

Index

- abortion, [25](#), [259](#), [284–5](#), [287](#), [831–2](#)
 absence of belief, atheism, and humanism, [587](#)
 absent or contradictory national measures, [321–3](#)
 abstention from measures frustrating EU objectives, [213](#)
 abuse of dominant position, [998](#), [1031–49](#)
 abuse, what constitutes, [1035–8](#)
 barriers to entry, [1033–5](#)
 categories identified in court cases, [1042](#)
 Court of Justice on, [1043](#), [1046–9](#)
 dominance, what constitutes, [1032–5](#)
 exclusionary abuses, [1036–8](#)
 exploitative abuses, [1035–6](#)
 guidance provided by Commission on, [1043–5](#)
 interpretation of law on, [1042](#)
 legal development of, [1043](#)
 market shares as dominance marker, [1033](#)
 predatory pricing, [948](#), [952](#), [998](#), [1038–41](#)
 reform proposals, [1041–6](#)
 undistorted competition principle and, [1035](#), [1041](#)
 abuse of free movement restrictions on occupation in another State, [873–5](#), [884–90](#)
 abuse of institutional discretion, [429–33](#)
 abuse or misuse of power, judicial review of, [430](#), [432](#)
 accession to EU. *See* enlargement of EU
 accountability
 of ECB, [726–31](#)
 as governance norm, [382](#)
 infringement proceeding concerns, [365–8](#)
 accountants
 lawyers, partnerships with, [1004](#)
 OTOC (Portuguese Accountancy Association) and educational services for, [1005](#)
 ACTA (Anti-Counterfeiting Trade Agreement), [416](#)
acte éclairé or *acte clair*, doctrine of, [188](#), [189](#), [190–1](#)
 additional competencies, as legitimisation strategy, [25](#), [26](#), [29](#), [39](#), [40–2](#)
 administration
 cooperation between Member States in Services Directive, [845–6](#)
 free movement and residence of persons and administrative formalities, [506–8](#)
 of infringement proceedings, [338](#), [363–70](#)
 infringement proceedings for administrative practices, [355–6](#)
 judicial review of definitive position as culmination of administrative process, [427](#)
 of public health restrictions, [932](#)
 rights, administrative, and judicial review, [437–9](#)
 Services Directive, administrative simplification as aim of, [843–4](#)
 advertising
 dominant position and, [1035](#)
 free movement of services and, [810](#), [822–5](#), [846](#)
 import restrictions and, [789](#), [793](#)
 national goods campaigns not regarded as, [677–81](#)
 of private health care on national television, [825](#)
 tobacco advertising ban, [677–81](#)
 Advisory Committee on Equal Opportunities for Women and Men, [583](#)
 advisory procedure, in comitology, [144–7](#)
 affirmative or positive action programmes, [571](#), [614–16](#)
 AFSJ. *See* Area of Freedom, Security and Justice
 age discrimination, [590–1](#)
 Europe's large ageing population and, [591](#)
 Framework Directive on, [574](#), [591](#)
 general principle of EU law, non-discrimination on grounds of age as, [574–5](#), [577](#)
 military, discrimination by, [605](#)
 national courts on, [321–2](#), [324](#)
 national employment defence to, [605–8](#)
 retirement ages for men and women, [590](#)
 against young employees, [591](#)
 agenda-setting powers
 of Commission, [72–4](#)
 of European Council, [90–1](#)
 agreements covered by competition law, [1007](#), [1009–12](#), [1014–17](#)
 agriculture
 Common Agricultural Policy, [14](#), [1003](#)
 competition law and, [1003](#)
 free movement derogations protective of, [908–10](#)
 Akzo test for predatory pricing, [1038–40](#)
 Alexander the Great, [5](#)
 Algerian war of independence, [654](#)
 allocation of law-making power, [106](#), [108–11](#)
 allocative efficiency, [945](#), [952](#)
 Almunia, Joaquim, [953](#)
 Alter, K., [170](#)
 Amsterdam, Treaty of, [2](#), [29–30](#), [282](#), [519](#), [522](#), [572](#)
 Amstutz, M., [320](#)
 Amtenbrink, F., [728–9](#)
 animal welfare, [906](#), [911–12](#)
 Annual Growth Survey, [746](#), [747](#)
 annulment findings in judicial reviews, [425](#), [464–5](#)
 anti-commandeering, [349](#)
 Anti-Counterfeiting Trade Agreement (ACTA), [416](#)
 antitrust law. *See* competition law and policy

1088 Index

- Area of Freedom, Security and Justice (AFSJ)
 criminal law as part of, [625](#)
 differentiated integration regarding, [138](#)
 economic mercantilism and, [518](#), [525](#), [526–7](#)
 establishment of EU and, [29–30](#)
 humanitarianism, [518](#), [525](#), [536–9](#)
 national security issues, [518](#), [525](#), [528–36](#)
 non-EU nationals and, [518](#), [524–44](#)
 norms informing and aligning policies of, [524–5](#)
 solidarity principle, [518](#), [526](#), [539–44](#)
- aristocratic titles, Austrian prohibition on use of, [486](#), [917](#)
- armed forces. *See* military
- arrest warrants. *See* European Arrest Warrant
- Asociația-ACCEPT, [597](#)
- Assembly of European Regions, [1057](#)
- associations and organisations. *See also specific associations*
 decisions by trade associations and competition law, [1008](#)
 equal opportunities law and policy, remedial role in, [609](#)
 free movement of services, restrictions on, [813–20](#)
 import restrictions involving, [768–73](#)
- asylum-seekers and refugees, [519](#). *See also* international protection
- central EU competencies regarding, [517](#), [519–24](#)
- criminalisation of migration and, [532](#)
- definition of refugee, [555](#)
- detention of, [560–2](#)
- employment rights, [558](#), [567](#)
- family rights, [558](#), [567](#), [568](#)
- fundamental rights of, [271–3](#)
- homosexuals as, [538](#)
- humanitarianism and, [518](#), [525](#), [537](#)
- material reception conditions, [557–60](#)
- non-refoulement rights, [568](#)
- policing of, [559–62](#)
- refugee status, [519](#), [555](#), [563–5](#)
- repatriation assistance for, [568](#)
- social assistance and benefits for, [567](#)
- solidarity principle and, [539–44](#)
- subsidiary protection, [519](#), [555–7](#), [565–6](#)
- unaccompanied children, [541](#)
- atheism, humanism, and absence of belief, [587](#)
- athletics. *See* sport
- Auditors, Court of, [103](#), [443–4](#)
- Auel, K., [130](#)
- Austria
 accession to EU, [30–1](#)
 aristocratic titles, prohibition on use of, [486](#), [917](#)
 on authority of EU law, [222](#)
 in EFTA, [20](#), [30–1](#)
 judicial liability in, [333–4](#)
 preliminary references from, [189](#)
 Prüm Convention (2005), [141](#)
 Race Directive and, [585](#)
- authorisation schemes and freedom of establishment, [890](#)
- authoritative settlement, [266](#)
- authority of EU law, [199–245](#). *See also* autonomy of EU law; conditional authority of EU law
 civilising of State power and sovereignty, [217](#)
 common goods in national law and, [217–18](#)
 conferred powers, doctrine of, [239–40](#)
 constitutional pluralist approach to, [200](#), [219–21](#)
 in Constitutional Treaty, [216](#)
 democratic authority, protection of, [200](#), [235–45](#)
 doctrines establishing, [199](#), [204–15](#)
 fidelity principle, [200](#), [204](#), [213–15](#), [321](#)
 flexibility provision, [240–1](#)
 foundations of, [200](#), [215–22](#)
 identity review, [200](#), [236–9](#), [242](#), [244](#)
 individual rights, benefits, and freedoms as grounds for, [217](#)
 international law model, rejection of, [200](#)
- Lisbon Treaty Declaration
 recognising, [200](#), [216](#)
- national courts, recognition by, [200](#), [215](#)
- national fundamental rights limiting, [200](#), [225–9](#), [245](#)
- national parliaments and, [241–2](#), [245](#)
- national positions on, [222–5](#)
- origins and genesis of, [199](#), [200–4](#)
- pedigree of actions recognising, [200](#), [215–16](#), [241](#)
- pluralist approach to, [200](#), [221–2](#)
- political authority, intergovernmental and supranational models of, [2](#), [14–19](#)
- pre-emption of national law, [199](#), [200](#), [204](#), [209–13](#)
- primacy doctrine, [199](#), [200](#), [204](#), [208–9](#), [216](#)
- proportionality within culture of authority, [401–2](#)
- reasons for, [200](#), [217–22](#)
- supranational qualities and, [217](#)
- ultra vires* review of, [200](#), [229–35](#), [245](#)
- automotive insurance access rules, [811–12](#)
- autonomy of EU law, [204–8](#)
 consequences of, [199](#)
 defined, [204](#)
 early legal cases claiming, [199](#)
 international agreements and, [205–8](#)
- Baker, E., [633](#)
- balanced budget. *See* deficits; finance and budget
- Balibar, E., [470](#)
- bank rescues, [1082–5](#)
- bank restructuring, [1083–4](#)
- banking union, [54](#), [721](#)
- Barber, N., [334](#)
- bargaining and negotiation, democratic, [153](#)
- barriers
 to disabled people in the workplace, [588–90](#)
 to market entry, [1033–5](#)
- Barroso initiative on national parliamentary involvement, [128–9](#)
- Barroso, Jose Manuel, [54](#), [101](#)
- Basel Agreement, [707](#)
- Bayern LB, restructuring of, [1084](#)
- Beck, U., [50](#)
- behavioural economics, [949](#)
- Belgium
 BENELUX, [12](#), [13](#), [222](#)
 establishment of European communities, [11–23](#)
 Flemish and Wallonian regional governments in, [355](#)
 infringement proceedings against, [360–2](#)
 limitations on EU residents voting in local elections, [513](#)
 Prüm Convention (2005), [141](#)
 surnames law in, [482–3](#), [493](#)
- belief. *See* religion or belief
- Bellamy, R., [468–9](#)
- Bellers, John, [8](#)
- below-cost (predatory) pricing, [948](#), [952](#), [998](#), [1038–41](#)
- benefits. *See* social assistance and benefits
- BENELUX States, [12](#), [13](#), [222](#). *See also* Belgium; Luxembourg; Netherlands
- Benz, A., [130](#)
- Beyen Plan (1953), [13](#)
- Bickerton, C., [9–10](#)
- Bill of Rights. *See* European Union Charter for Fundamental Rights and Freedoms; fundamental rights
- binding effects of Court of Justice judgments, [192–5](#)
- biodiversity, [926–7](#)
- biometric data on non-EU nationals, [533](#)
- biotechnology, [267–71](#)
- black lists, [1029](#)
- Blair, Tony, [37](#)
- Blauberger, M., [1079](#)
- Block Exemptions

