSE to humans, 439–440
  - principle of proportionality, and, 447–448
  - requirement to give reasons for legislative measure, and, 448–449
  - UK reaction, 442–443
  - whether Commission had grounds for concern for public health, 444–446
- EC competition rules,
  - activities excluded from, 387–404
  - see also* Article 90 EC Treaty
- EC Green Paper on Future Noise Policy, 125
  - annoyance as control device, 144–145
    - advantages, 145
    - disadvantages, 145
  - data on noise pollution, 131–132
- EC Environment Fifth Action Programme, 126–127
- EC noise policy, 125–127
- emission standards, 128–131
  - air transport, 129–130
  - construction plant equipment, 130–131
  - outdoor equipment, 130–131
  - rail transport, 130
  - road transport, 128–129
- fixed standards, 142–144
  - advantages, 143
  - disadvantages, 143–144
- future of EC noise policy, 133–134
- general trends in noise, 128
- harmonization of methods of noise monitoring, 132–133

- noise law in United Kingdom, 135–138
- nuisance as instrument of noise control,
  - 139–142
  - advantages, 139–140
  - disadvantages, 140–141
  - Scots law, 141–142
- noise quality standards, 131
- possible impact on United Kingdom,
  - 138–139
- proscribing noise-generating activities, 145–146
- Economic and Social Committee, 557–582
  - added value in European Union in search of legitimacy, 569–574
  - citizen, for, 574–581
  - clear concepts, need for, 562–574
  - discussion on European citizenship, and, 565–569
  - Opinion on citizens' Europe, 562–574
  - organizing hearings, 574–581
  - relation with citizen, 569–574
  - role, 558–562
- England, 500–513
  - extradition case against Pinochet, 500–513
    - context of case, 509–510
    - decision of Home Secretary, 512–513
    - expanding UK criminal jurisdiction, 502–503
    - Pinochet (No.1)*, 503–507
    - Pinochet (No.3)*, 507–509
- Estonia, 301–314
  - abstract judicial review of parliamentary legislation, 304–306
  - concrete judicial review of parliamentary legislation, 306–308
  - Constitutional Court, 301–314
  - Constitutional Review Chamber, 301–314
  - contrasting American and Austro-Kelsonian models of constitutional review, 308–310
  - converging trends in constitutional review, 314
  - individual constitutional complaint, 310–314
  - Supreme Court, 301–314
- European citizenship, 556–581
- European Community law, 227–244
  - challenges to Community legal order, 238–242
  - concept, 227–244
  - consolidation of Community law, 242
  - Costa v. ENEL*, 233–235
  - development of legal order within EC, 230–232
  - future development, 242–244
  - interactions between EC constitutional law and constitutions of Member States, 236–238
  - perspectives, 227–244
  - Van Gend en Loos*, 233–235
- European Court of Auditors, 215–255
  - difficulties detected, 217–219
  - European Investment Bank, and, 215–225
  - legal status of agreement with EIB and Commission, 221–222
  - new legislative provisions, 220–221
  - solution given, 219–220
  - substantive remarks, 222–224
- European Court of Human Rights, 167
  - Article 2: right to life, 168–169
  - Article 3: torture and inhuman or degrading treatment, 170–171
  - Article 6: access to court, 172–175
  - Article 6: disputes concerning public service and civil rights and obligations, 171–172
  - Article 6: fair trial, 175–176
  - Article 8: access to public records, 176–178
  - Article 8: interception of communications, 178–180
  - Article 8: positive obligations in general, 176–178
  - Article 10: political expression, 180–184
  - Article 10: scientific expression, 185–186
  - Article 10: speech affecting legal proceedings, 185–186
  - Article 11: freedom of association, 187–188
  - Protocol 1, Article 1: property rights, 188
- European Investment Bank, 215–225
  - European Court of Auditors, and, 215–225
- European Union, 329–337
  - Community courts, 329–333
  - case law of Community courts, 329–337

- citizenship right, 334–335
  - effectiveness of individual protection, 333–334
  - public procurement, 337
  - remedies for breach of EC law, 335–336
- Finland, 338–349, 535–556
  - advisory referendum, 535–556
  - Åland Islands, 545–546
  - issue to be subject to, 552–555
  - normative framework, 539–544
  - tentative application of principles, 550–555
  - timing, 551–552
- Constitution 2000, 338–349, 549–550
  - aims of reform, 340
  - examples of amended and maintained provisions, 344–349
  - foreign policy, 345–346
  - formation of Council of Ministers, 344–345
  - primacy, 346–348
  - referendum, 348–349
  - structure, 340–344
- free mandate of Parliament, 551
- local government referendum, 547–549
- France, 189–198
  - Conseil Constitutionnel*, 199–203
    - constitutional amendments, 199–200
    - constitutional review of legislation, 200–202
  - new members, 203
- energy law, 189–198
- public service, 189–198
  - competition issues, 195–197
  - conception, 190–193
  - electricity, 193–195
  - gas, 193–195
- Treaty of Amsterdam and constitutional revision, 61–77
  - decision of Constitutional Council, 63–67
  - procedural incompatibilities, 69–70
  - procedure of revision, 74–77
  - subsidiary, 70–72
  - substance of revision, 73–74
  - substantive incompatibilities, 67–69
  - ways of revising, 72–77
- Germany, 350–362
  - adequate remuneration for prison work, 354–356
  - child abduction, 360–362
  - criminal liability of East German judges, 356–358
  - discrimination against part-time employees, 356
  - EMU, 350–352
  - orthography reform, 359–360
  - prohibition of discrimination against disabled pupil, 352–353
  - public law cases, 350–362
  - right to privacy and freedom of expression in sexual abuse cases, 353–354
- Human rights protection in EC, 453–470
  - accession, 464–465
  - adequacy, 455–459
  - conflict between European Court of Justice and European Court of Human Rights, 453–470
  - different perspective, 465
  - ECJ and ECHR, relationship, 459–464
    - Lenaerts' Proposal, 463–464
    - overlap problems of, 461–462
    - responsibility of Member States, 460–461
    - seriousness of conflict, 462–463
  - effects on EC, 465
  - effects on ECHR and 'Common European Home', 466
  - inadequacy, 458–459
  - judicial protection, 456–457
  - Opinion 2/94, 464
  - proposal for creation of Chamber of Human rights in ECJ, 466–469
    - functions, 467–469
    - possible criticisms, 469
  - proposals to improve, 464–466
  - role of ECHR, 457–458
  - Treaty of Amsterdam, 455–456
  - treaty provisions, 455
- Hungary, 204–208
  - Act on the National News Agency, 207–208
  - Act on the Press, 205–206

- freedom of expression, 204–208
  - constitutional right, as, 205
  - international law, and, 204
- freedom of the media, 204–208
- Media Act, 206–207
- Italy, 363–372
  - administrative reform, 363–372
    - completion, 363–372
    - implementation, 363–372
  - administrative simplification, process of, 368–370
  - civil service reform, 370–371
  - reorganization of state administration, 366–368
  - state liability for breaches of Community law, 405–415
    - acts or omissions of national legislature, 412–414
  - Italian courts, 411–412
  - Italian law, 409–414
  - transfer of administrative functions and tasks to regions, provinces and town councils, 364–366
- Jurisdiction in the digital age, 583–600
  - European audio-visual policy, overview of, 584–585
  - European regulation in a digital era, 597–598
- Television without Frontiers
  - Directive, 585–590
    - amended Article 2, 594–597
  - internal market and broadcasting prior to, 585–587
  - jurisdiction, 588–590
  - practical problems, 590–594
  - structure of, 587–588
- Netherlands
  - Competition Act, 4–5
  - Competition Authority, 5–6
  - Post and Telecommunications Authority, 6–9
  - public authorities, 1–11
  - sector-specific legislation, 4–5
  - SESEA, 9–10
  - Visser Committee, 3–4
- New directions in European public law, 152–154
- Norway
  - access to correspondence between administration and Office of Auditor General, 20–21
  - access to documents on foreign and European affairs, 17–19
  - access to information concerning environment, 19–20
  - Act on Public Access to Documents, 12–14
  - White Paper on Public Access to Documents held by Administration, 15–17
- Poland, 514–520
  - building basis of new regional policy, 516–518
  - economic and social cohesion, 514–516
  - future prospects, 520
  - regional foreign policy, 520
  - regional policy in light of European integration, 514–520
  - self-government voivodship, 518–519
- Polish environmental law, 49–59
  - administrative structure, 51–59
  - central government bodies, 51–52
  - decentralization reform, 51–52
  - local government, 52–53
  - outline, 49–50
  - waste management, 49–59
    - current law, 56–57
    - evolution, 55–56
  - general principles of Environmental Protection Act, 53–54
  - impact of EC legislation, 54–55
  - local government, 57–59
- Russia, 373–385
  - draft Law on Citizens' Petitions, 381–385, 521–533
    - administrative review of complaints, 527–530
  - complaints, 384–385
  - delay in passage, 383–384
  - history, 382
  - overview, 523

- progress to date, 522
  - range of bodies subject to
    - obligations, 523–525
  - scope, 382–383, 525–527
  - too ambitious, whether, 525–527
  - weakness, 531–532
- justices of the peace, 373–380
  - Federal Constitutional Law on the
    - Judicial System 1996, 376–377
  - Federal Law on Justices of the Peace in
    - the Russian Federation 1998, 377–379
  - history, 373–375
  - prognosis, 379–380
  - route to revival, 375–376
- Sex equality law, 149–151
- Spain
  - judicial review, 22–29
    - extent, 25–26
    - innovations, 25–26
    - practical issues on effectiveness, 26–29
    - scope, 25–26
- Spanish case law on European
  - integration, 269–299
  - constitutional limits to Community
    - integration, 296–298
  - Europe: legal dissidence, 275–298
  - political consensus, 270–275
  - social majoritarian support, 270–275
  - supremacy of Community law, 276–292
    - federal state, and, 287–292
    - judicial dimension, 284–287
    - law and constitution, 277–284
  - ultra vires Kompetenz-Kompetenz*, 292–296
- Sweden, 209–213
  - constitutional issues, 209–213
  - freedom of information and EC law,
    - 212–213
  - Nazism and free speech, 210–211
  - nuclear power, 209–210
  - retroactive tax,
    - administrative law, and, 211–212
- Treaty of Amsterdam, 245–267
  - access to documents, 258–260
  - churches, status of, 249–250
  - citizens and European administration,
    - 257–261
  - citizenship of Union, 257–258
  - Community policies affected by, 261–266
    - consumer protection, 266
    - employment, 261–263
    - environment, 264–266
    - social policy, 263–264
  - constitutional revision in France, and, *see*
    - France
  - data protection, 260–261
  - death penalty, abolition of, 250
  - flexibility and the individual, 256–257
  - freedom, security and justice, 250–257
  - human rights dimension, 246–248
  - individual judicial protection in area of
    - freedom, security and justice,
      - 254–256
  - individual protection after, 245–267
  - non-confessional organizations, status
    - of, 249–250
  - non-discrimination, 249
  - Protocols related to creation of area of
    - freedom, security and justice,
      - 253–254
  - Title IV, EC Treaty: visa, asylum,
    - immigration and other policies related
      - to free movement of persons, 251
  - Title VI, TEU: provisions on police and
    - judicial cooperation in criminal
      - matters, 252–253
  - transparency, 258–260
- Turkey
  - public law, 30–41
    - active courts, 41
    - current issues, 39–41
    - developments in reaction to events, 35
    - first period, 30–31
    - history, 30–35
    - human rights record, 40
    - limitations, 36–38
    - presidential system, 39
    - privatization, 39–40
    - restraints, 36–38
    - search for strong executive, 38
    - second period, 31–32
    - third period, 32–35
- Vertical and horizontal effects of
  - directives, 417–435

- critical comments on Court's decisions, 422-426
  - debate on horizontal direct effect, 417-422
  - discrimination in enjoyment of rights, established by unimplemented directives, 432-435
  - distinction between those to whom directives addressed and to whom rules addressed, 426-428
  - need to go beyond distinction, 430-432
  - principle of equality, recourse to, 432-435
  - protection of legitimate expectations and obligations for individuals, 428-430
- Wales
- Government of Wales Act, 44-46
  - National Assembly, 42-47
    - background, 43-44
    - general principles, 46-47