

Subject Index

A

- Administrative law
 - classic depiction, 406
 - concept of imputability, 407
 - general principles, 408
 - holistic concept, 406–407
 - in information society, 404
 - innovative model, 405–406
 - new power dynamics, 404
 - public-private divide and, 405, 409
 - regulation and governance, 406–407
 - role of courts, 408
 - traditional power structure, 403–404
 - transformation of public power, 403–406
 - value added tax (VAT) system, 409
 - World Anti-Doping Agency, 408
- Agreement on first phase
 - border questions, 1–2
 - CJEU's role, 1, 3–4
 - European Commission's role, 1–4

B

- Brexit and Common Law Constitution
 - devolution, 688–693
 - Government of Wales Act 1998, 688–689
 - Northern Ireland Act 1998, 689
 - Scotland Act 1998, 688
 - environmental law, 675–677
 - EU membership and Brexit, 676–683
 - Aarhus Convention, 682–683

- Article 9 of Bill of Rights 1689, 677, 678
 - HS2 and Pham*, 676–677
 - Thoburn v. Sunderland City Council*, 676
 - withdrawal, 678–680
- European Communities Act 1972, 676, 679
- European Union (Withdrawal) Act 2018, 681–682
- fundamental rights, 683–687
 - Human Rights Act 1998, 686–687
 - Westminster Parliament, 684–687
- non-discrimination law, 675
- retained EU law, 680–681
- UK public law scholarship, 673

C

- Climate Change Act 2008 (CCA 2008)
 - Callaghan's comments, 748
 - Committee on Climate Change (CCC), 734
 - constitutional statute, 733–734, 737–743
 - consequences, 744–752
 - 'environmental constitutionalism,' 738
 - Laws LJ, 739–740
 - McHarg's observation, 743–744
 - vs.* ordinary statutes, 738–739, 745
 - rights of individuals, 740
 - Thoburn criteria, 740–742
 - environmental disaster, 743

- fundamental constitutional right, 743
 - judicial review, 747
 - 'Low Carbon Transition,' 734
 - secondary legislation, 746
 - threats to, 746
 - UK's decarbonization programme, 734–736, 743
 - Court of Justice of the European Union (CJEU)
 - Asylum Qualification Directive, 29–32
 - on asylum seekers, 11–12, 20
 - Charter's role, 11–12
 - Dublin III Regulation, 15, 17–20
 - Dublin system, amendments, 42
 - on economic crisis, 40–42
 - on Fundamental Rights
 - Achbita and Bougnaoui, 33–35
 - Opinion 1/15, 35–38
 - Jafari families case, 15–21
 - NF V. EUROPEAN COUNCIL*, 27–33
 - Schengen Borders Code, 16–18
 - significant rulings, 11
 - Slovakia v. Council*, 21–27
 - Union citizenship, 38–40
 - Visa Code, 12–14
 - Czech Republic
 - appointment and resignation of government, 45–48
 - Presidential elections, 43–45
 - principle of loyal cooperation, 53
 - Czech Republic, presidential elections, constitutional amendment, 43–44
 - Czech Republic, president's power, appointment of university professors, 48–50
 - liability for wrongful actions, 50–52
- D**
- Danish law
 - Ajos case, 183, 191–192
 - constitutional interpretation, 185–186
 - dualist approach, 183–184
 - EU law, 189
 - Accession Act, 189
 - general principles, 190–191
 - statutory position, 186–187
 - supreme court decisions
 - principle of consistent interpretation, 187–189
 - Data protection
 - Data Protection Act, 555
 - data subjects, 557–558, 560, 562–563, 572
 - EU General Data Protection Regulation (GDPR), 556
 - administrative fines, 563, 571–572
 - context of human rights, 569–570
 - definition and purpose, 569
 - interpretation of public authority, 561–562
 - lawful processing, 557–560
 - potential anomalies, 568
 - right to erasure, 560–561
 - law, 562, 571
 - public private divide, 555–556
 - UK Data Protection Bill, 556, 563, 567, 569–570, 572
 - Clause 7(2), 567
 - Freedom of Information Act 2000, 563–564
 - public authority, definition, 563–566
- E**
- Environmental NGOs
 - Aarhus Convention, 453–455, 460–461
 - access to information, 461–463
 - CJEU (Court of Justice of the European Union), 450, 458–463, 471
 - clarification of terminology, 460
 - Climate Action Network, 452
 - climate change, 452–454, 456, 459
 - concern of present and future generations, 456
 - ecosystem protection, 455–456
 - EU law implementation, 457–459
 - examples, 451–452
 - freedom of expression, 466–468