1089 Index

- competition law, [978](#), [1029–31](#)
 GBER for state aid, [1079](#), [1080–2](#)
 'Blue Card' scheme, [527](#)
 Blunkett, David, [549](#)
 books, minimum prices for, [794](#)
 border checks, [517](#), [519–24](#), [528–9](#)
 borders. *See* frontiers
 Börzel, T., [341](#), [346–7](#)
 Bosniak, L., [470](#)
 Bot, Advocate General, [259–61](#), [266](#), [631–2](#)
 bovine spongiform encephalopathy (BSE or mad cow disease), [68](#), [78](#)
 Bovis, C., [674](#)
 Briand Memorandum (1929), [8](#)
 Britan. *See* United Kingdom
 Brittan, Sir Leon, [398](#), [953](#)
 Broberg, M., [190–1](#)
 BSE (bovine spongiform encephalopathy or mad cow disease), [68](#), [78](#)
 Buch-Hansen, H., [956](#)
 budget. *See* deficits; finance and budget
 Bulgaria
 accession to EU, [31](#)
 political economy compared to Luxembourg, [32](#)
 Schengen Agreements and, [34](#), [522](#)
 burden of proof
 in competition law, [1025](#)
 in discrimination claims, [609–10](#)
 infringement proceedings, [356–7](#)
 non-contractual liability, [463](#)
 business activities, right to pursue, [878–9](#)
 Buttiglione, Rocco, [101](#)
 Cabinets, Commission, [65–6](#)
 Cameron, David, [55](#)
 capacities and capacity building
 considered in infringement proceedings, [345–6](#), [374](#)
 capital
 access to capital and dominant position, [1035](#)
 free movement of, [704](#), [709–10](#), [894](#), [908](#)
 Capotorti, Advocate General, [462](#)
 carers and guardians
 as occupation undertaken in another State, [853](#)
 residence rights of, [493–4](#), [498–503](#)
 Carriers Sanctions Directive, [536](#)
 Cartabia, M., [286](#)
 cartels, [14](#), [998](#), [1008–14](#)
 definitions for 'agreement' and 'concerted practice', [1009–12](#)
 evidence for, [1013](#)
 international cartels, Commission enforcement against, [981](#)
 manifest error of assessment and, [432](#)
 minor participants in, [1012–13](#)
 monopolies, behaving like, [1008](#)
 single infringement, pattern of collusion as, [1009–12](#)
 whistle-blowers, [307](#)
 causation test, State liability, [332](#)
 CECED (Conseil Européen de la Construction d'Appareils Domestiques), [1027–9](#)
 CEN (European Committee for Standardisation), [689](#)
 CENELEC (European Committee for Electrotechnical Standardisation), [689](#)
 Central and Eastern Europe, admission of States of, [30](#), [31](#)
 Centre for Equal Opportunities and Opposition to Racism, [596](#)
 CFSP (Common Foreign and Security Policy), [72](#), [90](#)
 Chalmers, D., [191–2](#), [404](#), [751–2](#)
 Charlemagne, [5](#)
 Chaves, M., [658–9](#)
 Chicago School on competition, [946–50](#)
 children. *See also* family rights
 asylum-seekers and refugees, education rights of [558](#), [567](#)
 asylum-seekers and refugees, unaccompanied children as, [541](#)
 Convention on the Rights of the Child, [253](#)
 protection, victims' right to, [665](#)
 residence rights of children and their carers, [493–4](#), [498–503](#)
 unborn children, residence rights of, [503](#)
 worker residents' and long-term residents' children, education rights of, [550](#), [554](#)
 Chirac, Jacques, [37](#)
 Chiti, C., [723](#)
 Chiti, E., [78](#)
 'Christendom' and idea of Europe, [5](#), [32](#)
 CISA (Schengen Implementing Convention), [651](#)
 Citizenship Directive, [476–8](#), [851](#)
 citizenship in EU, [466–515](#). *See also* family rights; free movement and residence of persons; immigration
 concept of, [26](#)
 deprivation of, [472–4](#)
 development of concept of, [471](#), [572](#)
 ECI, [389–93](#)
 EU CFR, citizens' rights in, [256](#)
 evolution of modern concepts of citizenship, [466](#), [468–71](#)
 national citizenship, tied to, [472–5](#)
 nationality discrimination, no coverage for, [593–5](#)
 nature of, [467](#), [471–5](#)
 openness and accessibility, arguments for, [470](#)
 political rights, [467](#), [513–15](#)
 TFEU on, [471–2](#)
 transformative effects on national citizenship, [475](#)
 citizenship, national. *See* national citizenship
 citizenship, third-country. *See* non-EU nationals
 civil rights
 derogation of free movement due to, [896](#)
 in EU law, [253](#)
 clarity and unambiguousness, [441](#)
 club goods, [33–4](#)
 co-regulation, [385](#), [402](#), [403](#)
 Cockfield, Lord, [21](#)
 Cohen-Eliya, M., [401](#)
 coherence
 as governance norm, [382](#)
 as infringement proceeding concern, [364–5](#)
 cold-calling, [824–5](#), [809](#)
 collective bargaining. *See* trade unions
 collective identity formation, as legitimisation strategy, [25](#), [26](#), [27](#), [30](#), [38](#), [39](#), [42–6](#)
 College of Commissioners, [63–5](#), [978](#), [1077](#)
 collegiality, principle of, [64](#), [159](#)
 Colomer, Advocate General, [172](#)
 comfort letters in response to notified agreement on competition, [978](#), [979](#), [1022](#), [1025](#)
 comitology, [107](#), [144–50](#), [695](#)
 commercial policy, as element of common market, [14](#)
 Commission, [58](#), [63–80](#). *See also* enforcement of competition law by Commission
 agenda-setting powers of, [72–4](#)
 bank rescues and, [1082–5](#)
 budget monitoring by, [747–8](#)
 Cabinets, [66](#)
 College of Commissioners, [63–5](#), [978](#), [1077](#)
 comitology, [107](#), [144–50](#)
 consultation procedure, [123–6](#)
 DGs, [65–6](#)
 ECB Governing Council and, [728](#)
 EEC Treaty establishing, [14](#)
 ESM and, [58](#), [63–80](#), [743](#)
 European Council's power to determine composition of, [90](#)
 European Parliament's appointment and dismissal powers regarding, [101](#), [102](#)
 European public order, concept of, [633](#)
 executive and financial powers of, [74–5](#)
 infringement proceedings discretion, [341](#), [363–8](#)
 infringement proceedings generally won by, [363](#)
 infringement proceedings initiated by, [339](#)

1090 Index

- Commission (*cont.*)
 judicial review, privileged standing for, [443](#)
 legislative and quasi-legislative powers of, [67–72](#), [117](#), [120](#)
 Luxembourg Accords, [15](#)
 notification of problems applying or enforcing EU law, [214](#)
 powers of, [67](#), [124](#)
 President of, [64](#), [90](#), [101–2](#)
 procedures for conducting business, [66–7](#)
 regulatory agencies and, [78–80](#)
 significant observed deviations, sanctions due to, [748–52](#)
 Single European Act and, [21–2](#)
 state aid framework test, [1077–80](#)
 state aid law enforcement by recovery, [1072–9](#)
 state aid law policy of, [1055–7](#)
 state aid law supervision by, [1071–2](#)
 supervisory powers of, [75–7](#), [1071–2](#)
 trilogues, [121–3](#)
- Commissioner's Group on Equal Opportunities, [619](#)
- commitment decisions, [971–3](#), [998](#), [1049–51](#)
- Committee of Permanent Representatives (COREPER), [58](#), [87–8](#), [122](#), [752](#)
- Committee of the Regions
 establishment of, [26](#)
 judicial review, semi-privileged applicant for, [443–4](#)
- Committees of European Parliament, [100](#)
- Common Agricultural Policy, [14](#), [1003](#)
- Common Foreign and Security Policy (CFSP), [72](#), [90](#)
- common goods in national law, [217–18](#)
- common market. *See* internal market
- Common Market, Beyen Plan (1953)
 proposing, [13](#)
- common technical standards, [687–92](#)
- Community Charter of Fundamental Social Rights of Workers, [253](#), [254](#), [277](#), [572](#)
- Community Visas Code, [535](#), [539](#)
- companies
 free movement of, [849](#), [873](#), [883–90](#)
 parents and subsidiaries, [999–1001](#)
 SMEs, [115](#), [843](#), [898](#), [1035](#), [1042](#), [1043](#), [1055](#), [1059](#), [1080](#), [1081](#), [1083](#)
- compensation, victims' rights to, [664](#)
- compensatory damages. *See* damages
- competence, lack of, as grounds for judicial review, [428–9](#)
- competition law and policy, [942–95](#), [997–1051](#). *See also* abuse of dominant position; cartels; enforcement of competition law by Commission; exclusions and exemptions from competition law coverage; mergers; private enforcement of competition law; regulatory authority over competition
- agreements, [1007](#), [1009–12](#), [1014–17](#)
- burden of proof in, [1025](#)
- commitment decisions, [971–3](#), [998](#), [1049–51](#)
- concerted practices, [1008](#), [1009–12](#)
- consumer-based approach to, [944](#)
- Court of Justice on, [953](#), [960](#), [987–8](#), [989–92](#), [1019–20](#), [1043](#), [1046–9](#)
- 'culture of competition', development of, [943](#)
- de minimis* rule, [1002](#)
- decisions by trade associations, [1008](#)
- deterrence-based enforcement of, [1025](#)
- economic appraisals, [1022–5](#)
- economics perspective on, [944–60](#)
- effect of agreement, restriction of competition as, [1022–5](#)
- 'effect on trade', what constitutes, [1001–2](#)
- evidentiary requirements, [1022–5](#)
- evolution of, [953–5](#)
- excluded agreements, [1003–6](#)
- exemption decision, power to issue, [1025](#)
- free-rider rationale, [1014–15](#)
- General Court versus Court of Justice on, [1019–20](#)
- global financial crisis and, [955–7](#)
- goals and objectives, [943](#), [1014](#)
- internal market and, [14](#), [675–6](#)
- judicial review by Court of Justice of breaches of, [455](#)
- Lisbon Treaty and, [955](#)
- maintenance of competitive process, [944](#), [951–2](#)
- market integration as aim of, [1014](#)
- market power, concept of, [946](#), [952](#)
- NAAT test, [1002](#)
- national courts and breaches of, [307](#)
- object of agreement, restriction of competition as, [1020–22](#)
- parents and subsidiaries, treatment of, [999–1001](#)
- political dimensions of, [950–2](#)
- predatory pricing, [948](#), [952](#), [998](#), [1038–41](#)
- price fixing, [1016–17](#)
- prohibited restrictive practices, [1006–7](#)
- as public interest issue, [982](#), [1047](#)
- regulatory competition, [668](#), [697–702](#)
- restriction, distortion, or prevention of competition, object or effect of undertaking as, [1025](#)
- state aid law and, [1016–17](#), [1053–4](#)
- undertaking, what constitutes, [999–1001](#)
- undistorted competition principle, [667](#), [670](#), [679](#), [680](#), [681](#), [686–7](#), [1035](#), [1041](#), [1054](#)
- unilateral action and agreement, distinguishing, [1014–17](#)
- vertical restraints, [1030](#)
- white lists and black lists, [1029](#)
- wider economic and non-economic purposes for, [944](#)
- compromise of EU law, duty to refrain from, [323–5](#)
- concerted practices covered by competition law, [1008](#), [1009–12](#)
- Cconciliation Committee for ordinary legislative procedure, [119](#), [120](#)
- conditional authority of EU law, [200](#), [222–45](#)
- conferred powers, doctrine of, [239–40](#)
- democratic authority, protection of, [235–45](#)
- dynamic treaty provisions and, [240](#), [243](#), [244](#)
- flexibility provision and, [240–1](#)
- identity review, [200](#), [236–9](#), [242](#), [244](#)
- national fundamental rights, [200](#), [225–9](#), [245](#)
- national parliaments and, [241–2](#), [245](#)
- national positions on status of EU law, [222–5](#)
- ultra vires* review, [200](#), [229–35](#), [245](#)
- Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), [134](#)
- conferred powers, doctrine of, [239–40](#)
- Conseil Européen de la Construction d'Appareils Domestiques (CECED), [1027–9](#)
- consent procedure of EU law-making, [108](#), [127](#)
- Constitutional Court, proposal for, [398](#)
- constitutional pluralist approach to authority of EU law, [200](#), [219–21](#)
- constitutional tolerance, principle of, [152](#)
- Constitutional Treaty, [37](#), [216](#), [255](#), [955](#)
- constitutionalism, state, [221](#)
- consultation, [380](#), [406–22](#)
- dialogue, [406](#), [407–10](#)
- in EU law-making procedure, [108](#), [123–6](#)
- general standards and minimum principles, [406–7](#)
- participatory democracy as feature of governance and, [387](#)
- pluralism/inclusiveness, [406](#), [411–12](#)
- transparency, [406](#), [410–11](#)
- consumer protection
 competition law exemptions and, [1028](#), [1030](#)
 exploitative abuse of dominant position, [1035–6](#)

