Subject Index

| A | free movement legislation, 130 |
|---------------------------------------|------------------------------------------|
| 'Administrative Cooperation', 127–147 | principle of mutual recognition, |
| alternatives to courts and | 131–132 |
| administrative cooperation, 137-140 | public administrations, 132 |
| PPN and ENO, 138 | Recital No. 105 of the 'Service |
| SOLVIT network, 138-139 | Directive' (2006/123/EC), 130 |
| two-fold reasons, 138 | 'shared administration' scheme, 133 |
| cooperation, composite procedures and | PPN, 140–143 |
| effective protection, 134–137 | contact points (CPs), 140 |
| Article 15 of the Regulation No. | cooperation guidelines, 141 |
| 1/2003, 137 | 'ex-post award' remedies, 143 |
| Borrelli case, 135 | 1996 Green Paper on Public |
| considerations, 136 | Procurement, 140 |
| 'mutually recognize' decisions, 137 | pre-contractual and out-of-court |
| Tillack case, 135 | mechanism, 142 |
| traditional (national) system, | preliminary remarks, 127-129 |
| 134–135 | Articles 4.3 TEU and 197 TFEU, 128 |
| Van Parys case, 135-136 | European Ombudsman (EO), 129 |
| ENO, 143–146 | national-based court system, 128-129 |
| Case 2769/2009/BEH, 143 | national public administrations, 128 |
| Case 3484/2005/JMA, 144 | SOLVIT network, 129 |
| EO documentation, 145 | Single Market Assistance Services |
| exchanging information, 144-145 | Initiative, 146–147 |
| SOLVIT, 146 | |
| 'European' administrations and | В |
| administrative cooperation, 129-134 | Belgian constitutional review procedure, |
| Article 10 TEC, 131 | 411–422 |
| Article 227 TEC, 134 | battle of courts, 413–414 |
| Article 197 TFEU, 131 | Melki-Abdeli criteria, 417-422 |
| cooperation obligations, 132-133 | Community law, 417 |
| 'cross-border cooperation, 130 | Conseil Constitutionnel, 418 |
| | |

| Court of Justice and the national courts, 418–419 EU directive, 421–422 EU law, 420–421 fundamental rights guarantee, 419–420 Special Majority Act, Art. 26(4), 414–417 decentralized/centralized judicial review, 415–416 EU law, 416–417 preliminary ruling, 415 Simmenthal decision, 416 two-tier protection, 411–413 | people, 352 domaine réservé doctrine, 364–368 freedom of action of the self-determined people, 356 German Basic Law, 356 German Federal Constitutional Court, 351 nature of hybrid, 352–353 Undemocratic Nature of the EU Parliament, 358–364 Art. 38.1 of the Basic Law, 363 Art. 14.2 TEU, 359 Christoph Schönberger, 358 Court establishment, 363–364 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Charter of Fundamental Rights (CFR) and the Dublin Convention comment, 660–663 MSS v. Belgium & France, 660–661 'rebuttable presumption', 661–663 description, 655–656 Discretion Under Article 3 (2), 657 facts of N.S., 656 The Judgment of The Grand Chamber of The CJEU, 656–657 member states responsibility, 657–660 Common European Asylum System, 658–660 principle of mutual trust and | democratic theory, 362 equality of voting principle, 360 hybrid nature of the EU, 361 Lisbon Treaty, 358 post-nationalism, 359 principle of equality voting, 361–362 protective measures, Germany's democracy, 360–361 second chamber of federal systems, 359–360 weighty consequences, 362–363 'United States of Europe', 356–357 The Coalition and the Constitution, 423–436 changes in Human Rights Act 1998, 423 |
| confidence, 658 scheme of Regulation No 343/2003, 658 N.S. v. Secretary of State for the Home Department, 655–664 'OPT-OUT' from the charter, 660 Citizenship policies in the Lisbon Ruling, 351–371 Bundestag MPs, 357 conception of citizenship, 368–371 confederation (Staatenverbund), 353–356 constituent power of the German | Coalition and Europe, 430–433 Commission's working, 431 European Union Act 2011, 431–432 Human Rights Act, 430–431 'referendum lock', 432–433 Thoburn v. Sunderland City Council, 432 Coalition's Programme for government, 424–425 devolution, 433–436 Calman Commission, 434 coalition government, 435–436 |