- limits in collecting information, 468–471
 - PRTR Protocol, 468–471
- multiform existence, 457
- Our Children's Trust, 456
- public interest, 450–451
- sharing of information, 464–466
- special procedural rights, 449, 451–452
- Stockholm Declaration, 453
- EU law
 - continuing influence, 6–7
 - Data Protection Bill, 6–7
 - Enforcement Directive (LED), 6
 - EU General Data Protection Regulation (GDPR), 6
- Euro-area supervisory book
 - ECB Policy on the SREP, 119–121
 - options and national discretions, 122–123
 - Pillar 2 guidance (P2 G), 121
 - SSM context, 118–119
- European citizens' initiatives (ECI)
 - administrative procedure, 337
 - case laws
 - Anagnostakis case, 340–343
 - Bálázs-Árpád case, 347–350
 - Commission's denial of registration, 338–340
 - Costantini case, 343–347
 - Minority SafePack case, 351–353
 - Commission's powers
 - monopoly of legislative initiative, 357–359
 - complaint on Commission
 - duty to give reasons, 353–356
 - democratic life, 335–336
 - registration step, 337–338
 - rules governing, 336
 - European Court of Human Rights
 - Copenhagen Declaration, 629, 630
 - court's workload and changing processes, 629–632
 - European Convention on Human Rights (ECHR), 630
 - legislative bans on sexual relations,
 - Article 10, 649–654
 - Bayev and Others v. Russia*, 649–654, 650
 - monitoring of employees'
 - communications, Article 8, 644–649
 - Barbulescu v. Romania*, 644
 - workplace communication devices, 644
 - non-governmental organisation (NGO), 634
 - pilot-judgment procedure, Article 37, 654–658
 - Article 46, 657
 - Burmych and Others v. Ukraine*, 655
 - Ivanov v. Ukraine*, 654–655
 - re-opening of domestic criminal trials,
 - Article 6, 637–643
 - Chamber's judgment, 638–639
 - Moreira Ferreira v. Portugal (No.2)*, 637
 - violation, 638–639
 - Single-Judge formations, 629, 630
 - torture (revision of interstate judgment),
 - Article 3, 632–637
 - Chamber's decision, 633
 - concept of torture, 635
 - five techniques, 632–636
 - Ireland v. The United Kingdom*, 632
 - Raidió Teilifís Éireann (RTÉ), 632
- European Court of Justice (ECJ),
 - Google Spain judgment, 125–127, 130–132, 134, 136, 140–143, 145
 - on privacy/data protection, 127–128, 130, 134, 141–142, 145–146
 - right of search engines, 127–130
 - right to be forgotten requests, 127–128, 133, 135–137
 - right to freedom expression, 127–135, 137, 140, 144–145
- European Ombudsman (EO)., 365–367
- European Standardization
 - administrative law principles
 - participation, 483–485