1091 Index

- food risks, consumer concerns regarding, [932–3](#)
 free movement of services and, [821](#), [845–6](#)
 product rules and standards for, [780–3](#)
 contract, centrality of, in market societies, [832](#)
 contradictory or absent national measures, [321–3](#)
 Convention on the Rights of Persons with Disabilities, UN, [587](#)
 Convention on the Rights of the Child, UN, [253](#)
 Conventions between Member States and EU, [635](#)
 Convergence Criteria, [705](#), [713](#)
 Conway, G., [176](#)
 Cooper, I., [133](#)
 cooperation procedure, [22–3](#)
 cooperative federalism, [211](#)
 COREPER (Committee of Permanent Representatives), [58](#), [87–8](#), [122](#), [752](#)
 COSAC (Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union), [134](#)
 Coudenhove-Kalergi, Count, [8](#)
 Council, European. *See* European Council
 Council of Ministers, [58](#), [80–8](#)
 assent required in ordinary legislative procedure, [119](#)
 comitology, [147–8](#)
 composition and membership, [81](#)
 configurations of, [81–2](#)
 consent procedure, [127](#)
 consultation procedure, [123–6](#)
 COREPER, dependence on, [58](#), [87–8](#)
 decision-making and voting processes in, [82–6](#)
 ECB Governing Council and, [728](#)
 EEC Treaty establishing, [14](#)
 General Affairs Council, [82](#)
 joint agreement requirements for ordinary legislative procedure, [118](#)
 judicial review, privileged standing for, [443](#)
 legislative powers, [81](#), [85–6](#)
 powers of, [80–1](#), [124](#)
 President, [86–7](#)
 QMV in, [14](#), [22](#), [58](#), [82–5](#)
 Secretariat, [87](#)
 significant observed deviations, sanctions due to, [748–52](#)
 sovereign debt crisis and, [716](#)
 trilogues, [121–3](#)
 unanimity voting and consensus in, [82](#), [85–6](#), [89](#)
 country of origin principle, [697](#)
 Court of Auditors, [103](#), [443–4](#)
 Court of Justice, [158–61](#). *See also* judicial review by Court of Justice; preliminary reference procedure
 on abuse of dominant position, [1043](#), [1046–9](#)
 Advocates General, [159](#)
 age, non-discrimination on grounds of, as general principle of EU law, [574–5](#), [577](#)
 appeals from General Court decisions to, [162–3](#)
 on authority and primacy of EU law, [201–2](#), [265](#)
 binding effects of judgements, [192–5](#)
 collegiality, principle of, [159](#)
 on competition law, [953](#), [960](#), [987–8](#), [989–92](#), [1019–20](#), [1043](#), [1046–9](#)
 criminal law, jurisdiction over, [626](#)
 on damages in private enforcement of competition law, [989–92](#)
 delays in judgement, protection of parties against, [195–7](#)
 dispute resolution by, [183–5](#)
 ECB and, [727](#)
 EEC Treaty establishing, [14](#)
 on enforcement of competition law by Commission, [960](#)
 equal treatment, recognition of principle of, [572](#)
 EU institutions, judicial review of, [177–9](#)
 EUCFR, reliance on, [576](#)
 expertise, lack of, [177](#)
 on free movement of services, [800](#), [801](#), [830](#)
 on fundamental rights in EU law, [251–4](#)
 greater integration, pushing, [175](#)
 import restrictions, jurisdiction over, [758](#)
 interim relief, [196](#), [307](#)
 judges, [158–9](#)
 judicial activism of, [175](#)
 judicial liability and, [335](#)
 jurisdiction of, [160–1](#)
 on lawyer-client privilege, [960](#)
 leniency policies and documents, challenges to, [993](#), [988](#)
 national courts, relationship to, [164–70](#)
 number of judges per case, [159](#)
 part-time workers, discrimination against, [599](#)
 on positive or affirmative action programmes, [616](#)
 on regulatory authority over competition by NCAs, [987–8](#)
 on sex discrimination under national equality laws, [578](#), [583–5](#)
 on sexual orientation discrimination, [592–3](#)
 standing to seek judicial review for failure to act, [456](#)
 on state aid, [1032–3](#), [1066–8](#), [1072](#), [1077](#), [1079](#)
 subsidiarity principle and, [396–9](#)
 supranational model of EU political authority and, [16–18](#)
 teleological reasoning of, [176–7](#)
 on transparency exceptions, [415–16](#), [419](#)
 unity of EU law, preserving, [179–83](#)
 Court of Justice of the European Union, [157–63](#)
 courts. *See* judicial order of EU; national courts; *specific courts*
 Crane, D. A., [1050–1](#)
 credential goods, [404](#)
 credit organisation changes, [813](#)
 Crenshaw, K., [595](#)
 Creutzfeldt-Jakob disease, [68](#), [78](#)
 criminal law, [623–65](#). *See also* European Arrest Warrant; judicial cooperation in criminal justice
 augmentation of national security through, [629–30](#)
 characteristics and constraints of, [623](#), [625–6](#)
 deportation or exclusion on grounds of public policy or public security, [508–13](#)
 differentiated integration in, [624](#), [636–8](#)
 emergency brake procedures in, [624](#), [635–6](#), [656](#)
 enforcement of competition law by Commission and, [973](#)
 Euro-crimes (serious crimes with transnational dimensions), [641](#), [656](#), [657–60](#)
 European public order, concept of, [630–4](#)
 extension of government through, [633–5](#), [662](#)
 framework decisions, reliance on, [624](#), [635](#)
 harmonisation of offences and sanctions, [624](#), [655–61](#)
 indirect effect and, [320](#)
 international protection denied to criminals, [562](#)
 Lisbon Treaty on, [623](#), [625–6](#)
 migration, criminalisation of, [531–4](#), [546](#)
 national controls over, [635–6](#), [656](#)
 national sovereignty and internal security issues, [626–8](#)
 normative order prior to Lisbon Treaty, retention of, [633–5](#)
 organised crime, [657–60](#), [649](#)
 previously legal activities, harmonisation leading to criminalisation of, [624](#), [658–60](#)
 rationales of, [629–34](#)
 regulated service providers, criminal sanctions associated with, [826](#)
 as regulatory tool, [656](#), [661](#)
 subsidiarity principle and, [624](#)
 victims' rights, [624](#), [633](#), [661–5](#)

1092 Index

- Croatia
 accession to EU, **31, 287**
 Schengen Agreements and, **522**
 Schengen Convention and, **34**
 sovereign debt crisis and, **715**
- Cruz Villalón, Advocate General, **256**
- culture. *See* socio-cultural preferences
- Curtin, D., **77**
- customs union, as element of common market, **13**
- Cyprus
 accession to EU, **31**
 ESM support, **48**
 extradition ban in, **649**
 Schengen Agreements and, **34, 522**
 sovereign debt crisis and, **714, 715**
 Turkish application for accession to EU and, **32**
- Czech Republic
 accession to EU, **31**
 Constitutional Treaty, referendum on, **39**
 EUCHR and, **287**
 extradition ban in, **649**
 identity review in, **239**
 Lisbon Treaty and, **44**
 preliminary references from, **189**
 trust of national parliament in, **33**
 TSCG, refusal to sign, **51, 141, 717**
ultra vires review, EU law subject to, **233–5**
- damages. *See also* private enforcement of competition law
 annulments, **464**
 in discrimination claims, **610–11**
 in national courts, **301**
 non-contractual liability, **458, 462–4**
 recovery of state aid treated as, **1073**
 victims' rights to compensation, **664**
- Dani, M., **221**
- Dann, P., **99–100**
- Dashwood, A., **399**
- Davies, G., **396–7**
- 'dawn raids' (competition law inspections), **960–3**
- Dawson, M., **724, 742**
- de Gaulle, Charles, **14–15, 18, 20**
- de la Mano, M., **945, 946**
- de minimis* rule
 competition law, what constituted 'effect on trade' in, **1002**
 for import restrictions, **765–6**
 for right to take up or pursue occupation in another State, **863–4, 883**
 state aid, **1070**
- de Witte, B., **204**
- de Witte, F., **696, 724, 742**
- Deakin, S., **698–700, 702**
- death and family rights, **497–8**
- debating parliaments, **99–100**
- Decisions (EU legislation), **112, 113, 635**
- decisions by trade associations, **1008**
- defences
 EU law, defence rights in, **254, 433–9, 642–7**
 Euro-defence, **1007**
- defences to discrimination charges
 genuine occupational requirement defence, **601–3**
 legitimate aim defence to indirect discrimination, **599–600**
 military, age and disability discrimination by, **605**
 national employment policy, age discrimination related to, **605–8**
 public security, order, and safety, **603–4**
 religious institutions, employment practices of, **604–5**
- deficits
 balanced budget rule, **718**
 commitment not to incur excessive deficits as element of EMU, **705, 710–11**
 defined, **710**
 Excessive Deficit Procedure, **705, 711, 719**
 extension of oversight and sanctioning powers of ECU regarding, **705, 717–20**
 MTBO, **711, 719, 748–52**
 sanctions for deviating significantly from agreed adjustment path, **706, 748–52**
 Significant Observed Deviation procedure, **705, 719, 748–52**
 Six Pack aimed at controlling, **51, 717, 750**
 sovereign debt crisis of 2008, **3, 46–53, 705, 714–17**
 Stability and Growth Pact (1997), **711, 717**
- definitive position requirement for judicial review, **427–8**
- degressive proportionality of European Parliament, **94**
- Delaware effect, **885**
- delays in judgement, protection of parties against, **195–7**
- Delors, Jacques, and Delors Report, **21, 24, 26, 572, 707–9, 953**
- Democracia Real YA* (Spain), **716**
- Democracy International, **389**
- democracy, participatory. *See* participatory democracy
- democratic authority, protection of, **235–45, 200**
- 'democratic identity' established by Lisbon Treaty, **42–6**
- democratic qualities of EU law-making, **108, 151–4**
- Denmark
 accession to EEC, **15, 20**
 agricultural communities and property, protection of, **908–10**
 on amount of legislation informed by EU law, **394**
 asylum applications, **554, 541**
 Constitutional Treaty, referendum on, **39**
 corporate law in, **887**
 criminal law in EU and, **624, 636**
 differentiated integration for, **27, 30, 518, 521, 624, 636, 713**
 EMU and, **713**
 European Council, interest in, **94**
 infringement proceedings against, **359–60, 365**
 on integration conditions, **549**
 marriage between non-EU nationals and non-Danish EU nationals residing in, **539**
 national parliamentary involvement in EU law-making in, **130**
 non-EU nationals in, **518, 521**
 ratification of Maastricht Treaty and, **28**
 SEA, passage of, **22**
 soft drink container recycling rules in, **784**
- dependants, **496**
- deportation
 EU nationals deported or excluded from another State, **34, 467, 481, 500–3, 508–13**
 Returns Directive on non-EU nationals, **518, 524, 544–6**
- deposit-and-return schemes for soft drink containers, **784–5**
- derogation, States with a (from EMU), **713**
- derogations due to public interests and public goods. *See* public interest and public goods
- Derrida, Jacques, **6–7**
- detention
 of applicants for international protection, **560–2**
 of irregular immigrants, **546**
- DG Competition (Directorate-General for Competition), **953, 964, 978, 1043**
- DGs (Directorates General, Commission), **65–6**
- dialogue
 in consultation process, **406, 407–10**
 Economic Dialogue, **747**
 equal opportunities law and policy, dialogue as means of entrenching, **571, 616–18**
- differentiated integration, **2**
 Amsterdam, Treaty of, **30**
 on border checks, immigration, and asylum, **520–4**
 Court of Justice decisions pushing greater integration instead of, **175**
 in criminal law, **624, 636–8**
 in EMU, **27, 140–1, 705, 713–14**