| creation of legislative, 433 Scotland Act 1998, 433–434 Scottish National Party and Parliament, 434–435 'West Lothian question', 436 elections to House of Commons, 425–427 English Rapport, 423–436 General Election of 2010, 423–424 reform of the House of Lords, 427–430 Joint Committee, 429 members of, 427–428 | Crown Prosecution Service (CPS), 651 Edwards states, 651 family members or strangers, 651 international level, 653–654 role of victims, 649–650 Spanish Criminal Code, 650, 652 decision, 648–649 facts of the cases, 645–646 framework decision, 646–647 Magatte Gueye and Valentin Salmeron Sanchez, 645–654 questions posed by the referring |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| parties, 428–429 | court, 647–648 |
| Salisbury convention, 430 | |
| UK constitution, 428 | E |
| Constitutional adjudication in the era of | Environment and loss for procedural |
| globalization: the Netherlands | autonomy of the Member States, |
| British-Scandinavian family of | 249–268 |
| constitutional traditions, 231 | Convention and the Directive, 256 effective implementation of union |
| comparative perspective, 232–234 | environmental law ν procedural |
| British-Scandinavian family, 233 | autonomy, 267–268 |
| countries courts, 233–234 | environmental NGOS, 255 |
| 'evolutionary' constitutions, 232 power of the legislature, 233 | German Courts, 253–255 |
| revolutionary tradition, 232–233 | legal and factual background, 249–253 |
| single foundational constitutional | Art. 9(2) of the convention on |
| moment, 232 | access to justice, 249–250 |
| compatibility of acts of parliament | Convention, 250 |
| with Grondwet, 240–242 | ECJ and NGOs, 249, 252 |
| international agency/constitutional | German administrative procedural |
| adjudication, 243–245 | law to guarantee judicial |
| international law's objective, 231 | protection, 250–252 |
| power to review acts of parliament | The Literal Argument, 257–260 |
| against treaty provisions, 237-240 | principle of effectiveness, 262-267 |
| prohibition, 235–236 | implementation of EU |
| sources of constitutional law and | environmental law, 265–267 |
| review, 234–235 | standing case-law of the ECJ, |
| D | reasons, 262–265 |
| Domestic Violence and ECJ, 645–654 | purpose of the Directive and |
| analysis, 649–654 | Convention, 260–262 |
| Advocate General Kokott | European administrative law, 285–304 |
| statement, 652–653 | actual status, 290–292 |
| | |

| assessment, 292 | guarantee of individual rights, |
|--------------------------------------|-------------------------------------------|
| elements, 290–292 | 74–76 |
| age of globalization, 301 | independence and accountability, |
| Article 298 TFEU, 302-303 | 68–70 |
| Charter of Fundamental Rights of the | objectives and procedure, 70-73 |
| European Union (ChFR) | rules of evidence, 73-74 |
| guarantees, 298-301 | cooperation, 82–92 |
| European Convention on Human | the Commission, 88–89 |
| Rights (ECHR), 299-301 | European Parliament (EP), 89-90 |
| The Right of Access to Documents | Europol, 90–92 |
| in Article 42 ChFR, 299 | and national authorities, 82-88 |
| The Right to Good Administration | description, 65 |
| in Article 41 ChFR, 298–299 | European Coal and Steel Community |
| competence, 301–302 | (ECSC), 66 |
| implementation, 303–304 | investigative work, 92-93 |
| main stages of development, 287-290 | Member States (MSs), cooperation, |
| French law, 288 | 94–95 |
| general principles of law, 288 | and national authorities, 82-88 |
| national administrative law, 289-290 | effective cooperation, 82–83 |
| revocation of administrative acts, | financial impact and recovery, |
| 287–288 | 86–88 |
| written law, 287 | irregularities and fraud, 83-86 |
| procedural law, 302–303 | operates, 'zero-tolerance policy', 66 |
| proposal, 302 | possibility of establishing European |
| stages, 286–287 | Public Prosecutor, 95–96 |
| and Treaty of Lisbon, 292–297 | proposal for new Regulation, 97 |
| administrative cooperation | task requires an examination of |
| according to Article 197 TFEU, | investigatory work, 67–68 |
| 294 | and tasks, 96 |
| administrative functions, 292 | European Court of Human Rights: May |
| delegated acts and implementing | 2011–April 2012, 565–597 |
| acts, 294–296 | abuse of the right of individual |
| formal requirements, 297 | application, Article 35, 591–593 |
| general principles, 293 | balancing freedom of expression, |
| legal protection, 296–297 | Article 10, 589–591 |
| European Anti-fraud Office (OLAF) | Axel Springer AG v. Germany, |
| conduct of administration, 76–82 | 589–590 |
| backlog of cases and its impact on | Von Hannover v. Germany (no2), 591 |
| internal organization, 76–78 | collective expulsion of aliens, Article 4 |
| human resources, 78–79 | of protocol no.4, 594-597 |
| tackling maladministration, 80–82 | 'Arab Spring', 597 |
| the Tillack affair, 79–80 | Hirsi Jamaa and Others v. Italy, |
| conduct of investigations, 68–76 | 594–595 |

| migratory flows, 595–596 'push back' operation, 594 travaux préparatoires, 595–597 confidentiality of friendly settlement negotiations, Article 39, 593–594 conscientious objection to military service, Article 9, 585–589 Bayatyan v. Armenia, 585–588 domestic law and Armenia's | International Federation of Gynaecology and Obstetrics, 574–575 Roma origin, 576–577 Slovakian legislation, 576 V.C. v. Slovakia, 573–574 Europeanization of the Supervision of Competitive Markets, 191–221 ACER, 209–210 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| commitments, 588–589 Jehovah's Christian Witnesses, 587 Judge Gyulumyan, 588–589 | BEREC, 208–209 CEBS, CEIOPS, and CESR networks, 205–206 |
| The Court's workload and institutional matters, 565–567 | centralization <i>versus</i> decentralization, 191–194 |
| agreement, 567 single-judge formations, 565–567 | categories of economic supervisors, 191–192 |
| hearsay evidence admission, Article 6, 577–582 | European and national decision-making and enforcement |
| Al-Khawaja and Tahery v. United Kingdom, 577–578 | procedures, 193 innovative institutional tools, 193 |
| Criminal Justice Acts 1988 and 2003, 580–582 | national authorities role, 192 principle of autonomy, 193 |
| , | |
| justice, 579 | Commission's right to intervene in |
| Tahery's trial, 578 | national decision-making, 199–201 |
| Unterpertinger v. Austria, 579–580 | communications market, 199–200 |
| The jurisdictional responsibilities of | energy market, 200–201 |
| member states, Article 1, 568–573 | CPC network, 204–205 |
| Al-Jedda v. United Kingdom, | EBA, ESMA, and EIOPA, 210–213 |
| 571–573 | ECN, 206–208 |
| Al-Skeini and Others v. United | European regulators, 208–217 |
| Kingdom, 568–571 private life, Article 10, 590–591 | communications regulator, 208–209 |
| regulation of medically assisted | energy regulator, 209–210 |
| procreation, Article 8, 582–585 | financial authorities, 210–213 |
| Austrian legislation, 583–585 | governance structure, 213–214 |
| | Meroni doctrine, 215–214 |
| Dickson v. UK, 583 | |
| medically assisted procreation (MAP), 583 | role of the commission, 216–217 tasks and powers, 214–215 |
| S.H. and others v. Austria, 582–583 | jurisdiction rules, 194–199 |
| sterilization without informed | Home State Control (Financial |
| consent, Article 3, 573–577 | Sector), 196–197 |
| Article 8, 575–577 | * |
| | Regulation 1/2003 (European |
| Chamber characterized, 575 | Competition Law), 198-199 |

| Regulation 2006/2004 (Consumer | definition, 273 |
|----------------------------------------|-------------------------------------|
| Protection), 194–196 | landscape quality objective, |
| national regulators, 194–201 | 275–276 |
| Commission's right to intervene in | principle of sustainability, 275 |
| national decision-making, | 'procedures for approving choices', |
| 199–201 | 276–277 |
| jurisdiction rules, 194–199 | Rio Conference, 274 |
| networks of national regulators, | legal recognition of landscape, |
| 201–208 | 269–270 |
| CPC network, 204-205 | definition of landscape, 270 |
| ECN, 206–208 | description, 269 |
| financial sector, 205-206 | object of legislation, 269-270 |
| tasks and importance of the | legal structure, 271-272 |
| networks, 202-204 | Article 12, 271 |
| overview of powers, 219-221 | implementation of the Convention, |
| Commission vis-à-vis National | 271–272 |
| Regulators, 219 | landscape planning, 272 |
| European Regulators, 220–221 | principle of subsidiarity, 271 |
| Networks of Regulators, 219-220 | European Regulatory Scheme for the |
| tendency towards more centralization, | Promotion of Green Power, |
| 217–218 | 665–680 |
| The European Landscape Convention, | 2001 and 2009 directives, 669-674 |
| 269–282 | administrative procedures, 672–673 |
| Aarhus Convention, 277–278 | grid system issues, 673-674 |
| access to environmental information, | guarantee of origin, 671–672 |
| 278 | national targets, 670 |
| description, 277 | objectives, 669–670 |
| environmental rights, 277–278 | systems to support, 670–671 |
| 'right to participate', 278 | economic crisis, 675–679 |
| 'the right to access to justice', 278 | Act 54/1997 'on the Electricity |
| EC Environmental Law, 279–281 | Sector', 676 |
| Articles 6, 8, 9 <i>a</i> , 280 | 'An economic recovery plan', 675 |
| environmental assessment, 281 | European public policy, 679 |
| environmental impact assessment | harmonization of national systems, |
| directive, 280 | 677–678 |
| principles, 279 | holding companies, 677 |
| landscape and public participation, | Lisbon Treaty, 678–679 |
| 273–277 | oligopoly of large companies |
| Article 5 <i>a</i> , 273 | dominates, 677 |
| as 'a territorial project', 274 | real and effective application of |
| communication, 276 | European legislation, 677 |
| Convention of Human Rights, 273–274 | Regulation (EC) No. 663/2009, |

| remuneration rate, 676 renewable energy technologies, 678 'Roadmap for Energy 2050', 678 | submission of public reports, 183 Scientific Council, 176 Seventh Research Framework |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| evaluation of results, 674–675 | Programme (FP7), 175 |
| | |
| Lisbon Treaty of 2007, 668–669 original treaties and evolution, 667–668 origin and background of the renewable energy policy, 666–667 update, 679–680 European Research Council (ERC), 175–190 Agency Design in the EU, 175–190 ERC Executive Agency (ERCEA), 176–177 evaluation by high-level review panel, 177–178 flexible institutional and procedural structure, 178 'Ideas' Programme, 176 | Programme (FP7), 175 F French Parliament and European Integration, 527–547 deparliamentarization, 528–529 EU affairs, reparliamentarization, 545–547 EU issues, 534–542 EU affairs Committees, Permanent Committees and Plenary, 535 Ex Ante Control, 538–542 Ex Post Control, 542 information, 536–538 Ex Ante Control, 538–542 Brussels, parliamentarians, 538–539 EU affairs Committees (EACs), 541 National Assembly, 538, 539 |
| lessons from reality of EU agencies, | passage of resolutions in National |
| options for changing the structure, 184–189 ERC as reformed executive agency, 188–189 joint undertaking or 'other structure' under ARTICLE 187 TFEU, 186–188 measure as specified in ARTICLE 182, paragraph 5 TFEU, 184–186 options for designing EU agencies, 178–183 academic freedom, 182 Article 22 of Regulation No. 58/2003, 181 | passage of resolutions in National Assembly, 540 resolutions on EU matters, National Assembly, 1997–2008, 541, 542 resolutions on EU matters, Senate, 1993–2009, 541 Fifth Republic, 530 Lisbon Treaty, 543–545 national institutions, 527–528 passerelle clauses, 529 reparliamentarization EU politics and policies, 529–530 structural weakness, 530–534 |
| Article 114 TFEU, 179 financing of agency activities, 181 internal organization, 180 limitations to delegation of powers, 182–183 nature and role of agencies, 179 structural design, 178 | The 'guiding hand' model as a technique of regulation, 99–125 case law of the ECJ, 125 case of the United Kingdom, 100–106 'Big Society', 105–106 concept of 'government by contract', 100–103 |

| private finance initiative (PFI), | assessment, 116–117 |
|--------------------------------------------------------------|----------------------------------------------------------------------------|
| 103–104 | female entrepreneurship appear |
| quasi-market services, 104-105 | protected perse, 117 |
| Commission Staff Working Document | GBER considers, compatible, |
| on state aid, 122 | 113–114 |
| competition law after the Lisbon | market and competition, aggravate |
| Treaty, 106–109 | inequalities, 114–115 |
| European Commission issued new Single Market Act, 108–109 | market efficiency/social purposes, state aids, 114 |
| European Court of Justice (ECJ), 107 | public authorities' intervention, 115 respect of the antitrust assessment, |
| Frankfurt School, 'social economy | 117 |
| market', 108 | state aid on market competition, |
| free market's 'invisible hand' | 115 |
| mechanism, 107 | state aid to be legitimate pursuant, |
| judge-made law, 108 | GBER, 113 |
| relationships between public and | outlined theories, 124 |
| private bodies., 109 | public authorities, 121-122 |
| 'single market', 107 | public-private cooperative systems, |
| taking account of social issues, 109 | 99–100 |
| Treaty on the European Union | public-private partnerships (PPPs), |
| (TEU), 106 | 118–121 |
| Treaty on the Functioning of the | contradictory approach, 118 |
| European Union (TFEU), Art. | EU, 120 |
| 119, 108 | EU public procurement rules, |
| competition rules and cooperative | 118–119 |
| models, 123–124 | Green Paper, 118 |
| cooperative model, 122 | principle of transparency, 121 |
| economic models of relationships, UK | private and public financial sectors, |
| and EU, 121 | 119–120 |
| EU protects the latter as a priority, | and traditional public contracts, 119 |
| 124–125 | relationships between public and |
| general objectives of the EU, 109-121 | private bodies, 124 |
| horizontal aids, 112–117 | state aids, 109–112 |
| public-private partnerships (PPPs), | Art. 107 TFEU, 109–110 |
| 118–121 | Art. 107(2) TFEU, 110 |
| state aids, 109–112 | Art. 107(3) TFEU, 112 |
| horizontal aids, 112-117 | Art. 107(3)(c) TFEU, 111 |
| Art. 107(3)(c) TFEU, 112 | Commission pursuant to Art. |
| Commission in this area is | 108(2) TFEU, 110 |
| Regulation 800/2008, 112-113 | discretionary exemptions, 110–111 |
| environmental protection, 117 | ECJ and the European |
| European Commission, comparative | Commission, 111–112 |

| H Human rights and acts by troops abroad, 473–492 facts and UK proceedings, 473–475 general principle, 'exceptional circumstances', 489–492 internment and attribution in Al-jedda, 481–484 investigative duty in Al-skeini, 484–485 jurisdiction and deaths, Al-skeini, 477–480 jurisdiction convention duties, 475–477 | right to life and human dignity, 444 Kafkaris v. Cyprus, 441 'National Avowal', 440 post-communist country, 439–440 problem of semantic ambiguity, 441 revolutionary change, Hungarian constitutionalism, 440–441 'State', 440 twenty-first century Europe, 437 K Katzav Affair. See Sexual crimes |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Hungary Fundamental Law, 437–453 cardinal laws, 438–439, 441–442 constitution, 437 constitution-making, 438 fiscal constitution, 446–452 'Budget Council', 448 Constitutional Court, 451 Council Directive 2011/85/EU, 449–450 debt ceiling set, 447 debt reduction, 450–451 democratic legitimacy and accountability, 448–449 governments, 449 individuals/social groups, 452 limitation on fiscal policy, 446–447 Parliament, 448 state of emergency, 447 TFEU (Article 126), 449 'Foundations', 440 'Freedoms and Responsibilities', 440 The Fundamental Law and European Constitutionalism, 442–453 constitutional review, 452–453 data protection, 444–445 Europe-Clause, 442–443 fiscal constitution, 446–452 non-discrimination, 443–444 ombudsmen, 445–446 | L Liberalization in the European Union, 701–714 electricity and gas flows, countries, 702–703 energy market liberalization in EU, 710–712 EU States the protectionist trends, France and Poland, 713 legislation, 701–702 security of energy supplies, 713 shortcomings of energy market reform, 703–709 Agency for the Cooperation of Energy Regulators (ACER), 707 commentators, 707 countries regulatory duties, 706 domestic regulatory authorities, 708 EU level, 707 foster competition, 703–704 functional and legal unbundling of network operators, 704 Germany's chancellor, 708 investment and competition, 709 monitor and intervene, matters pertaining, 706–707 national regulatory authorities, 708 prevent distortion of investment incentives, 704–705 |

| Public-private partnerships (PPPs), | P |
|-----------------------------------------|--------------------------------------|
| 709 | Possible developments of Article 298 |
| role of national regulators, 705-706 | TFEU, 373–397 |
| Scottish model of ownership | description, 373 |
| unbundling, 705 | EU administrative procedure |
| third energy legislative package, | regulation, 374–378 |
| 708–709 | codification, 377-378 |
| Treaty of Lisbon, 713 | definition, 376-377 |
| UK and the Netherlands, internal | European Court of Justice (ECJ), |
| energy market, 712-713 | 375 |
| Liberty before Security | general principles, 374 |
| Al-Jedda v. United Kingdom, | 'maladministration', 375-376 |
| 464–465 | fundamental rights, 393-397 |
| Al Rawi and Tariq cases, 466 | Case C-139/07 P, Commission v. |
| Art. 307 EC, 465 | Technische Glaswerke Ilmenau |
| Art. 103 of the UN Charter, 464 | GmbH, 396-397 |
| concurrent treatment of UNSC | Case T-194/04, Bavarian Lager v. |
| Resolutions, 469–470 | Commission, 394–395 |
| EU judicature's position on liberty, | Joined Cases C-92/09 and |
| 466 | C-93/09, Volker und Markus |
| exception, 465 | Schecke GbR and Hartmut Eifert v. |
| facts and procedure, 459-461 | Land Hessen, 395–396 |
| Grand Chamber, 457–458 | limits, 393–394 |
| Hani El Sayed Sabaei Youssef (HAY), | Lisbon Treaty contribution, EU |
| 467–468 | Administration, 378–382 |
| Home Secretary v. AF (No.3), | Article 308 EC Treaty, 378–379 |
| 466–467, 469 | Constitutional Treaty Article |
| important decision, reasons, 458 | III-398, 379 |
| Mohammed Jabar Ahmed v. HM | content, 381–382 |
| Treasury (No. 1), 466 | legal form, 380 |
| Regulation 881/2002, 459 | regulation scope, 380 |
| standard of review, 461–464 | role, 373–374 |
| terrorist asset-freezing regulations, | right of access to documents, |
| Community Law, 458–459 | 385–387 |
| United Nations Security Council | Article 255 EC Treaty, 386-387 |
| (UNSC), 457 | vs. good administration, 387 |
| UNSC Resolution 1267 regime, | Hautala case, 386 |
| 465–467 | transparency, openness and |
| A v. United Kingdom, 459, | democracy, 385–386 |
| 468–469 | right to good administration, |
| Yassin Abdullah Kadi v. Commission (No. | 382–385 |
| 2), Case T-85/09, 457–470 | Article 51(1) and 41 of the |
| ,,, | Charter 383 |

| ECJ definition, 383–384 fundamental rights, 384–385 | Article 27(1) of Directive 2004/38/EC, 633 |
|--------------------------------------------------------|--------------------------------------------|
| positive delimitation, 382 | Article 27(2) of Directive |
| right to protection of personal data, | 2004/38/EC, 633 |
| 387–393 | conflicting national law, 629–630 |
| Article 39, 390 | inconsistent national legislation, 631 |
| Customs Information System | internal rule, 632 |
| (CIS), 392–393 | Member State, 632–633 |
| Directive 95/46/EC, 387–388 | national legislation and [EU] |
| ECJ decisions, 388 | legislation relationship, 632 |
| Eurodac Regulation, 393 | public policy and security, 633 |
| Europol and Eurojust, 390–391 | 'repatriation for illegal residence', |
| features, 387 | 634 |
| innovations, 389–390 | Romanian and EU citizens, 632 |
| Lisbon Treaty approval, 389 | State of origin and host State, 633 |
| normative instruments, 388–389 | two opposing trends, 635-636 |
| Schengen Information System | |
| (SIS), 391–392 | R |
| Preliminary ruling procedure in the | Recent Developments in Luxembourg, |
| Jipa case, 623-641 | 599–622 |
| CASE C-33/07 JIPA, 625-627 | asylum and immigration matters, |
| direct effect, 626 | 610–617 |
| 'illegal residence' in Belgium, 625 | citizenship, 603–609 |
| public policy or public security, | AG Sharpston, 604–605 |
| 626–627 | Dereci and Others, C-256/11, |
| consistent interpretation, 636-638 | 606–608 |
| description, 623 | Lesoochranárske zoskupenie, 604 |
| direct effect, 638–639 | national immigration law, 605 |
| further directions, case law of the | Ruiz Zambrano, 604 |
| Romanian courts, 627-629 | Runevic-Vardyn and Wardyn, |
| Article 39(1) of Law No. | 608–609 |
| 248/2005, 627–628 | Sayn-Wittgenstein, 609 |
| divergent approaches, 629 | Treaty on the Functioning of the |
| explicitly and implicitly, 628 | European Union (TFEU), 604 |
| The issue of primacy of EU law, | Commission v. Kronoply and Kronotex, |
| 634–635 | 622 |
| judicial review of the principle of | constitutional and institutional issues, |
| proportionality, 639-641 | 601–603 |
| legislative framework, 624-625 | Commission v. Italian Republic, 601 |
| restriction on the free movement of | Commission v. Kronoply and |
| persons, 623–641 | Kronotex, 601–602 |
| statements of principles, 629–634 | Lesoochranárske zoskupenie, |
| Article 10 [EC], 631 | 602–603 |
| | |

| The Court of Justice in 2011, | cross-border elements, 508-513 |
|----------------------------------------|-----------------------------------------|
| 599–600 | McCarthy cases, 516 |
| employment and social policies, | prohibits restrictions on movement, |
| 617–619 | 507-508 |
| Kücükdeveci, 618–619 | purely internal rule, 506-507 |
| Mangold, 618 | Rottmann case, 513 |
| Prigge and Others, 617–618 | Zambrano cases, 515-516 |
| EU Court Activities in 2011, 599-622 | 'Zambrano principle', 513-515 |
| The General Court in 2011, 619 | 'Reverse Discrimination Pandora's |
| human rights, 609-617 | Box', 518–525 |
| Achughbabian, 611–612 | Court's solution, 524-525 |
| Advice on Individual Rights in | Court's traditional position, 520 |
| Europe (AIRE) Centre, 615–616 | emergence of, 522 |
| El Dridi, 610–611 | EU free movement law, 519 |
| French Republic v. People's Mojahedin | free movement provisions, |
| Organization of Iran, 616–617 | 519–520, 521 |
| N.S. and M.E, 614-615 | Jia and Metock cases, 523 |
| PMOI, 617 | Konstantinidis cases, 523–524 |
| Samba Diouf, 612–614 | market freedoms, 519 |
| Test-Achats and Others, 609-610 | Member State immigration, 524 |
| private national law, 622 | Morson and Jhanjan cases, 523 |
| proceedings concerning the legality of | problem of, 521–522 |
| measures, 620-621 | purely internal to Member State, |
| Article 263(4) TFEU, 620 | 518 |
| Inuit Tapiriit Kanatami and Others, | Referendums and European Integration, |
| 620–621 | 683–700 |
| Microban, 621 | challenge for democracy, 688-698 |
| Redefining the outer boundaries of EU | democratic issues, 689 |
| law, 493–526 | 'elites', 689 |
| inter-State movement, 525 | EU influence on national |
| issues, 494 | referendums, 694-696 |
| Judgments of the Court, 502–506 | exposing dual constitutionalization, |
| Dereci, 505–506 | 696–698 |
| McCarthy, 503–504 | globalizing constitutional space, |
| Zambrano, 502–503 | 689–690 |
| opinion of Advocate General, 495-502 | nineteenth century, 688–689 |
| Kokott in McCarthy, 499–500 | people rebel, 690–694 |
| Mengozzi in Dereci, 500-502 | constitutional decision-making, 684 |
| Sharpston in Zambrano, 495–498 | democracy in Europe, 683–684 |
| Outer Boundaries, 506–518 | direct democracy, 684–688 |
| Article 20 TFEU, 518 | 'elite control', 699 |
| Court in Garcia Avello, discrepancy, | external pressure on domestic, 700 |
| 517–518 | signs of increasing Euroscepticism, 699 |

| Regions and subsidiarity in the European Union, 305–321 | competition cases (Articles 101–108 TFEU) |
|---------------------------------------------------------|-------------------------------------------|
| decision-making process, 305–308 | antitrust and merger cases, |
| integration, 305–307 | 162–163 |
| specifics of legislative regions, | interim conclusions, 163–164 |
| 307–308 | state aid cases, 160–161 |
| the principle of subsidiarity, | state monopoly cases (Article 106 |
| 308–312 | TFEU), 162 |
| description, 308–309 | description, Art. 41(2)(a), 150 |
| early warning mechanism and | fields of EU law |
| national parliaments, 311–312 | anti-dumping cases, 164–165 |
| origin, 308 | competition cases (Articles 101–108 |
| provisions, 320–321 | TFEU), 160–164 |
| Treaty of Maastricht, 309 | custom duties, 168–170 |
| Treaty of Nice, 309–310 | EU Funds, 166–167 |
| warning mechanism, 310 | legal fields, 159 |
| regional parliaments, 312–315 | trademark cases, 170 |
| Austria, 313–314 | literature, 153–155 |
| and decision-making, 312 | problem |
| Finland, 315 | administrative proceedings, |
| Germany, 313 | conditions, 151 |
| Italy, 314 | application of the right, 150–151 |
| Portugal, 314 | French version of the <i>Lisrestal</i> |
| Spanish Comunidades Autónomas, | judgment, 152 |
| 315–320 | Lisrestal judgment, 151 |
| acts, 317–319 | official languages, 152–153 |
| governments and early warning | split between Art. 41(2)(a) and Art. |
| mechanism, 319–320 | 41(2)(b), 173 |
| state normative framework, | 'subject of the procedure' intuition |
| 315–317 | applies, 171–172 |
| Right to be heard in the Charter | wider context of the case law, 150 |
| 'adverse effect' condition, 173 | wider content of the case and, to |
| application of the fundamental | S |
| principle, third parties, 172 | Sanctions for Infringement of EU Law |
| Art. 41(2)(a), 149–150 | after Lisbon Treaty, 33–64 |
| Belgium judgments, application of the | Article 228, 36 |
| right, 171 | Article 169, EEC Treaty, 34 |
| case law of the EU courts | Article 171, EEC Treaty, 34 |
| The Belgium judgments formula, | Article 260 TFEU, 45-51 |
| 157–159 | Member States liability, 45-49 |
| The Hoffmann La Roche formula, | and State liability, 49-51 |
| 156–157 | 2010 Communication, 37–39 |
| The Transocean formula, 156 | Article 260, 2010, 37–38 |
| , | |

| Articles 258-260 TFEU, 37 | temporal scope, Article 260, 42-44 |
|----------------------------------------|------------------------------------------|
| 'reasoned opinion' stage, 37 | ten judgements, 36–37 |
| transitional rule, 39 | Sexual crimes, 1–15 |
| compliance impact, EU law, 57-59 | arrangement set forth in Basic Law, |
| Court of Justice impact, 59–63 | 7–8 |
| Article 228(2) EC and Article | David Ben-Gurion's proposal, |
| 260(3) TFEU, 61 | President of State, 4 |
| infringement proceedings, 62 | ethical code, 14–15 |
| judicial system, EU, 59-60 | examination of the qualifying |
| non-transposition judgments, 61 | conditions, 3–4 |
| liability pursuant, Article 260, 45-51 | force of Basic Law, 5 |
| material scope, Article 260, 39-42 | 'head of the State', 4-5 |
| material vs. temporal scope, 44 | immunity, 9 |
| Member States liability, 45–49 | impeachment proceedings, 1-2 |
| Commission, 47–48 | Katzav's trial, 2–3 |
| 2010 Communication, | 'plea bargain', 2 |
| Commission, 48 | practice in presidential regimes, 3 |
| Court of Justice, 46–47 | President of the State is elected by |
| intrinsic difference, Articles 260(2) | the Knesset, 8 |
| and (3), 45 | Section 11(b) of Basic Law, 5-6 |
| 'minimum lump sum', 48–49 | State Attorney's Office, 2 |
| penalty payments, 46 | status of the President of the State, |
| new rules, Commission, 33 | 6–7 |
| penalty and warning, 38 | 'temporary incapacity', 12-14 |
| penalty payment, Member states, 38 | 'unbecoming conduct', 10-12 |
| sanctions judgments, 51-57 | State decentralization, Poland, 17-30 |
| Article 260 judgment, 51-52 | Article 6(2), 21 |
| Articles 258 and 260, 56 | Article 17, 23–24 |
| Commission and Member State, 54 | Article 30, 21–22 |
| Commission's annual reports, 52 | Article 6 and Article 7(1) and (2), |
| Court of Justice, 54 | 19–20 |
| defence, Member State, 55 | central government and local |
| EC Treaty, 53 | government, 18 |
| EU budget, 54 | competence act, 19 |
| General Court's ruling, 55-56 | difficult continuation, decentralization |
| withhold payments, 57 | process, 18 |
| State liability | Education System Act, 23 |
| Article 169 EC, 50 | and government administration, 19 |
| Article 258 procedures, 49 | local representatives, central |
| breach, EU law, 50-51 | government, 18 |
| infringement proceeding, 51 | notion bill, extraordinary conditions, |
| supplementary rules, TEU/ Maastricht | 20–21 |
| Treaty, 33 | public administration, 24-30 |

| 2009 Act, 25 audit procedure, 26 | exemplary democratic state, 328–329 |
|------------------------------------------------------|----------------------------------------------|
| central and general government | Federative Republic of |
| administration, 25 | Trans-Caucasus, 326–327 |
| comprehensive control, 25–26 | National Council, 327–328 |
| Congress of Local and Regional | national-emancipatory movement, |
| Authorities, 28 | 326 |
| description, 24 | provisional bourgeois government, |
| dualism, public administration | 326 |
| system, 26 | executive, 341–344 |
| duties and powers, local | amendments, 342–343 |
| government, 27 | 'American Model', 342 |
| European Charter, Regional Self-Government, 28–29 | Art. 75, chairman/members of government, 344 |
| Government Administration, | Art. 70, chairman rights, 343 |
| 24–25 | Art. 73, ministers responsibility, |
| issue-related control, 26 | 343–344 |
| Lisbon Treaty, EU, 27–28 | structure, 341–342 |
| local self-government issues, 29–30 | supreme executive government, |
| praxeological issues, 25 | 342 |
| territorial and administrative | financial control, 344 |
| structure, 29 | governance system, 339 |
| state's administrative policy, 17 | human rights, 336–338 |
| structural changes, local government, | judiciary, 346–347 |
| 22–23 | legal works, 325 |
| Voivodes, 17–30 | legislature, 339–341 |
| , , , , , , , , , , , , , , , , , , , , | local self-governance, 345–346 |
| T | national minorities, 346 |
| The 1921 Constitution of the | occupation and annexation, 331-332 |
| Democratic Republic of Georgia, | agreement, 331 |
| 323–349 | international recognition, 331–332 |
| analysis and evaluation, 323-324 | and suspension, 332 |
| constitutionalism, 332–334 | parliamentary governance system, |
| amendments, 332-333 | 324–325 |
| declaration, 333 | structure and legal nature, 334–336 |
| description, 332 | 'The Act of Georgian |
| draft Constitution, 333–334 | Independence', 335 |
| system, 323 | description, 334 |
| constitutional review, 347-348 | mechanisms of constitutional |
| elaboration and adoption, 326-330 | protection, 335 |
| Constituent Assembly, 328 | 'rigid' constitution, 334–335 |
| Constitutions, 330 | social-democrats, 335–336 |
| election, 329–330 | territorial arrangement, 345 |
| | <i>y</i> |