- transparency, 480–483
- Annex I-Conclusions on
 - Standardization, 474
- Annex III
 - organizations, 484–485, 489
 - stakeholders, 484
- Annex II-The Guidelines, 474
- Better Regulation Program of 2002, 478
- EU competition rules, 479
- judicial review
 - James Elliott case, 486–488
 - Toolbox 18 of the Better Regulation Package, 485–486
- legal nature of harmonized standards
 - co-regulation, 477
 - national standards, 477
 - public and private features, 475–476
- new approach to technical standardization and harmonization, 474
- public interest, 475, 478
- public-private partnership, 479
- reliance on private parties, 473
- rule of law concerns, 474
- European Union
 - constitutional empathy, notion of, 57–58
 - legal pluralism, 58–59
 - normative approach, 59–61
 - formalized judicial dialogue, 61–68
 - non-formalized judicial dialogue
 - objective basis, 68–70
 - opposing requirements, 70–72
 - preliminary rulings
 - different styles, 62–65
 - fundamental rights protection, 65–68
- European Union soft law instruments
 - binding measures
 - CIRFS* case, 770–772
 - cooperation, 770
 - Germany v. Commission*, 773–774
 - hardening informal measures, 770
 - Ijssel-Vliet*, 772–773
 - bindingness of, 758–760
 - CJEU's jurisprudence on, 757–769
 - formal measures, 756–758, 760
 - Commission v. Lithuania*, 763
 - Grimaldi* case, 760–763
 - informal measures, 756–758
 - Mediaset* case, 765–766
 - Pfleiderer* case, 766–769
 - Polska Telefonía* case, 764–765
 - non-binding measures
 - DHL* case, 777–778
 - Estée Lauder* case, 776
 - Expedia* case, 775
 - Guerlain* case, 776–777
 - informative informal measures, 774–775
 - Kotnik* case, 779–780
 - Salt Union*, 780–781
- EU Value Added Tax (EU VAT)
- CJEU (Court of Justice of the European Union), 486, 493–496, 498–500, 502–508, 510, 512
- cross-border transactions, 492
- functioning, 493, 512
- imposing information disclosure obligations
 - balanced scoping and delineation, 510
 - enforcement and sanctioning, 511–512
 - grounds for exclusion, 510–511
- indirect legal nature, 494–496
- information position of VAT entrepreneurs, 492
- information procurement
 - adversities of information deficit, 501–503
 - classic vertical approach, 499–501
- insignificant role of public authorities, 497–498
- legal requirements, 491–492
- private parties, 491
- public' function of private parties, 503
- mitigating effect of CJEU jurisprudence, 503–506

as source of budgetary income, 494
as transaction tax, 496–497

F

Food fraud

Adulteration of Coffee Act 1718, 148
Bovine Spongiform Encephalopathy (BSE) crisis, 154
consumer protection, 148
definition, 147
economic issues, 147–148
European Union food policy, 151–153
external controls, 157–162
Food Law Regulation, 150
horsemeat scandal, 148, 153, 160, 162, 164, 166–168
member state cooperation, 162–167
Regulation 178/2002 ('the Food Law Regulation'), 149–150
Regulation 1169/2011, 150–151

G

Global Administrative Law

anti-doping legislation of May, 423, 425–426, 430
Anti-Doping Statute/UNESCO Convention, 427
Belgian Constitution, 414–415, 425–427
dynamic referral technique (limits of national constitutional law and ECHR)
accessibility, 425–428
foreseeability, 428–429
legality principle, 424–429
WADA norms, 422–424
dynamic referral technique of ECtHR's procedural legitimacy
Hirst *v.* United Kingdom, 429
WADA norms implementation, 430
legal status of hybrid actors, 412
World Anti-Doping Agency, 412–414
binding nature of rules, 414–417

national legislatures, 420–422
treaty ratification, 417–419

Global pharmaceutical standards

International Council for

Harmonization (ICH)

EU as implementing system, 446–447
global standard-setting process, 434–438, 441–443
public-private partnership, 438–441, 443–446
regulatory levels, 433–434

H

Horizontal cooperation between

contracting authorities
analysis of the requirements
cash payments issues, 276–278
direct participation of private parties, 264–265
genuine public tasks, 268–272
indirect advantages on private undertakings, 266–267
in-house units, 267–268
public-interest considerations, 274–276
public tasks common to cooperating authorities, 272–274
doctrine of in-house transactions, 256
general developments
case law of the CJEU, 256–261
law and practice of member states, 261–263
new public procurement directives, 263
limitation on market participation, 279

L

Labour standards

2014 Public Procurement Package, 232
critical assessment
negative pro-labour standards, 240–242
positive pro-labour standards, 243–249
cross-border situations, 231