1093 Index

- Enhanced Cooperation, [130](#), [135–8](#), [141](#)
on frontier controls, [528](#)
international agreements outside EU Treaty framework, [141–3](#)
in law-making, [107](#), [135–43](#)
Lisbon Treaty affecting, [3](#)
Maastricht Treaty and development of, [27](#)
non-EU nationals, central competencies regarding, [518](#)
Schengen Agreements and, [139–40](#), [141](#), [518](#)
- direct discrimination
in employment, [570](#), [578](#), [593](#), [596–7](#)
between national and foreign goods, [755](#)
occupation, restrictions on exercise of, [875](#)
occupation, restrictions on taking up of, [859](#)
- direct effect
defined, [291](#)
Directives, [292](#), [308–12](#), [353](#)
emergence of, [291](#), [293–4](#)
estoppel argument regarding, [310](#)
EU procedures and remedies, use of, [305–8](#)
horizontal (against private parties), [292](#), [296–8](#), [310–11](#), [312](#)
incidental, [292](#), [313–16](#)
indirect effect superseding, [316](#)
individual rights, development of, [292](#), [295–8](#)
international agreements, [308](#)
justiciability test, [295–6](#)
Regulations,
remedies and procedures,
development of, [292](#), [298–308](#)
secondary legislation, [292](#), [308–16](#)
vertical (against State), [292](#), [297](#), [310](#)
- direct purchaser claims in private enforcement of competition law, [994](#)
- Directives
absent or contradictory national measures, in face of, [321–3](#)
compromise of EU law, duty to refrain from, [323–5](#)
direct effect of, [292](#), [308–12](#), [353](#)
framework directives, [385](#)
indirect effect of, [316–21](#)
infringement proceedings for failure to transpose, [371–2](#)
as legislation, [112](#), [113](#)
triangular situations and incidental direct effect, [313–16](#)
- Directorate-General (DG) for Competition, [953](#), [964](#), [978](#), [1043](#)
- Directorates General (DGs), Commission, [65–6](#)
- disability
Framework Directive on, [574](#)
genuine occupational requirement defence and, [854](#)
mainstreaming and, [621](#)
medical versus social model of, [588](#)
military, discrimination by, [605](#)
occupation undertaken in another State and, [854](#)
prohibition of discrimination based on, [587–90](#)
reasonable accommodation/removal of barriers, [588–90](#)
UN Convention on the Rights of Persons with Disabilities, [587](#)
- Disability Intergroup, European Parliament, [621](#)
- disapplication of contradictory or absent national measures, [321–3](#)
- discovery
Commission investigations of competition violations, [964](#)
leniency documents, [993](#)
- discretion
abuse of institutional discretion, [429–33](#)
infringement proceedings, [341](#), [363–8](#), [372](#)
state aid law, discretionary exemptions in, [1076](#), [1077](#)
- discrimination. *See* equal opportunities law and policy; non-discrimination; *specific types of discrimination*
- dispute resolution by Court of Justice, [183–5](#)
- divorce and family rights, [497–8](#)
- Docksey, C., [317](#)
- document-based procedure for legislative involvement of national parliaments, [129](#)
- documents, right of access to. *See* transparency
- domestic institutions and laws. *See* Member States; *entries at* national
- domestic violence, [618](#)
- double criminality, EAW and abolition of, [531](#), [641](#), [647–9](#)
- drug tourism, [631–2](#)
- dual federalism, [210](#)
- Dublin Regulation, [518](#), [537](#), [543](#)
- due diligence, claimants required to exercise, [305](#)
- Dutch. *See* Netherlands
- dynamic (innovation) efficiency, [945](#), [949](#), [952](#)
- dynamic treaty provisions, [240](#), [243](#), [244](#)
- Early Warning Mechanism, [107](#), [131–4](#)
- Eastern and Central Europe, admission of States of, [30](#), [31](#)
- EAW. *See* European Arrest Warrant
- ECB. *See* European Central Bank
- ECHR. *See* European Convention for the Protection of Human Rights and Freedoms
- ECI (European Citizens' Initiative), [389–93](#)
- ECJ (European Court of Justice). *See* Court of Justice; Court of Justice of the European Union
- ECN (European Competition Network), [982–7](#)
- ECOFIN, [752](#)
- Economic and Monetary Union (EMU), [704–52](#). *See also* deficits; European Central Bank
accession of States to, [34](#), [35](#), [705](#), [713](#)
coordination of economic policy in, [705](#), [711–12](#)
current efforts to strengthen, [54](#)
Delors Report, [707–9](#)
differentiated integration regarding, [27](#), [140–1](#), [705](#), [713–14](#)
ESCB, [705](#), [709](#)
ESM, [48–50](#), [76](#), [142–3](#), [242–5](#), [706](#), [720](#), [722–3](#), [737–8](#), [740–5](#)
EU law-making and, [722–4](#)
European Semester for Economic Policy, [706](#), [745](#)
financial support for struggling States, [714](#), [720](#), [722](#), [740–5](#)
four pillars of, [709–12](#)
free movement of capital as element of, [704](#), [709–10](#)
guiding principles and economic goals of, [712](#)
initial template for, [704](#), [707–12](#)
leading up to Maastricht Treaty, [23–4](#)
in Maastricht Treaty, [26](#)
oversight and sanctioning powers, extension of, [705](#), [717–20](#)
single currency as element of, [705](#), [710](#)
sovereign debt crisis, effects of, [3](#), [46–53](#), [705](#), [714–17](#)
States with a derogation, [713](#)
TSCG, [51](#), [141](#), [717](#), [722](#)
- economic and non-economic visions of equal opportunities law, [570](#), [571–3](#)
- Economic Dialogue, [747](#)
- economic integration as step towards social and political integration, [669](#)
- economic mercantilism, [518](#), [525](#), [526–7](#)
- economic reasons, no derogation purely for, [897](#)
- economic rights in EU law, [253](#)
- economics and competition law, [944–60](#)
- economies of scale and dominant position, [1035](#)
- ECSC (European Coal and Steel Community), [2](#), [12](#), [943](#)

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1094 Index

- ECtHR (European Court of Human Rights), 288, 290, 542, 960, 962, 963, 973
- ECU (European Currency Unit), 707
- EDC (European Defence Community), 12
- education
- accountants, educational services for, 1005
 - of asylum-seekers and refugees, 558, 567
 - 'Blue Card' scheme for highly-skilled workers, 527
 - free movement of services and, 806–7, 808, 834, 837, 841, 843
 - freedom to attend schools out of home State, 484, 489
 - fundamental right to, 255
 - lack of EU law-making powers regarding, 65
 - least restrictive option requirements regarding, 920–1
 - non-EU nationals, education rights of, 518, 519
 - occupation in another State and, 853, 860, 864, 869, 873, 874, 879
 - professional diplomas and qualifications, 866–73
 - Race Directive on, 613
 - student status, as occupation undertaken in another State, 853
 - worker residents' and long-term residents' rights regarding, 550, 554
- EEA (European Economic Area), 31
- EEC (European Economic Community) and EEC Treaty, 2, 13, 20, 687, 943
- effectiveness
- effective judicial protection principle, 301–4
 - federalism and effective realisation of common Union action, 395–6
 - as governance norm, 382
 - public interest and public goods, effectiveness of measure to protect, 906–11
- EFSS (European Financial Stability Facility), 48
- EFTA (European Free Trade Area), 20, 30–1
- Egeberg, M., 77
- elections
- citizenship rights to hold office and vote in, 467, 513–15
 - direct elections for European Parliament (1976), 18, 21, 94
 - local elections, right to vote in, 513, 514
 - national elections, no right of migrant citizens to vote in, 514
 - procedures for European Parliament elections, 95
 - turnout and political engagement of voters, 97, 514
- electronic document registers, 413
- emergency brake provisions, 240, 624, 635–6, 656
- employment. *See* labour law and labour market
- EMS (European Monetary System; 1979), 707
- EMU. *See* Economic and Monetary Union
- enforcement
- infringement proceedings, enforcement responses to, 346
 - private enforcement of competition law. *See* private enforcement of competition law
 - private enforcement of state aid law, 1074–6
- enforcement of competition law by
- Commission, 944, 957–78
 - access of accused party to file, 964
 - adjudication, 963–5
 - block exemption regulations, 978, 1029–31
 - comfort letters in response to notified agreement, 978, 979, 1022, 1025
 - commitment decisions, 971–3, 998, 1049–51
 - coordination of ECN, 982
 - current role of, 981–2, 984
 - economic appraisals, 1022–5
 - fining and fining policy, 966–9
 - fundamental rights and, 973–6
 - guidance provided by Commission, 981–2, 1043–5
 - informal decisions, 971
 - information requests and interviews, 958
 - inspections ('dawn raids'), 960–3
 - international cartels, enforcement against, 981
 - investigations, 957, 958–63
 - leniency policy, 969–71
 - limited resources, problem of, 978
 - modernisation of, 978–80
 - NCA decisions, checking, 984
 - oral hearings, 964–5
 - penalties, 965
 - political nature of decision process, critiques of, 977–8
 - private enforcement initiatives, 989, 992–4
 - private party complaints or confessions leading to, 957
 - public interest and, 982
 - remedies, 965–6
 - report on functioning of new regulatory authority, 985–6
 - statement of objections, 963–4
 - structural remedies, 966
 - enforcement of state aid law, 1053, 1071–6
 - Commission, supervision by, 1071–2
 - notification requirements, 1071–2
 - private enforcement, 1074–6
 - recovery of unlawful aid, 1072–9
- Enhanced Cooperation, 135–8, 141
- ENISA (European Network and Information Safety Agency), 684–5
- enlargement of EU, 3
- EEC accessions, from 1961 to 1986, 15, 20
 - from 1991 to present, 30–5
- enquiry, European Parliament's power of, 102–3
- entry into market, barriers to, 1033–5
- environmental protection, 893, 925–30
- biodiversity, 926–7
 - climate change and alternative energy, 927–8
 - competition law exemption for agreements regarding, 1029
 - heavy goods traffic restrictions, 928
 - international conventions regarding, 927
 - least restrictive means requirement, 926
 - non-domestic threats, 906
 - product standards and, 783–5
 - recycling, 783–5, 929
 - waste transportation, 929–30
- equal opportunities law and
- policy, 569–621. *See also* age discrimination; defences to discrimination charges; disability; nationality discrimination; non-discrimination; racial or ethnic origin; reasonable accommodation; religion or belief; sex and gender; sexual orientation
 - actual discriminatory action, lack of, 596–7
 - affirmative or positive action programmes, 571, 614–16
 - associations and organisations, remedial role of, 609
 - Burden of Proof Directive, 609–10
 - compensatory damages in, 610–11
 - defences to discrimination claims, 570
 - dialogue as means of entrenching, 571, 616–18
 - direct discrimination, 570, 578, 593, 596–7
 - economic and non-economic visions of, 570, 571–3
 - equal opportunity versus equal results (formal versus substantive equality), 570, 577
 - gender-based employment discrimination, 295–8, 305, 310–11, 317
 - grounds for discrimination claims, 581–3
 - harassment, 570, 578, 599–601
 - indirect discrimination, 570, 578, 593, 597–600
 - intersectional discrimination, 595

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1095 Index

- labour market, as common core, [570](#), [578–81](#)
- labour market, extension beyond, [570](#), [617](#)
- limitations of, [570](#)
- mainstreaming, [571](#), [618–21](#)
- morally irrelevant characteristic, unequal treatment due to, [581](#)
- non-protected person associated with protected group, safeguarding rights of, [582–3](#)
- part-time workers, [579–81](#), [599–601](#)
- political opinion, no protection for discrimination based on, [582](#)
- protected groups, [570](#)
- remedies for discrimination, [570](#), [608–11](#)
- reprisals against claimants, [610](#)
- sources of, [570](#), [573–7](#)
- systematic discrimination, [614](#)
- equal pay, [295–8](#), [305](#), [571](#), [574](#), [579](#), [583](#)
- Equal Treatment Directive, [310](#), [323](#), [324](#), [584](#), [585](#), [611](#), [617](#)
- equality directives, [574](#), [575](#)
- equivalence principle, [300](#)
- erga omnes* effects of annulments, [464](#)
- ERM (exchange rate mechanism for EMS), [707](#)
- ERM II (exchange rate mechanism, revamped), [732](#)
- ERT (European Round Table), [21](#)
- ESCB (European System of Central Banks), [705](#), [709](#), [725](#), [728](#), [731–2](#)
- ESE (European School of Economics), [874](#)
- ESM (European Stability Mechanism), [48–50](#), [76](#), [142–3](#), [242–5](#), [706](#), [720](#), [722–3](#), [737–8](#), [740–5](#)
- establishment
- applicability of Service Directive to persons establishing in own State or in another State, [891](#)
 - authorisation schemes, [890](#)
 - companies, free movement of, [883](#)
 - derogations in the public interest, [895](#)
 - freedom of, [849](#), [850](#), [890–1](#)
 - requirements for, evaluation of, [890](#)
 - secondary establishment restrictions, [864–6](#), [884–90](#)
 - Services Directive on, [849](#), [890–1](#)
 - what constitutes, [802](#), [821–2](#), [826](#), [854](#)
- Estonia
- accession to EU, [31](#)
 - identity review in, [239](#)
- estoppel argument (for direct effect of Directives), [310](#)
- Esty, D., [702](#)
- ethnicity. *See* racial or ethnic origin
- ETSI (European Telecommunication Standards Institute), [689](#)
- EU. *See* European Union (EU) and EU law
- EU pilot, in infringement proceedings, [357–9](#), [363](#)
- EU Structural Funds, [620](#)
- EU-Turkey Association Agreement, [537](#)
- EUCFR. *See* European Union Charter for Fundamental Rights and Freedoms
- EURATOM (European Atomic Energy Community), [2](#), [13](#)
- euro and euro area. *See* Economic and Monetary Union
- Eurobarometer, [270](#)
- Eurocontrol (European Organisation for the Safety of Air Navigation), [999](#)
- Euro-crimes (serious crimes with transnational dimensions), [641](#), [656](#), [657–60](#)
- EURODAC, [532–4](#)
- Euro-defence, [1007](#)
- Euro Group, [714](#), [728](#), [747–8](#), [749](#)
- Europa, [4](#)
- Europe 2020 programme on state aid, [1080](#)
- Europe and European Union, ideas of, [2](#), [4–11](#)
- European Arrest Warrant (EAW), [624](#), [640–51](#)
- citizenship in EU and, [482](#)
 - conditional surrenders, [651](#)
 - defence rights and, [642–7](#)
 - defined, [640](#)
 - double criminality, abolition of, [531](#), [641](#), [647–9](#)
 - duty to surrender, [641–2](#)
 - fair trial guarantees, [644–5](#)
 - fundamental rights and, [644–5](#)
 - information, right to, [533](#)
 - issuing authorities, [640](#)
 - lawyer, access to, [647](#)
 - legality principle and, [647–9](#)
 - mutual recognition principle behind, [639](#)
 - proportionality principle and, [649](#)
- European Assembly, [14](#), [94](#)
- European Atomic Energy Community (EURATOM), [2](#), [13](#)
- European Cartel Office proposals, [978](#)
- European Central Bank (ECB), [705](#), [725–38](#)
- bank rescues and, [1082](#)
 - banking union proposals, [54](#), [721](#)
 - coordination of economic policies and functioning of, [711](#)
 - Court of Justice and, [727](#)
 - in Delors Report, [24](#)
 - differentiated integration and, [140–1](#)
 - EMU, as element of, [705](#), [710](#)
 - ESCB, as central decision-maker within, [732](#)
 - euro issued by, [705](#), [710](#)
 - European Council's power to appoint Executive Board of, [90](#)
- European Parliament and, [729](#), [730](#)
- Executive Board, [725–6](#), [727](#)
- Governing Council, [725–31](#)
- independence and accountability of, [726–31](#)
- legal personality of, [727](#)
- as lender of last resort, [736–8](#)
- in Maastricht Treaty, [26](#)
- Member States outside euro area and, [736](#)
- monetary policy, responsibility for, [731–3](#)
- national parliaments and, [730](#)
- OMT programme, [48](#), [720–1](#), [722](#), [736–8](#)
- post-crisis extension of powers of, [705](#), [720](#)
- prudential supervision by, [733–6](#)
- reporting requirements, [730](#)
- significant credit institutions, what constitutes, [734](#)
- SMP, [48](#), [714](#), [716](#), [720–1](#), [736](#)
- sovereign debt crisis, programmes responding to, [48](#), [714](#), [716](#), [720–1](#)
- SSM, [54](#), [730](#), [733–4](#), [736](#)
- standing to seek judicial review, [443–4](#), [456](#)
- Supervisory Board, [726](#)
- European Citizens' Initiative (ECI), [389–93](#)
- European citizenship. *See* citizenship in EU
- European Coal and Steel Community (ECSC), [2](#), [12](#), [943](#)
- European Commission. *See* Commission
- European Committee for Electrotechnical Standardisation (CENELEC), [689](#)
- European Committee for Standardisation (CEN), [689](#)
- European Competition Network (ECN), [982–7](#)
- European Constitutional Court, proposal for, [398](#)
- European Convention for the Protection of Human Rights and Freedoms (ECHR)
- accession of EU to, [248](#), [249](#), [250](#), [288–90](#)
 - competition law enforcement and, [961](#)
 - equal opportunity law, as source for, [576](#)
 - family reunification rules and, [279](#)
 - fundamental rights in EU law deriving from, [247](#), [249](#), [253](#)
 - hearing, right to, [973](#)
 - interpretation of, [262–4](#)
 - standard of protection of rights under, [248](#)
- European Council, [58](#), [88–94](#)
- agenda-setting powers of, [90–1](#)
 - CFSP, role in, [90](#)

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1096 Index

- European Council (*cont.*)
 consent procedure, [127](#)
 within EU institutional settlement, [92–4](#)
 judicial review of, [425](#)
 powers of, [89–91](#), [124](#)
 President of, [91–2](#)
 sovereign debt crisis and, [716](#)
 standing to seek judicial review for failure to act, [456](#)
- European Court of Human Rights (ECtHR), [288](#), [290](#), [542](#), [960](#), [962](#), [963](#), [973](#)
- European Court of Justice (ECJ). *See* Court of Justice; Court of Justice of the European Union
- European Currency Unit (ECU), [707](#)
- European Defence Community (EDC), [12](#)
- European Disability Forum, [590](#)
- European Economic Area (EEA), [31](#)
- European Economic Community (EEC) and EEC Treaty, [2](#), [13](#), [20](#), [687](#), [943](#)
- European Employment Strategy, [619](#)
- European Evidence Warrant, [639](#)
- European External Action Service, [74](#)
- European Financial Stabilisation Mechanism, [720](#)
- European Financial Stability Facility, [720](#)
- European Financial Stability Facility (EFSF), [48](#)
- European Food Safety Authority, [684](#)
- European Free Trade Area (EFTA), [20](#), [30–1](#)
- European Frontiers Agency (FRONTEX), [523](#)
- European Institute for Gender Equality, [583](#)
- European Monetary System (EMS; 1979), [707](#)
- European Monitoring Centre on Racism and Xenophobia, [585](#)
- European Network and Information Safety Agency (ENISA), [684–5](#)
- European Ombudsman, [26](#), [101](#), [348](#), [365–7](#), [368](#), [369–70](#)
- European Organisation for the Safety of Air Navigation (Eurocontrol), [999](#)
- European Parliament, [59](#), [94–103](#)
 ACTA rejected by, [416](#)
 amendment of legislation by, [119–20](#)
 comitology, [147–8](#)
 Committees, [100](#)
 composition of, [94](#)
 consent procedure, [127](#)
 consultation procedure, [123–6](#)
 criminal law and, [626](#)
 degressive proportionality of, [94](#)
 direct elections for (1976), [18](#), [21](#), [94](#)
 Disability Intergroup, [621](#)
 draft Treaty on European Union, [21](#)
 ECB and, [729](#), [730](#)
- Economic Dialogue, [747](#)
- election procedures, [95](#)
- election turnout and political engagement of voters, [97](#), [514](#)
- enquiry, power of, [102–3](#)
- European Assembly, evolution out of, [14](#), [94](#)
- European Council's power to determine composition of, [90](#)
- European Semester for Economic Policy and, executive, powers over, [99](#), [101–3](#)
- financial powers, [103](#)
- on infringement proceedings, [364](#), [365](#), [367–8](#)
- joint agreement requirements for ordinary legislative procedure, [118](#)
- judicial review, privileged standing for, [443](#)
- legislative powers of, [99](#), [100–1](#)
- office, right to hold, [467](#), [513–15](#)
- political parties and, [95](#), [100](#)
- powers of, [99–103](#), [124](#)
- representative quality of, concerns about, [95–7](#)
- staff of, [100](#)
- trilogues, [121–3](#)
- veto power in ordinary legislative procedure, [118](#), [119](#)
- voting for MEPs, rights regarding, [467](#), [513–5](#)
- as working parliament, [99–100](#)
- European public order, concept of, [630–4](#), [934](#)
- European Round Table (ERT), [21](#)
- European School of Economics (ESE), [874](#)
- European Semester for Economic Policy, [706](#), [745](#)
- European Social Charter, [253](#), [254](#)
- European Stability Mechanism (ESM), [48–50](#), [76](#), [142–3](#), [242–5](#), [706](#), [720](#), [722–3](#), [737–8](#), [740–5](#)
- European Supervision Order, [639](#), [649](#)
- European System of Central Banks (ESCB), [705](#), [709](#), [725](#), [728](#), [731–2](#)
- European Telecommunication Standards Institute (ETSI), [689](#)
- European Transparency Register, [410](#)
- European Union (EU) and EU law, [1–56](#).
See also enlargement of EU authority of, [199–245](#). *See also* authority of EU law
 citizenship, [466–515](#). *See also* citizenship in EU
 communities, establishment of, [2](#), [11–23](#)
 competition, [942–95](#), [997–1051](#). *See also* competition law and policy
 constraining expansion of, [349](#)
 criminal law in, [623–65](#). *See also* criminal law
 EMU, [704–52](#). *See also* Economic and Monetary Union
- equal opportunities law and policy in, [569–621](#)
- establishment of, [2](#), [23–30](#)
- in financial crisis of 2008, [3](#), [46–53](#)
- fundamental rights under, [247–90](#).
See also fundamental rights in EU law
- goods, free movement of, [754–96](#).
See also free movement of goods
- governance, [379–422](#). *See also* governance
- idea of Europe and idea of European Union, [2](#), [4–11](#)
- infringement proceedings, [337–77](#).
See also infringement proceedings
- institutional reform in, [3](#), [35–46](#)
- institutional settlements of, [57–103](#).
See also institutions of EU
- internal market, [667–702](#). *See also* harmonisation; internal market
- judicial order of, [156–97](#). *See also* judicial order of EU
- judicial review in, [423–65](#). *See also* judicial review by Court of Justice
- legislation and law-making, [106–54](#).
See also legislation and law-making
- non-EU nationals, [517–68](#). *See also* non-EU nationals
- occupation undertaken in another State, [848–91](#). *See also* occupation undertaken in another State
- political authority, intergovernmental and supranational models of, [2](#), [14–19](#)
- public interest and public goods, [892–941](#). *See also* public interest and public goods
- reviews of balance of competencies, [55–6](#)
- services, free movement of, [798–846](#).
See also free movement of services
- state aid law, [1052–85](#). *See also* state aid law
- European Union Charter for Fundamental Rights and Freedoms (EUCFR), [3](#)
- authority of EU law and, [203](#)
- citizens' rights in, [256](#)
- Constitutional Treaty, incorporation into, [37](#)
- discrimination, grounds for, [594](#)
- emergence, drafting, passage, and incorporation of, [254–5](#)
- equal opportunities law, as source of, [576](#), [577](#)
- equality in, [255](#)
- ESM and, [744](#)
- establishment of, [35](#)
- freedoms guaranteed by, [255](#)
- fundamental rights in EU law
 deriving from, [247](#), [249](#)
- human dignity, rights to, [255](#)

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1097 Index

- indivisibility of rights in, 258
- institutions of EU and, 275, 276
- interpretation of rights and, 259, 261, 288
- justice in, 256
- justiciability of certain rights under, 288
- limitations and exceptions, 256–7
- Lisbon Treaty affecting, 3
- missing rights, 257
- national law and, 257, 280
- solidarity in, 256, 288
- sources for, 255
- standard of protection of rights under, 248
- substance of, 248, 254–8
- wide array of rights and freedoms in, 257
- European Union Civil Service Tribunal, 163
- European Women's Group, 618, 619
- European Year Against Racism (1997), 585
- Euro-Skepticism, 384
- examination procedure, in comitology, 144–7
- Excessive Deficit Procedure, 705, 711, 719, 749
- excessive imbalance, finding of, 749
- excessive prices, as exploitative abuse of dominant position, 1035
- exchange rate mechanism for EMS (ERM), 707
- exchange rate mechanism, revamped (ERM II), 732
- exclusion or expulsion from a State, 34, 467, 481, 500–3, 508–13
- exclusionary abuse of dominant position, 1036–8
- exclusions and exemptions
 - free movement derogations due to public interests and public goods. *See* public interest and public goods
 - services already covered by specific legislation, Services Directive exemption for, 843
 - state aid, 1053, 1076–85
 - transparency rules, 414–22
 - 'unreasonable burden on the State' exception to free movement and residence rights, 478–81
- exclusions and exemptions from competition law coverage
 - agreements excluded, 1003–6
 - block exemption regulations, 978, 1029–31
 - individual exemptions, 1026–9
 - power to issue exemption decisions, 1025
- exclusive competence of EU, 210–11
- Executive Board of ECB, 725–6, 727
- executive powers
 - of Commission, 74–5
 - European Parliament's powers over, 99, 101–3
- exit restrictions, 512
- expedited procedure to protect litigant parties, 196
- exploitative abuse of dominance, 1035–6
- exports
 - of pharmaceuticals within EU, 1018
 - restrictions on, 755, 794–6
- expulsion or exclusion from a State, 34, 467, 481, 500–3, 508–13
- external frontiers, 534–6
- external validation, as EU governance feature, 384
- externalities, 896
 - derogation of free movement due to, 896, 916–7
 - harmonisation as response to, 697
- extradition within EU. *See* European Arrest Warrant
- failure to act, judicial review of, 424, 455–7
- fair trial, right to, 254, 433–9, 642–7
- Falkner, G., 345–6
- family rights, 467
 - abuse of free movement restrictions, 873
 - for asylum-seekers and refugees, 558, 567, 568
 - children and their carers, 493–4, 498–503
 - definition of family, 495–7
 - dependants, defined, 496
 - domestic violence, 618
 - emotional considerations regarding, 502
 - EU citizens, rights of family members of, 494–5
 - exclusion or expulsion from a State, 493–4, 500–3
 - humanitarian concerns, 537
 - internal EU migrants bringing family members into EU, 503–6
 - 'internal situations' versus EU law, 491–4
 - non-EU national and EU citizen residing in another State, marriage between, 539
 - for non-EU nationals, 519, 520, 539, 552–4, 558, 567, 568
 - reunification rules, 278–80, 519, 552–4
 - same-sex spouses, 497, 592–3
 - separation, death and divorce, 497–8
 - unborn children, 503
 - victims of crimes, family members as, 662
- federalism and subsidiarity, 394
- Fenger, N., 190
- Ferreira, N., 511–12
- fidelity principle, 200, 204, 213–15, 321
- field pre-emption, 209, 210, 211–12
- FINA (International Swimming Federation), 1004–5
- finance and budget. *See also* deficits; state aid law
 - Commission, financial powers of, 74–5
 - Court of Auditors, financial powers of, 103
 - European Parliament, financial powers of, 99, 103
 - European Semester guidance on, 747–8
 - MTBO, 711, 719, 748–52
 - no derogation to protect, 898
 - solidarity principles of AFSJ, 518, 526, 539–44
- financial crisis of 2008, 3, 46–53, 705, 714–17, 955, 1082–5
- fines. *See* sanctions and penalties
- fingerprinting of non-EU nationals, 532–4
- Finland
 - accession to EU, 30–1
 - in EFTA, 30–1
 - ESM and, 742
 - gender equality policies, 619
 - idea of European Union in, 10
 - sovereign debt crisis and, 716
- fiscal compact proposal, 51, 717, 750
- Fischer, Joschka, 37
- Fitzpatrick, B., 317
- flexibility provision, 240–1, 428
- Follesdal, A., 73, 696
- football transfer system and right to take up or pursue occupation, 860–2
- formal versus substantive equality, 570, 577
- Former Yugoslav Republic of Macedonia (FYROM), application for accession to EU, 31–2, 614
- Fortress Europe, 527, 594
- Fouchet Plan (1961), 15
- 'four freedoms', 13
- four pillars of EMU, 709–12
- Fox, E. M., 951, 952, 1038
- framework decisions, criminal law's reliance on, 624, 635
- Framework Directive (on discrimination), 574, 578, 586, 591, 592, 593, 603–10, 611, 614–15
- framework directives generally, 385
- France
 - acte clair* doctrine, use of, 189
 - Algerian war of independence, amnesties related to, 654
 - on amount of legislation informed by EU law, 394
 - blockade on agricultural imports, 935–6
 - borders, identity paper checks within 20K of, 528–9

1098 Index

- France (*cont.*)
 Constitutional Treaty, failure to ratify, 38
 consultative process and, 411
 under de Gaulle, 14–15, 18, 20
 detention of irregular immigrants in, 546
 on Directives and direct effect, 310
 equal pay guarantees, 571
 establishment of European communities, 11–23
 harassment in, 600
 identity review in, 239
 infringement proceedings against, 368, 374–6
 Prüm Convention (2005), 141
 ratification of Maastricht Treaty and, 28
 Service Directive debate in, 801
 social security contribution reductions in certain sectors, as prohibited state aid, 1063
- Fredman, Sandra, 591, 616
- free establishment, 849, 850, 890–1
- free movement. *See also* Area of Freedom, Security and Justice; free movement and residence of persons; free movement of goods; free movement of services
 of capital, 704, 709–10, 894, 908
 of companies, 849, 873, 883–90
 concept of, 671–3
 derogations due to public interests and public goods. *See* public interest and public goods
 of workers, 849. *See also* occupation undertaken in another State
- free movement and residence of persons, 467, 475–513. *See also* family rights; immigration; social assistance and benefits
 administrative formalities and identity documents, 506–8
 AFSJ on, 29–30
 children and their carers, 493–4, 498–503
 in Citizenship Directive, 476–8
 conditions of residence, 478–81
 EAW and, 649–51
 economically active persons, 478
 in EUCHR, 256
 exclusion or expulsion from a State, 34, 467, 481, 500–3, 508–13
 exit restrictions, 512
 integration into society of host State, 489–91
 ‘internal situations’ versus EU law, 491–4
 international protection, beneficiaries of, 567
 local elections, right to vote in, 513, 514
 long-term residence (three months or more), 476
 marriage of non-EU national to EU citizen residing in another State, 539
 migrants, lawful, 467
 national elections, no right to vote in, 514
 nationality discrimination, no coverage for, 593–5
 non-discrimination requirement, 481–4
 non-economically active persons, 479
 non-EU nationals, 545
 permanent residence rights, 476
 proportionality requirements for conditions on, 479
 refugees and asylum-seekers, 271–3
 registration with authorities, 506–8
 restrictions on movement, cases argued as, 484–7
 reverse discrimination claims, 491–4
 Schengen Agreements, 29, 30, 34, 139–40
 short-term residence (less than three months), 476, 506
 State rules penalising national citizens for leaving home State, 484–7
 sufficient level of resources requirement, 480
 surname laws, 482–4, 485, 486, 493
 unborn children, 503
 work-seekers, 488–9
- free movement of goods, 754–96. *See also* import restrictions
 derogations in the public interest, 894, 928
 domestic production regulations and, 755, 766–8
 exported and re-imported goods, 767
 exports, 755, 794–6
 free movement of services compared, 800
- free movement of services, 798–846.
See also Services Directive
 access to regulated industries and professions, 825–8
 advertising and, 810, 822–5, 846
 consumer protection and, 821, 845–6
 cross-border service, what constitutes, 799, 803–5
 defining services, 799, 802–3
 derogations of, 802, 821, 832, 845, 895
 established versus unestablished services, 802, 821–2, 826
 free movement of goods compared, 800
 gender equality and, 820
 horizontal effect of restriction, 819–20
 integration issues, 798, 800–1
 ‘internal situations’ versus EU law, 493
 investment, laws requiring or deterring, 829–30
 justification of restrictions, 799, 820–30
 labour regulation and trade unions, 817–19
 legislation in State of establishment and, 821
 mandatory requirements and, 832, 845
 market society and, 832–3
 marketing and pricing restrictions, 822–5
 mutual recognition principle, 821, 822
 nationality discrimination in, 808
 non-economic considerations, 830–2
 non-profits and charities, 805–8, 828
 official authority, not applicable to exercise of, 802
 private actors, restrictions imposed by, 799, 813–20
 prohibited restrictions, 799, 808–13
 proportionality in, 800, 824
 recipient or provider, restriction imposed by, 819
 regulation of, 802
 remuneration for services, 805–8
 sales techniques, restrictions on, 811
 social impact of, 799, 801, 830–2
 sport, 815–17
 taxation and, 809, 810, 828–9
 unequal effects, restrictions leading to, 813
 welfare state and, 799, 833–41
 workers, relationship to free movement of, 815, 851
- free-rider rationale in competition law, 1014–15
- freedom of establishment, 849, 850, 890–1
- French Revolution, 6, 25, 466, 468
- Fritzsche, A., 431–2
- FRONTEX (European Frontiers Agency), 523
- frontiers
 border checks at, 517, 519–24, 528–9
 external, 534–6
 as national markers, 528–30
 fundamental freedom to trade, 772
 fundamental rights in EU law, 247–90.
See also European Convention for the Protection of Human Rights and Freedoms; European Union Charter for Fundamental Rights and Freedoms
 balancing competing rights, 259
 civil rights, 253
 Community Charter of Fundamental Social Rights of Workers, 253, 254, 277, 572
 contradictory or absent national measures, duty to disapply, 321–3

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1099 Index

- de-recognition of rights in particular States, 287
- defence rights, 254
- development as integral part of EU law, 251–4
- EAW and, 644–5
- economic rights, 253
- enforcement of competition law by Commission and, 973–6
- equal opportunities law and, 572
- general principles of law, 254
- humanitarianism toward non-EU nationals, 518, 525, 536–9
- import restrictions and fundamental freedom to trade, 772
- infringements, judicial review of, 439
- institutions bound by, 248, 275–80
- international human rights treaties and, 253
- interpretation of, 259–66, 287
- legislation, interpretation of, 275–80
- national constitutional traditions and, 248, 251–4, 265–6
- national fundamental rights, EU law conditioned by, 200, 225–9, 245
- national laws and, 280–8
- objectives of EU, as means of realising, 266–75
- sources of, 247, 249–50
- standard of protection offered for, 248, 259–75
- substance of, 248, 250–8
- TEU Article 6 on, 249
- universalism and particularism, debate between, 285–6
- wide-ranging interpretations, resistance to, 287
- Future of Europe* Convention, 54, 83, 89, 115, 371, 389, 525
- FYROM (Former Yugoslav Republic of Macedonia), application for accession to EU, 31–2, 614
- gambling and lotteries
- effectiveness of derogation measure, 910–11
 - fundamental principle of freedom of movement and, 830
 - least restrictive option requirements, 918–19
 - necessity of derogation measure, 904–6
 - public order, as matter of, 934–5
 - regulation of, 827–8
 - taxation of, 828
- García, L., 392–3
- Gaskell, G., 270
- GBER (General Block Exemption Regulation) for state aid, 1079
- Geelhoed, Advocate General, 960
- gender. *See* sex and gender
- General Affairs Council, 82
- General Block Exemption Regulation (GBER) for state aid, 1079
- general commercial or professional knowledge, activities requiring, 871–2
- General Court
- on competition law and policy, 960, 1019–20, 1023
 - in EU judicial order, 161–3, 177
 - on governance, 415, 419
 - on state aid, 1067, 1068
- general principles of law guaranteeing fundamental rights, 254
- ‘general system for the recognition of evidence of training’, 869–70
- genetically modified organisms (GMOs), 349–50, 668, 694
- Geneva Convention on Refugees, 271, 537, 555–6, 557, 563
- genuine occupational requirement
- defence, 601–3
- geographical selectivity of state aid, 1064–5
- Geração à Rasca* (Portugal), 716
- Gerardin, D., 702
- Gerber, David, 1041–3
- ‘German’ legitimisation strategy, 25
- Germany
- on amount of legislation informed by EU law, 394
 - asylum applications, 554
 - on authority of EU law, 223–5
 - competition law in, 951, 995
 - on conferred powers doctrine, 239–40
 - consultative process and, 412
 - corporate law in, 889
 - counterterrorism database, 287
 - on criminal law in EU, 627–8, 642, 649, 656
 - on Directives and direct effect, 310
 - on dynamic treaty provisions, 240, 243, 244
 - on EAW, 642, 649
 - on ESM, 242–5, 737–8, 742
 - establishment of European communities and, 11–23
 - establishment of Federal Republic of (1949), 11
 - European Council, interest in, 94
 - extradition ban in, 649
 - federalism in, 395
 - fiscal compact treaty amendment and, 51
 - on flexibility provision, 240–1
 - fundamental national rights, EU law conditioned by, 225, 226–8, 229
 - harassment in, 600
 - idea of European Union in, 11
 - identity review in, 236–9, 244
 - infringement proceedings against, 340–1, 351–2
 - Korean War, US pressing for German rearmament during, 12
 - laser game arcade ban, 902–3, 934
 - life partnership law, 592–3
 - Lisbon Treaty, German Constitutional Court on, 45
 - military, women in, 602
 - national parliamentary involvement in EU law-making in, 130
 - ordoliberalism originating in, 670, 951
 - on OTM, 737–8
 - positive or affirmative action programmes in, 616
 - Prüm Convention (2005), 141
 - ratification of Maastricht Treaty and, 28
 - Reinheitsgebot (on beer ingredients), 780–1, 782, 783
 - renewable energy in, 927–8, 1059–60
 - soft drink container deposit-and-return scheme, 784–5
 - sovereign debt crisis and, 716
 - state aid for former East Germany, 1076, 1077
 - State liability cases in, 328
 - on subsidiarity principle, 398–9
 - surname law in, 483, 485
 - transfer of sovereign rights to international organisations in, 201
 - ultra vires* review, EU law subject to, 229–31
- Gerstenberg, O., 150
- Giscard d’Estaing, Valéry, 37
- global financial crisis of 2008, 3, 46–53, 705, 714–17, 955, 1082–5
- global warming, 927–8
- globalisation, 892, 893
- GMOs (genetically modified organisms), 349–50, 694, 668
- good faith, principle of, 442
- goods, free movement of. *See* free movement of goods
- governance, 379–422. *See also* consultation; participatory democracy; proportionality; subsidiarity; transparency
- accountability, 382
 - coherence, 382
 - defined, 381
 - effectiveness, 382
 - EU *Governance* agenda, 379, 381–8
 - external validation, 384
 - features of, 383–8
 - institutions utilised to meet goals and principles, 384–6
 - norms of, 382
 - openness, 382
 - problem-solving, 383–4
 - Santer Commission scandal (1998) and EU interest in, 381
- Governing Council of ECB, 725–31
- Great Britain. *See* United Kingdom
- Greece
- accession to EEC, 20
 - asylum-seekers in, 271–3, 542–4

1100 Index

- Greece (*cont.*)
 ESM support, 48, 744
 euro area, accession to, 34
 infringement proceedings against, 341–2, 364, 370
 SEA, passage of, 22
 sovereign debt crisis and, 47, 714–17
 youth unemployment in, 52
 ‘Greek’ legitimisation strategy, 25
 ‘green light’ procedure for preliminary references, 190
 Grimm, D., 97–8
 guardians and carers
 as occupation undertaken in another State, 853
 residence rights of, 493–4, 498–503
 Guild, E., 560–1
 Guild, Elspeth, 630
 Gyselen, L., 1015
- Haas, Ernst B., 669
 Habermas, Jürgen, 6–7, 54, 470
 Hanover European Council (1988), 707
 harassment, as workplace practice, 570, 578, 599–601
 Harding, C., 976
 Harlow, C., 327–8, 452
 harmonisation, 668
 appreciability threshold, 685–6
 approximation, meaning and scope of, 683–5
 bans on products, 682–3
 competence to legislate for, 677–87
 cost differences between States and, 676
 of criminal offences and sanctions, 624, 655–61
 externalities, as response to, 697
 Member States, effects on, 696
 minimum, 692–3
 non-economic interests and, 693–7
 political, 675
 private enforcement of competition law and, 995
 of product rules and standards, 773, 775, 776
 proportionality of, 686
 reflexive, 702
 regulatory competition, as means of addressing, 668, 697–702
 scientific bias, allegations of, 694–5
 of technical standards, 687–92
 technocratic agencies, role of, 695–6
 undistorted competition and, 679, 680, 681, 686–7
 when appropriate and when not, 676
 Harvard School on competition, 946, 947
 hate speech, 273–5
 Heads of Government, council of. *See* European Council
- health care. *See also* public health; social assistance and benefits
 advertisement of private care on national television, 825
 experimental treatments, 837
 in market society, 832
 premium increase restrictions, 824
 waiting lists, 838–9, 840
 hearings
 fundamental right to
 oral hearings in Commission enforcement proceedings on competition, 964–5
 Heimler, A., 1084
 Hepple, B., 594, 611
 Héritier, A., 153–4
 Herlin-Karnell, E., 660
 Hervey, T., 832
 Herzog, Roman, 35
 High Representative, 46, 63, 74, 90
 historical background. *See* European Union (EU) and EU law
 Hix, S., 73, 696
 Hofmann, T., 346–7
 Holland. *See* Netherlands
 homosexuality. *See* sexual orientation
 horizontal direct effect (against private parties), 292, 296–8, 310–11, 312
 housing. *See* social assistance and benefits
 Hugo, Victor, 8
 human embryos, research on, 267–71
 humanism, atheism, and absence of belief, 587
 humanitarianism toward non-EU nationals, 518, 525, 536–9
 Hungary
 accession to EU, 31
 asylum applications, 541
 corporate law in, 887
 in financial crisis of 2008, 47
 positive or affirmative action programmes in, 616
 sovereign debt crisis and, 715
 Husserl, E., 7
- Iceland
 application for accession to EU, 32
 in EFTA, 30–1
 Schengen Agreements, as party to, 521
 sovereign debt crisis and, 47, 715
 ICU (International Cycling Union), 814–15
 idea of Europe and idea of European Union, 2, 4–11
 identity
 collective identity formation, as legitimisation strategy, 25, 26, 27, 30, 38, 39, 42–6
 EU citizens’ sense of, 27
 Lisbon Treaty identity provision, 235
 subsidiarity principles and, 394–5, 396
- identity documents, 506–8
 identity review, 200, 236–9, 242, 244
 IGCs (intergovernmental conferences), 36–7
 illegality, plea of, 424, 437, 457–8
 IMF (International Monetary Fund), 47, 714, 743, 744
 immigration. *See also* family rights; frontiers; non-EU nationals
 ‘Blue Card’ scheme for highly-skilled workers, 527
 criminalisation of, 531–4, 546
 detention of irregular immigrants, 546
 EU competencies regarding, 517, 519–24
 free movement and residence rights of lawful migrants, 467
 modern concepts of citizenship affected by, 469–70
 racism and, 585
 refugees and asylum-seekers, 271–3
 Returns Directive for irregular immigrants, 518, 524, 544–6
 import restrictions. *See also* measures of equivalent effect; product rules and standards
 advertising rules, 789, 793
 associations and organisations, measures by, 768–73
 Court of Justice jurisdiction over, 758
 Dassonville principles, 756–60
 de minimis rule, 765–6
 defining quantitative restrictions, 754, 756–7
 diminished sales, measures leading to, 762
 direct discrimination between national and foreign goods, 755
 domestic production and, 755, 766–8
 form of, 763–5
 fundamental rights versus fundamental freedom to trade, 772
 indirect horizontal effect, 770–2
 public versus private measures, 755, 768–73
 selling arrangements (*Keck* decision), 755, 756, 786–94
 U-turns (exported and re-imported goods), 767
 unequal effect, 755, 760, 762, 787–9, 792–4, 882
 usage bans or restrictions as, 760–2
 in-kind payment for occupation undertaken in another State, 853
 incidental direct effect, 292, 313–16
Indignant Citizens Movement (Greece), 716
 indirect discrimination
 in employment, 570, 578, 593, 597–600
 occupation, restrictions on exercise of, 875, 879

1101 Index

- occupation, restrictions on taking up of, [859](#)
- indirect effect, [292](#), [316–25](#)
- indirect horizontal effect of restricting imports, [770–2](#)
- indirect purchasers, anti-competition claims by, [993](#)
- individual exemptions from competition law coverage, [1026–9](#)
- individualism
 - authority of EU law, individual rights, benefits, and freedoms as grounds for, [217](#)
 - in market society, [833](#)
 - ordoliberalism, [670](#), [696](#), [951](#)
- information
 - access of accused party to file, in Commission investigations of competition violations, [964](#)
 - ease of access to. *See* transparency
 - EAW and information rights, [646–7](#)
 - non-EU nationals, information databases on, [532–4](#)
 - product rules and standards, information-based approach to, [781](#), [783](#)
 - requests for information and interviews in Commission investigations of competition violations, [958](#)
 - victims of crimes, right to information and support by, [663–4](#)
- infringement proceedings, [337–77](#)
 - accountability and transparency concerns, [365–8](#)
 - accountability of State actors, [355–7](#)
 - administration and management of, [338](#), [363–70](#)
 - for administrative practices, [355–6](#)
 - all State agencies, acts and omissions of, [351–5](#)
 - burden of proof in, [356–7](#)
 - capacity of Member State and, [345–6](#), [374](#)
 - coherent and systematic nature of actions, concerns regarding, [364–5](#)
 - Commission discretion regarding, [341](#), [363–8](#), [372](#)
 - Commission initiating, [339](#)
 - Commission winning overwhelming majority of, [363](#)
 - complainants, [368–70](#)
 - compliance with EU law, policing and enforcing, [340–2](#)
 - constitutionally independent units, State responsibility for, [352–5](#)
 - constraining expansion of EU law and, [349](#)
 - Court stage, low number of actions reaching, [363](#)
 - declaration of breach, [371](#)
 - Directives, failure to transpose, [371–2](#)
 - discretion of Commission regarding, [341](#), [363–8](#), [372](#)
 - domestic interests and, [348](#)
 - EU pilot, deployment of (informal settlement), [357–9](#), [363](#)
 - financial penalties, [373–7](#)
 - as framework for political interaction and negotiation, [348–51](#)
 - gravity considerations, [341](#)
 - judicial review, infringement as grounds for, [439–43](#)
 - leniency concerns, [364](#), [373–4](#)
 - letter of formal notice and Member State observations in response, [359–60](#), [372–3](#)
 - limitations and possibilities of, [347](#)
 - lump sum penalties, [374–7](#)
 - Member States initiating against other Member States, [339](#)
 - national capacities, consideration of, [345–6](#)
 - national law conflicting with EU law, [355](#)
 - participation in, [348](#), [365–70](#)
 - periodic penalty payments, [374–7](#)
 - priorities regarding, [343–5](#), [364](#)
 - provisions and purposes, [337](#), [339–51](#)
 - as public policy tool, [343–8](#)
 - Reasoned Opinion and period allowed for national compliance, [360–3](#), [372](#)
 - responsiveness of States to, [346–8](#)
 - sanctions imposed by, [338](#), [371–7](#)
 - scope of Member State responsibilities covered by, [338](#), [351–7](#)
 - stages of, [338](#), [357–63](#)
- innovation (dynamic) efficiency, [945](#), [949](#), [952](#)
- inspections ('dawn raids') in enforcement of competition law by Commission, [960–3](#)
- institutional racism, [613](#)
- institutional reform
 - EU's decade of, [3](#), [35–46](#)
 - as legitimisation strategy, [25](#), [26](#), [27](#), [39](#), [46](#)
- institutions of EU, [57–103](#). *See also* Commission; consultation; Council of Ministers; European Council; European Parliament
 - accession of EU to ECHR and, [289](#)
 - additional powers not altering essential character of, [62](#)
 - commitments about conduct of, [114](#)
 - common institutions, creation of, [152](#)
 - Court of Auditors, [103](#)
 - framework for, [57](#), [59–62](#)
 - fundamental rights in EU law and, [248](#), [275–80](#)
 - gender mainstreaming and, [619](#)
 - governance principles regarding, [384–6](#)
 - harmonisation of criminal law, self-constraints on, [656](#)
 - interrelationship of, [60](#)
 - judicial institutions, [156](#), [157–63](#)
 - judicial review of, [177–9](#), [423](#), [425](#). *See also* judicial review by Court of Justice
 - limits of powers of, [60–2](#)
 - polices and values, relationship to, [60](#)
 - prevention of power concentrations and fostering of pluralism by, [152](#)
 - rights which must be observed by, [433](#)
 - sovereign debt crisis and, [716](#)
- integration. *See also* differentiated integration; political integration
 - competition law, market integration as aim of, [1014](#)
 - Court of Justice on, [175](#)
 - economic integration as step towards social and political integration, [669](#)
 - free movement of services and, [798](#), [800–1](#)
 - internal market, integrative goals of, [669](#)
 - non-EU nationals, integration conditions for, [548–9](#), [553](#)
 - into society of host State by migrant EU nationals, [489–91](#)
- intellectual property rights and dominant position, [1035](#)
- Inter-Institutional Agreement on Better Law-Making, [403–4](#)
- interest groups, standing requirements for judicial review, [452–5](#)
- Intergovernmental Conference on Political Union, [471](#)
- intergovernmental conferences (IGCs), [36–7](#)
- intergovernmental model of EU political authority, [2](#), [14–19](#)
- interim relief, [196](#), [307](#)
- internal market, [667–702](#). *See also* harmonisation
 - bans on products in, [682–3](#)
 - competition and, [14](#), [675–6](#)
 - elements of, [13–14](#)
 - establishment of, [21–22](#)
 - free movement, concept of, [671–3](#)
 - integrative goals of, [669](#)
 - legal framework for, [667](#), [670–7](#)
 - Member States, effects on, [696](#)
 - minimalist, [697–702](#)
 - non-economic interests in, [693–7](#)
 - ordoliberalism and, [670](#), [696](#)
 - public procurement and, [674–5](#)
 - purposes of, [667](#), [668–70](#)
 - regulatory competition and, [668](#), [697–702](#)
 - state aid law and, [676](#), [1053](#), [1054](#), [1065](#)
 - taxation in, [673–4](#)
 - undistorted competition in, [667](#), [670](#), [679](#), [680](#), [681](#), [686–7](#)

1102 Index

- international agreements
 - autonomy of EU law and, 205–8
 - direct effect and, 308
 - environmental protection and, 927
 - fundamental rights in EU law and, 253
 - with non-EU countries, 112, 113
 - outside EU treaty framework, 141–3
- international cartels, Commission enforcement against, 981
- International Covenant on Civil and Political Rights, 253
- International Cycling Union (ICU), 814–15
- international law model of authority, 200
- International Lesbian and Gay Association, 591
- International Monetary Fund (IMF), 47, 714, 743, 744
- International Olympic Committee (IOC), 1004–5
- international protection, 519, 554
 - criminalisation of migration and, 532
 - criminals denied, 562
 - defined, 540
 - detention of applicants for, 560–2
 - Dublin Regulation, 518, 537, 543
 - employment rights, 558
 - family rights, 558
 - fraudulent applications, 562
 - harm or persecution, what
 - constitutes, 555–6, 562, 564–5
 - humanitarian motives behind, 562–8
 - material reception conditions, 557–60
 - policing of applicants for, 559–62
 - refugee status, 519, 555, 563–5
 - Returns Directive and, 545
 - rights of applicants for, 555–7
 - rights of beneficiaries of, 567–8
 - subsidiary protection, 519, 555–7, 565–6
- international relations and public security, protection of, 414, 416, 417–18
- International Swimming Federation (FINA), 1004–5
- Internet
 - advance payments, prohibition on, 795–6
 - gambling services, regulation of, 827–8
 - pharmaceutical products sold on, 793
- interpretation
 - of abuse of dominant position, 1042
 - of all national law in light of EU law, 317
 - of ambiguous national law, 316
 - of derogations of free movement, 899
 - of ECHR, 262–4
 - of EUCHR, 259, 261, 288
 - of fundamental rights in EU law, 259–66, 287
 - of legal system as whole, 318
 - of legislation, 115, 179–83, 275–80
 - of standing requirements for judicial review, 452
 - transparency principle, substantive interpretation of exceptions to, 417
- intersectional discrimination, 595
- investigations in enforcement of competition law by Commission, 957, 958–63
- investment, free movement of services and laws requiring or deterring, 829–30
- IOC (International Olympic Committee), 1004–5
- IPEX, 135
- Ireland
 - abortion laws in, 25, 284–5, 287, 831–2
 - accession to EEC, 15, 20
 - competition law in, 943
 - Constitutional Treaty, referendum on, 39
 - criminal law in EU and, 624, 636–8
 - differentiated integration of, 28, 29, 30, 138, 518, 520–1, 528, 624, 636–8
 - ESM support, 48
 - frontier controls in, 528
 - gender-based pay discrimination in, 297
 - harassment in, 600
 - infringement proceedings against, 356
 - Lisbon Treaty and, 44, 46
 - non-EU nationals in, 518, 520–1
 - religious institutions, employment practices of, 604
 - Schengen Agreement and, 522
 - sovereign debt crisis and, 714, 716
- Islam, rise of, 5
- Italy
 - competition law in, 943
 - establishment of European communities and, 11–23
 - fundamental national rights, EU law conditioned by, 225
 - housing for non-EU nationals in, 551
 - infringement proceedings against, 339, 352–3
 - national parliamentary involvement in EU legislation by, 134
 - preliminary references from, 189
 - SEA, passage of, 22
 - unitary patents and, 136–7
- