Subject Index

Administrative Law and Human Rights Standards in Legal Aid, 165–191 administration of legal aid in Finland and England & Wales, 171–174 different jurisdictions, 171 'Henry VIII' clauses, 172 Legal Aid Act, 171 State Legal Aid Offices, 173 administrative law principles in Finland and England & Wales, 174–176 Administrative Judicial Procedure Act, 175 Legal Aid Unit, 175 §6 of the Administration Act, 174 lack of arbitrariness, 177–184 appropriateness of decision-making structure, 180–184 legal constraints on decision-making, 178–180 need for legal aid system, 168–170 Andronicou and Constantinou v. Cyprus case, 168–169 ECtHR, 170 requirement of legal aid in international human rights law, 166–168 Airey v. Ireland case, 167 Article 47 of Charter, 166–167	role of administrative law in ensuring the implementation of human rights standards, 190–191 systemic requirements imposed by IHRL, 176–190 diligence, 189 flexibility to grant legal aid throughout proceedings, 189–190 <i>GREP v. Freistaat Bayem</i> case, 176 lack of arbitrariness, 177–184 <i>Laskowska v. Poland</i> case, 176 proportionality, 184–186 reasons for decision, 186–188 Austrian Constitutional Court post caselaw after landmark decision, 221–235 critical assessment of the VFGH's caselaw, 231–235 Article 15 of the Charter, 234 Article 6 StGG, 232 Article 267 (3) TFEU, 235 VfSlg 19.632/2012, 233 overview, 221–231 case-law of the VFGH in the aftermath of decision U 466/11 and others, 222–231 statistical data, 221–222 VfGH confirms decision U 466/11 and others but does not apply pertinent Charter Right, 228–230
Article 47 of Charter, 166–167 criminal and civil proceedings, 166	Charter Right, 228–230 Article 47 of the Charter (cases
Golder v. UK case, 167	concerning lack of an oral hearing,

'Subject Index'. European Public Law 23, no. 4 (2017): 823–835. $\@$ 2017 Kluwer Law International BV, The Netherlands

804-809

decision within a reasonable time legal accountability, 805-808 and right to legal aid), 228-229 public-private link, 808-809 Articles 7 and 8 of the Charter (case schemes, 794-804 concerning data protection/data legal basis and scope, 796-801 retention), 229 refusal, 801-804 Articles 15, 16 and 17 of the Charter security limitations on the right to (cases concerning restrictions on travel, 788-792 performing commercial activities and interferences with the right to В property), 229-230 Brexit, 437-446 VfGH confirms decision U 466/11 Charter of Fundamental Rights (CFR), and others but holds that Charter 442-443 does not apply in the case at hand, devolved administrations and the 230-231 dependencies, 446 VfGH effectively applies the rights of Great Repeal Bill (GRB), 440-441 the Charter of Fundamental Rights, role of secondary legislation, 443-446 222-228 terms of negotiation, 437-440 Article 21 of the Charter (cases what does the GRB convert into UK concerning discriminations), 227 law?, 441-442 Article 47(2) of the Charter (lack of an oral hearing in Asylum \mathbf{C} proceedings only), 222-224 Conflict and complementarity, 347-364 Article 47 of the Charter (other complementarity between Union obligations and Member State cases), 224 Articles 4 and 7 of the Charter (cases interests, 352-354 concerning expulsions), 225 Article 1(1) TEU, 352 Articles 7 and 8 of the Charter (cases Article 4(2) TEU, 353 concerning data protection), Article 5(3) TEU, 352 225-226 Article 106(2) TFEU, 353 Articles 15, 16 and 17 of the Charter complementarity, Member State (cases concerning gaming interests and SGI, 354-364 machines), 226-227 complementarity and specific EU Articles 39 and 40 of the Charter rules, 358-364 (cases concerning the right to general legal framework, 355-357 vote), 228 conflict between Union obligations and Member State interests, 349-352 Authority to carry (ATC), 787-810 carrier sanctions, 792-793 Article 1(1) TEU, 349 Counter-Terrorism and Security Act freedom of movement in the Single 2015, 787, 810 Market, 350 grounds of security, 793-794 principle of loyalty under Article 4(3) legal accountability, 810 TFEU, 351 privatization of national security, Constitution implications of Brexit,

757-786

constitutionalization, 779–785	autonomy, 125
Democratic Alliance v. Minister of	constitutional basis for local self-
International Relations, 785–786	government, 126–128
European Communities Act 1972, 758	local self-government, defined, 127
European Union (EU), 758-761	outside control mechanisms, 128
Jackson v. Attorney General, 776 judicialization, 760, 786	'self-government of the residents,' 126
and multi-layered constitution, 761–774 Attorney General v. Jonathan Cape, 772	control by state authorities, 134–138 Ministry functions, 138
Brexit and Union, 763–769	municipal appeal institution, 137
'Brexit means Brexit,' 761–763	power of Regional State
legal enforcement, 771	Administration Agencies, 135
The Sewel Convention, 770–774	prerequisites for taking loan, 135
Supreme Court, 770	role of County Governor, 134, 136
parliamentary scrutiny, 758	Finland and Sweden, 128–132
principle of parliamentary sovereignty, 759–760	concept of member of the municipality, 129
and sovereignty, 775-779	features of municipal appeals, 130
Constitution in Times of Emergency –	municipal appeal and administrative
Sweden, 27–37	appeal, 129
financial powers facing a crisis, 28-31	two-part procedure, 131
Christian Democrats, 30	legal control mechanisms, 126
December agreement, 29–31	local self-government and control,
Migration Agreement, 31	123–124
Riksdag Act and the Budget Act, 28–29	municipal appeal as means of control, 128–133
legislative powers in state of emergency,	Finland and Sweden, 128-132
32–34	Norwegian model of municipal
Council on Legislation, 34	appeal, 132–133
IG and the Riksdag Act, 33	Nordic countries in relation to the
IG, Chapter 7, Article 2, 32	European Charter of local self-
Riksdag's Committee, 32	government, 138–141
recent events, 36–37	Article 8 in the Charter, 139
December Agreement, 36	Article 11 in the Charter, 110
Riksdag Act, 37	other controlling institutions, 133–138
times they are changing?, 27–28	control by state authorities, 134–138
welfare in emergency, 34–36	Ombudsman, 133–134
Chapter 1, Article 2 IG, 35	_
draft bill, 35	D D CALL
draft proposal, 35	Danish Principle of Administrative Law,
Swedish welfare state, 36	739–754
Controlling Nordic Municipalities,	citizen's legal status, 743
123–145	Danish Ombudsman, 744–745

e-government, 740–743	European Dactyloscopy
citizen's legal status, 743	(EURODAC) Regulation ((EU)
decision-making systems, 742-743	No 603/2013), 45
decision support systems, 741-742	Temporary Protection Directive,
digital administration, 740	47–48
electronic paper, 741	Article 7, 47
self-service systems, 742	Dublin Regulation, 48
e-mail system, 754	tensions for federalism, 49-52
Good Administration Impact	Article 1(1) GG, 51
Assessment, 751–753	Article 87(1) GG, 50
ICT, 739–740	European Commission v. United Kingdom of
public sector, 745–746	Great Britain and Northern Ireland,
supplementary requirement of default	723–737
settings, 750–751	citizens and workers, 732-734
value-based/value-sensitive design,	factual and legal background, 724-728
747–750	Judgment of the Court, 727–728
minSU, 748–749	Opinion of Advocate General Cruz
NemID, 748–749	Villalón, 726–727
University of Copenhagen's records	right to reside, 724–725
system, 747	free movement, 731–732
	legal statuses, 737
E	right to reside, 723
European and German Law in the	social security, 729–731
migration crisis, 41–53	wider political context and court,
concscious decisions, 42-43	734–736
German de facto approval of border crossings, 42	European Court of Human Rights, 665–698
Schengen Borders Code (Regulation (EC) No 562/2006), 43	access to official information, Article 10
domestic separation of powers, 48–49	awarding compensation, non-pecuniary
§ 18(4) point 2 AsylG, 49	damage, Article 41, 694–698
§ 18(2) points 1 and 2 AsylG,	Court's workload, 665–666
48–49	delayed access to legal advice, Article 6
failure of Dublin Regime, 43–47	672–679
Article 16a(1) of the German	guidelines on the minimum cell space
constitution, 43–44	for prisoners, Article 3, 666–671
Article 79(3) GG, 46	scrutiny of unilateral declarations,
Article 3(1) of the Dublin	Article 37, 688–693
Regulation, 45	Thates 57, 000 075
Article 78(1) of the Treaty on the	F
Functioning of the EU, 44	French Conseil constitutionnel under
Dublin Regulation ((EU) No 604/	evolving constitution, 245–251
2013 / Dublin III Regulation, 44	changes in the Conseil, 250–251
2010 / Dubini III Tegulation, 44	25 m m m c consen, 250 251

'judicialised' role, <i>Conseil</i> , 251 members replacement, 250 QPC's annual report, 250 Jospin Report, implementation, 245–250 'a break with the practice of <i>cumul des mandats</i> ,' 247–248 'a comprehensive strategy to prevent conflicts of interests,' 249–250 'a more representative Parliament,' 246–247 'a status before the courts more consistent with the principle of equality, for the Head of State and Ministers,' 248–249 'democratic renewal,' 245 'modernisation' of presidential elections, 245–246 French PATRIOT Act, 707–722 Article L 811–2 of the Internal Security Code, 711 counter terrorism, 711–713 scope, opting for, 711–712 the US experience, learning, 712–713	fundamental animal rights before the courts, 568–571 how could the six freedoms be recognized?, 581–583 non-governmental organization (NGO), 548 reasons for not granting animals fundamental rights, 556–567 Gray's standard, 564–565 at least some animals, like humans, are conscious, 565–567 moral agency argument, 559–564 social compact argument, 556–559 what are the consequences of recognizing fundamental rights for animals?, 571–573 what fundamental rights of animals should be recognized?, 573–581 are the six freedoms sufficiently concrete to be operable?, 578–579 the five freedoms, 574–576 fundamental rights and property, 580–581 predator problem and the sixth
FREEDOM Act, 707 French Surveillance State, 708–711	freedom, 576–578 standing, 579–580
intelligence techniques, 713–717	•
mass surveillance/bulk data collection, 716–717	I International Delegation, 527–546
sophisticated techniques, 714-715	defined, 527–528
postscript, 722	how Swedish regulation is constructed?,
safeguards, 717–722 independent administrative authority	535–539
and Conseil d'Etat, 718–719	European Economic Community (EEC), 537
US choice for special court, 720-722	Government bill, 538
Fundamental Animal Rights in European	regulation on international
Law, 547–585	delegation, 536
animals are sentient, 567–568	rules on international delegation, 536
Anthropocentrism in law, 548–551 are animals sufficiently protected by	Treaty of Rome, 537 as international law phenomenon,
European Animal Welfare Law?,	529–531
551–556	internal legal order, 529
	<i>-</i>

international obligations, 530	new Public Contract Code, 475-478
in the Swedish Constitution, 531–535	innovative profile, 477
1810 Act of Succession, 531	Legislative Decree no. 50, 18 April
EC bodies, 534	2016, 475
The 1949 Freedom of the Press Act,	regulation acts, 476
531	public accounting reform, 472–475
1974 Instrument of Government,	Law no. 163/2016, 472–474
531–533	relative expenditure forecasts, 474
Swedish Regulation from international	reform of public administration,
law perspective, 539–544	478–482
decision-making authority as defined	'certified announcement on the
in the constitution, 543–544	commencement of activity,' 480
delegation under national and	legislative proxy, 479
international law, 541–542	'Madia' law, 480
international and constitutional	reforming actions, 480
decision-making authority,	reform of territorial local government,
539–541	482–486
Israel Judicial Enforcement of ethical	constitutional referendum, 485
norms in politics, 15–26	Delrio law, 484–485
comparative law, 22–23	'fundamental administrative
decisions on Mayors' affair, 18-20	functions,' 483
Option 1, 19	Italian Public Service Broadcasting (PSB),
Option 2, 19–20	507-524
Option 3, 20	anomalies of Italian broadcasting system
duty to dismiss, 24-26	510-518
Der'i case, 25	anomalous establishment of duopoly
MKs case, 25	510-514
HCJ intervention in politics, 16	'Berlusconi decrees,' 513
HCJ verdicts, 15-16	centralized organization of public
Israeli legislature response: on the new	service broadcasting, 514-516
suspension law, 23-24	criticisms, 511
judicial decisions from the 1990s, 16-18	,
'Der'i affair,' 16–17	'Gasparri Law,' 514
'Eisenberg affair,' 16	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory
'Pinhasi affair,' 17–18	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the
	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political
'Pinhasi affair,' 17–18 reflections on the courts reasoning's, 20–22	'Gasparri Law,' 514 'Mammi Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political class, 516–518
'Pinhasi affair,' 17–18 reflections on the courts reasoning's, 20–22 Der'i and Pinhasi cases, 20–21	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political class, 516–518 State monopoly, 512
'Pinhasi affair,' 17–18 reflections on the courts reasoning's, 20–22 Der'i and Pinhasi cases, 20–21 Mayors' case, 22	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political class, 516–518 State monopoly, 512 variety of factors, 510
'Pinhasi affair,' 17–18 reflections on the courts reasoning's, 20–22 Der'i and Pinhasi cases, 20–21 Mayors' case, 22 Italian Public Law Reforms, 471–486	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political class, 516–518 State monopoly, 512 variety of factors, 510 Law 220 of 2015, 507–524
'Pinhasi affair,' 17–18 reflections on the courts reasoning's, 20–22 Der'i and Pinhasi cases, 20–21 Mayors' case, 22	'Gasparri Law,' 514 'Mammì Law,' 513 parliamentary supervisory committee on RAI and the relationship with the political class, 516–518 State monopoly, 512 variety of factors, 510

'blank proxies,' 520 innovations, 519 new and existing anomalies in the	changing constitutional norms: Case No. KO 57112, 161–164
reform law and existing models, 521–524	setting the standard; 'the Prizren logo case,' 159–161
concept of anomaly, 521	L
'historical-political-cultural' principle, 522	Legal limits of citizenship deprivation, 57–92
Mediterranean model, 522-523	controversial policy, 58–64
print media, 508	denationalization laws, 59
TV as common source of information, 508	legal, moral and historical objections, 63–64
	US and German dissent, 59-63
J	convention rights, 68-84
'Judicial Activism' or Constitutional	prohibition of discrimination, 76-80
Interpretation?, 147–164	prohibition of inhuman / degrading
'Clarification of Judgment,'	treatment / punishment, 68–72
152–153	rights to fair trial and to effective
Constitutional Court of Kosovo,	national remedy, 80–84
147–164	right to respect for private and family
identifying jurisdiction, 149,	life, 72–75
153–158	denationalization of terrorists, 58
tracing judicial activism and	difficulties, 87–92
jurisprudence, 149, 158–164 core meanings of judicial activism, 152	discretionary powers, 91 interpreting and applying the law, 88
'final authority,' 'interpretation of the	limitation of laws, 87–88
Constitution' and 'compliance of laws	personal scope of application, 90
with the Constitution, 151	terrorist offences, 89
identifying jurisdiction of the	'vital interests of the state,' 89
Constitutional Court of Kosovo, 149,	legal obstacles, 65–86
153–158	Article 8 of the 1961 Convention, 65
abstract control, 155	convention rights, 68-84
as controller of accountability, 156	Draft Articles, 66
institutional mechanism, 154	European Union law, 84-86
limits of judiciary review, 155	international law, 65-67
as protector of individuals, 157	Rottmann case, 84–85
as protector of minorities, 157	recommendations, 86–87
separation of powers, 153	terrorist attacks in Paris, 57
methods of interpretation, 150	US and German dissent, 59–63
term 'judicial activism,' 149–150	Article 16, § 1, of the Basic Law,
tracing judicial activism and	60
jurisprudence of the Constitutional	Citizenship Clause of the Fourteenth
Court, 149, 158–164	Amendment, 60

Eighth Amendment, 60	administrative functions, 255
Entziehungsverbot, 61–62	intermediate level, 254
'Living Instrument' approach of the	lower level, 254
ECHR, 587-614	regional authorities, 255-257
compatibility with international law,	wards (or neighbourhoods)
600–607	(SENIÜNIJA), 257–258
domestic interpretation of	political context and development, 253-
international law obligations,	254
605–607	administrative courts, 254
the 'living instrument' under the	legal system, 253-254
VCLT, 600–605	relations between state and local
compatibility with the convention,	authorities, 258-261
592-600	ALAL, 261–262
convention text, 592-593	allocation of sufficient resources to
democratic endorsement & state	local authorities, 261
practice, 594–596	decentralization, 259-260
relevance of the preamble, 593-594	delegated functions, 258-259
Travaux Préparatoires and Original	duality between independent and
Intent, 596–600	delegated functions, 259
controversy in the UK, 590-591	state of implementation of human right
defending the interpretative approach,	at local and regional levels:
591–613	participation and elections, 264-267
compatibility with international law,	Article 4.12 of LLSG, 264
600–607	dealing with complaints against
compatibility with the convention,	municipalities, 266-267
592–600	non-discrimination, 265–266
institutional criticism, 607-613	status of capital city, 263-264
judges and rights, 608-613	Losses through European Central Bank's
state sovereignty and human rights,	Balance Sheet, 365–394
607–608	final deposition in the European
the 'living instrument' interpretative	Monetary Union (EMU), 371-392
approach, 589–590	assumption of financially
the 'living instrument' under the	destabilizing losses by Eurosystem
VCLT, 600–605	373–376
abstract and concrete intentions,	eligibility of inferior assets for
602–604	monetary policy refinancing,
evolutionary interpretation, 601–602	376–379, 389–391
Local self-government development in	Eurosystem without 'bad bank'-
Lithuania, 253–268	function, 391–392
financial situation and administrative	externalities and polluter pays-
supervision, 262–263	principle, 381–383
local self-government: territorial issues,	inherent financial instability,
254-258	371–372

legal limits for Eurosystem's final	'purposive interpretation,' 320
deposition tools, 385–391 outright monetary transactions,	REACH Regulation, 321–322 reading up or down English statutory
385–389	law, 323–330
parliamentary control over	common law powers of reading up/
Eurosystem's final deposition,	down, 324
383–385	individual detriment, 325–326
redistribution and fiscal equalization	presumptions in conflict, 326–330
effects between Member States, 379–381	sectoral a priori approaches, 326–327 statutory powers of reading up/
final deposition tools, 367–369	down: Section 3(1) HRA 1998,
assumption of financially	324–325
destabilizing losses by asset	weighing approaches, 327-330
purchase, 367-368	reading up or down EU legislation,
eligibility of inferior assets for	335–346
monetary policy refinancing,	detrimental reading up or down is
368–369 financial liberalization, 365	problematic, 336–337 jurisdiction/degree distinction, 341
financial stability policy with final	Member States' 'rights' and
depository, 369–371	directives, 337–338
category, 369	'no surprise effect' approach,
final deposition tools, 370	343–346
prerequisites, 366	peculiarities of EU law, 338-339
sovereignty and financial stability union,	sectoral a priori approaches, 339–341
392–393	'substantive interest out-weighed'
N	approach, 342–343 reading up or down German legislation,
Norwegian Constitution of 1814,	330–335
699–703	general a priori approach, 332
Christian and humanist heritage,	individual detriment, 330–331
699–700	a priori approaches concerning
human rights, 699–703	specific subject matters, 332–333
Norwegian law, 700–701, 703	Rechtsfortbildung, 330
Supreme Court, 699–700	weighing approaches, 333–335 'subjective' interpretation, 319
P	'wide' / 'extensive' / 'narrow' /
Plea for principled approach to	'restrictive' interpretation, 320
extraordinary judicial power, 319–346	Polish Constitutional Tribunal Crisis,
Article 11(1) of Regulation 1255/199,	489–506
322	apoliticial and impartial judges, 490–496
Article 6(3) TEU, 321	application regarding
'domestic' methods, 321 Niemann case, 322	recommendation, 492 appointment of judges, 491
INTERNATION CASE, 322	appointment of Judges, 491

'judges of Civic Platform,' 494	disproportionate penalty, 99
'meritocratic,' 495	legislative discretion and judicial
nomination of candidates and	scrutiny, 99
selection of judges, 493	'manifestly inappropriate' standard,
Polish Constitution of 2 April 1997,	100
490	necessity stage, 98
collapse of abstract control, 496-501	suitability stage, 98
Article 195 section 1 of the	'procedural proportionality,' 94
Constitution, 498	process/substance distinction, 95–98
change in proceedings, 497	annulment, 98
Kelsen's paradigm, 499–500	Article 263(2) of TFEU, 95
procedural issue, 497	Article 296 of TFEU, 96
'Kelsenian,' model of centralized	Commission v. Parliament and Council
review, 490	97
parliament 'recovery' act, 489	'infringement of the treaties,' 96
war between parliament and tribunal –	question of thresholds, 117–121
counter-majoritarian dilemma,	Spain v. Council, 102–105
501–506	legitimate objectives, 102
Council of Europe opinion, 503	'substantive outcomes' with 'process
'protection of judicial minority,' 504	review,' 103
'the minority motion,' 505	Vodafone, 105–106
Process-oriented proportionality review in	Promoting human health and functioning
EU, 93–121	of the internal market, 271–283
Gauweiler, 109–111	challenging the legality of Tobacco
Article 296 TFEU, 109–110	Products Directive, 274–275
circular form of reasoning, 110	Philip Morris Brands and Others, 275
trend towards process-oriented	Pillbox 38, 274–275
review, 111	Poland V. Parliament and Council,
Inuit, 107–109	274
Commission proposal' for a	ECJ position : backing the Directive,
Regulation, 107	275–281
'objective criteria,' 108	admissibility, 275–276
Luxembourg v. Parliament and Council,	challenges to the Directive under
106–107	Article 114 TFEU, 276–280
observations, 112–117	challenges to the Directive under the
advantages of process-oriented	Charter, 280–281
review, 113	regulatory significance of the three
Article 296 TFEU, 112	rulings, 281–283
'counter-majoritarian' difficulty, 116	anti-tobacco stance in Europe, 282
	'Brexit' referendum, 283
'legislative procedure,' 116	FCTC, 281
'process-based theories, 115	
'representation reinforcing' role, 114	smoking, 271–272
principle of proportionality, 98–101	tobacco products, 272

2014 Tobacco Products Directive, 273–274	Miller and the government concessions, 3–5
Article 114(3) of the TFEU, 273	problems, 9–11
WHO Framework Convention on	removal of EU rights?, 7–9
Tobacco Control (FCTC), 273	R v. Miller, 205–217
, , , ,	'ambulatory statute,' 205
R	'constitutional revolution,' 206
Recent Developments in Luxembourg,	devolution arguments, 216-217
449–470	Great Repeal Bill (GRB), 206–207
constitutional principles, 449-452	Reed's judgment, 210–213
Article 21 of the Charter and that Directive 2000/78, 450	Referendum Act of 2015, 208
Ingeniorforeningen I Danmark, 451	S
Court activities in 2016, 449-470	Sanctioning Under Article 260 (3) TFEU
EU citizenship, 452-457	301–316
Article 7(1)(b) of the Directive, 453	analysis of the cases brought to the
Article 28 (1) of the Directive, 454	court, 308–316
Article 20 TFEU, 456	Articles 258 and 260 (2) TFEU,
Article 21 TFEU and the Directive,	309
455	cases initiated under 260 (3) TFEU,
Zambrano formula, 452	310–314
Euro crisis, 468–470	period of time, 309
Article 340 TFEU, 469	transposition cases, 308
Ledra Advertising and Mallis cases,	Article 260(3) Proceeding in practice,
468–469	306–308
immigration and asylum, 457–464 Affum case, 457–458	notification of national transposition measures, 306
Alo and Osso case, 461-462	request for financial sanctions under
Article (5)(1)(f) of ECHR, 459	Article 260(3), 307
Article 33 of that Directive, 462	Commission's communication on the
Article 8 (3) of the Directive, 459,	implementation of Article 260(3) of
461	the Treaty, 304–306
Article 5(1)(f) of the ECHR, 461	Article 260(2) TFEU procedure,
police and judicial cooperation in	305
criminal matters, 464–468	'failing to notify,' 304
Article 1 of the Charter, 465	fundamental criterias, 305
Article 54 of the CISA, 466–467	penalty payment, 306
Article 3(2) TEU, 467	imposition of financial penalties on
principle of mutual recognition,	Member States, 302
464–465 D. (Millar) etc.: Segretary of State for Fruiting	infringement proceedings, 302
R (Miller) etc v. Secretary of State for Exiting	legal harmonization, 301
Europe, 1–11	Secularism French Style, 237–244
incorporating EU legal edifice, 5–7	Abbé Olivier case, 243–244

ban on religious signs, 242 restructuring plans and measures behaviour of users of the public service, implemented during 2014-2016, 239-240, 241 633-638 funding of religious activities, the way ahead (2016 onwards), 238-239 637-638 Republic, defined by Article 1 of the the Second Economic Adjustment Constitution of 1958, 237 Programme, 630-631 requirements for the delivery of public the Third Economic Adjustment services, 240-241 Programme, 635-637 SAS v. France case, 242-243 Subsidiarity in Directive 2014/104 EU on 'yeast of secularism,' 237 Damages Actions for Breach of EU State Aid Rules in the financial sector Competition Law, 395-421 during economic crisis, 615-639 Article 101 or 102 TFEU, 395 concept of 'compatibility with EU law,' Article 114 TFEU, 396 615-616 Directive 2014/104 EU, 398 overview of the commission's developments prior the Third Economic Adjustment Programme, arguments on subsidiarity in private 633-634 enforcement, 404-412 financial and economic crisis, 615 co-ordination of public and private enforcement, 408-410 the First Economic Adjustment Programme, 628-630 disparity of judicial protection, general framework, 616-623 405-406 forms and types of state aid, 622-623 effectiveness of private enforcement, historic and factual background, 410-412 forum shopping, 406-408 616-617 private enforcement and its regulatory State Aid Law in the financial system, 618-622 goals, 398-400 Greece, in example, 623-638 Article 101 TFEU, 400 current banking environment, Courage v. Crehan case, 398-399 Kone case, 400 general concept, 623-624 regulatory competition in private impact of financial crisis on Greek enforcement?, 412-415 banking sector, 625-638 sectoral regulation of antitrust tortious impact of financial crisis on Greek liability, 397 subsidiarity and the commission's policy banking sector, 625-638 discretion, 415-419 applicable measures during 2008-2013, 626-632 subsidiarity in EU law, 400-404 Case Study: The Agricultural Bank principle of subsidiarity, 400-401 of Greece (ATE), 631-632 Protocol n. 2 of the Treaty of Lisbon, 401 general measures, 626-628

selected recent case law of the Court of Justice on subsidiarity, 402-404

T

Transparencies and persistence of opacity in the Italian Government System, 285–299 constitutional roots of principle of transparency, 286–288 features, 287–288 Legislative Decree no. 33 of 2013, 287 disclosure and access to government documents, 288–291 changes, 290–291 Law No. 241 of 1990, 288–289 privacy of personal data, 290 right of private individuals, 289 right to environmental information, 291

freedom of information act, 295-298

Article 24 of the law on procedure,

Data Protection Authority opinions, 'FOIA' laws, 297 Law no. 124 of 2015, 296 Legislative Decree of 25 May 2016, no. 97, 296 'opacity through confusion,' 295 online accessibility and transparency, 292-295 Article 1, Clause 2 of Legislative Decree no. 33 of 2013, 293 Article 11 of Legislative Decree no. 150 of 2009, 292-293 Article 54 of the Digital Administration Code, 292 Civic Access, 293 Digital Administration Code, 294 'digital illiterates,' 294-295 Law No. 241 of 1990, 295 National Anti-Corruption Authority (ANAC), 294

reform 'package,' 285-286