- Europe 2020 strategy, 230
 - potential contribution of procurement mechanisms
 - centralized registration systems, 252–253
 - contract compliance clause, 250–251
 - exclusion of tenderers/tenders, 251
 - minimum wage requirements, 250
 - regulatory substitution, 232
 - current policy, 238–239
 - ECJ case law in Bundesdruckerei and RegioPost, 234
 - policy implementation, 234
 - procurement system, primary goals, 234–237
 - secondary policies, 237–238
 - Legislative preparation
 - ECA 1972, 4
 - EU Withdrawal Bill, 4–5
 - proposed amendments, 4
 - Local governance
 - administrative law
 - horizontalization, 580–581
 - polycontextuality network, 583–584
 - procedural rights of individuals, 581
 - quasi-constitutional interests, 582–583
 - specific rules and principles, 579–580
 - administrative machine's functions, 574
 - Brainport Eindhoven
 - hybrid collaboration, 584–585
 - innovation policies, 585–588
 - collaborative networking, 578
 - Dutch legal system
 - administrative authority, 589–590
 - public tasks, interpretation, 591–593
 - modern cities, characteristics, 576–577
 - public law and private law, 575
 - smart city services, 577–578
 - urban settlement, 573–574
- M**
- Miscellaneous points
 - Brexit modules, 7
 - Social Mobility Commission, 7
- N**
- National parliaments and political control
 - of EU competences
 - draft legislative acts, 698–699
 - political monitoring, 695–696
 - principles of 'subsidiarity' / 'proportionality,' 700
 - Protocol No 2, 698–700, 723, 725
 - safeguards of federalism, 695–696
 - Treaty system, 695
 - workings of EWS, 698–703
 - Yellow card against amended posted workers directive
 - analysis of national parliaments, 719–728
 - EU intervention, 721
 - new rules, 719
 - PWD Proposal breaches, 719–723
 - revised Posting of Workers Directive, 717–719
 - Yellow card against EPPO proposal, 700, 703–716
 - comparative efficiency test, 706, 710–713
 - Cyprus Parliament, 707, 709
 - EU structures, 715
 - evaluation of national parliaments, 710–716
 - Granat and Fabbrini's analysis of, 729
 - Monti II regulation, 710, 729
 - national insufficiency test, 711–712, 723–724
 - opinions of national parliaments, 706–710

- and subsidiarity justification, 704–706
- Union's financial interests, 705–706, 714
- Non-removable migrants
 - atypical status, 281
 - individual elements, 293
 - written confirmation, 298–300
 - consequences of non-removability, 290–291
 - definition, 282
 - EU legal regulation, 284–288
 - irregular status
 - compulsory obligation, 298
 - rights of pending return, 294–297
 - protection status, 291–293
 - situation of third-country nationals, 288–289
 - supranational sources, 289–290, 300–301
 - Article 8 of the ECHR, 301–306
 - temporary corrective protection status, 306–308
- P**
- Polish public law
 - constitutional review
 - Law on the Status of Judges, 196
 - selection of NCJ judges, 197–199
 - human rights, civil liberties
 - Small Reprivatisation Act, 207
 - status of public assemblies, 208
 - social reforms
 - Family 500+', programme, 202–203
 - 'Home+' programme, 204
 - struggle with judiciary
 - NCJ Act, 199–202
 - verification committee
 - reprivatization decisions, 204–207
- Public-private cooperation
 - Antwerp Oosterweel (Belgium), 532–535
 - Ecomouv' project (France), 528–532
 - government's role, 516
 - High Speed 2 (HS2, England), 522–528
 - infrastructure projects, 517–521
 - judicial roles, 535–538
 - major investment projects 2018, 516
 - new dynamics
 - birth of welfare states, 519–520
 - development of administrative law, 519–520
 - EU procurement directives, 520
 - historical background, 518
 - political consequences, 522
- Public/private law
 - cross-border zone
 - reasons of interest, 607–608
 - divisional context, 596–597
 - forms of collaboration
 - defensive view, 606
 - positive response, 606–607
 - functional requirements, 611–612
 - general administrative principle
 - dual role of parliament, 605–606
 - organizational layout, 603
 - procedural arrangements, 603
 - purposive and functional interpretation, 602–603
 - sources, 604
 - substantive principles, 603
 - transposition process, 604
 - two fold evaluation
 - cross-border interaction, 605
 - traditional views, 604–605
- governance activities
 - exercise of administrative power, 609
- growth stages
 - private life of public administration, 610
 - public life of private actors, 610–611
 - public life of public administration, 609–610
- holistic view
 - actor's role, 609
 - functional approach, 608–609
- private sector's presence

- collaborative and complex framework, 599–600
- public services and regulatory activities, 598–599
- public principles
 - collaborative and complex framework, 599–600
 - decision-making procedures, 601–602
 - private law interaction, 600–601
- social and economic impacts, 596
- traditional administrative law
- three frontiers of, 596–597

R

- Right to be forgotten requests
 - 1974 Rehabilitation of Offenders Act (ROA), 139
 - European Court of Justice (ECJ), 127–128, 133, 135–137
- Mayer-Schönberger's expiration theory, 142
- press archives and, 139–144

Russia

- CCRF (Constitutional Court of the Russian Federation), 394–399
- ECtHR judgment on *Anchugov and Gladkov v. Russia*, 395–396
- joining Council of Europe and European Court of Human Rights, 393–394
- suspension of contribution to CoE budget (2017), 400–401
- Venice Commission's opinion on amendments, 396–397
- YUKOS shareholders claim, 397–400

S

- Single Supervisory Mechanism (SSM)
 - composition, 311–313
 - European System of Central Banks (ESCB) legal basis and tasks/powers, 313–317
 - Council Regulation, 313

- objectives, 314
- supervisory powers, 315
- Supervisory Board
 - accountability, 326–332
 - composition, 317–320
 - independence, 320–326
- Single Supervisory Mechanism (SSM).
 - ECB supervisory powers, 102–103
 - EU regulatory framework
 - ECB guidelines and recommendations, 117–118
- Euro-area supervisory book, 118–123
- single European rule- book, 116
- implementing mechanisms, 103–105
- political process, 101–102
- transnationalism and supranationalism, 105–109
- Joint Supervisory Teams, 109–112
- national authorities, 112–116

Spain

- 1978 Constitution, 377, 385
- Autonomous Communities, 375, 378–382, 384–385, 388–389, 391
- Catalan Parliament, 374–375, 377, 386–389
- Catalonian Consultation Act, 381
- Catalonia's secession process
 - Amendment Law, 383–384
 - Catalan Statute of Autonomy reforms 2006, 374–376, 381, 387
- Constitutional Court rulings, 387–388
- elections 2017, 388–389
- emergence, 374–377
- Judgment 31/2015, 381
- Judgment 32/2015, 382
- Judgment 42/2014, 377–380
- Decree 129/2014, 380–382
- Judgment 114/2017, 386
- Judgment 124/2017, 387
- Judgment 138/2015, 382
- Judgment 259/2015, 385
- Law 19/2017, 386
- Organic Act 15/2015, 383

- Organic Law 6/2006., 375
- Resolution 1/XI, 383–384, 386
- Resolution 5/X, 376
- Resolution 742/IX, 376–377
- Scotland and Catalonia comparison, 389–390

- Strategic preparation
 - economic and legal uncertainty, 5
 - EU trade relationship, 5–6
 - transitional arrangements, 5–6

T

- Transatlantic Trade and Investment Partnership (TTIP)
 - adjudicative structures, 75–77
 - Article's structure, 77
 - opinion 2/13
 - attribution of responsibility, 91–94
 - CFSP measures, 94–95
 - constitutional foundation, 77–80
 - EU law implications, 86–90
 - inter-party dispute settlement, 95–96
 - principle of subsidiarity, 80–86
 - project negotiations, 73–75

U

- UK/EU relationship, 175–180
 - Charter of Fundamental Rights (CFR)
 - retaining amendments, 177
 - EU (Withdrawal) Bill (EUW)., 176–177
 - referendum decision, 175–176
 - rule-making power, 178
 - second phase of negotiations, 175
- Urgent Preliminary Ruling Procedure
 - PPU case law, 223–225
 - scrutiny, 213–215
 - shortest delay
 - cumulative conditions, 215–217
 - scope of application, 217–218
 - urgency assessment
 - child abduction cases, 219–221

- detention cases, 221–223
- main principles, 218–219

W

- Withdrawal notification of the United Kingdom to European Council, 659–660
 - Article 50 TEU, argument
 - abuse of right, 662–663
 - historical interpretation, 664
 - intention for withdrawal to European Council, 664–665
 - International Law of the Treaties, 663
 - international law of the treaties, 66
 - literal and systematic interpretation, 662
- Article 50 TEU, revocation
 - author's opinion, 667–671
 - criticism of, 665–667
 - denying revocability, 665–667
 - favour of revocability, 663–665
 - historical interpretation, 662–663
 - involvement of CJEU, 671
 - logical/teleological interpretation, 667–669
 - procedure to revoke the notification, 669–671
 - provision of, 661–662
 - views against, 662–663
- irrational Brexit, 660–661
- Work-related risks
 - government intervention, 539–540
 - industrial accidents, 540
 - occupational diseases, 539–540
 - private regulations, 540–541
 - in The Netherlands, 548–552
 - possible advantages, 544–546
 - private interest approach, 543–544
 - public interest approach, 541–543
 - smart mixes, 547–548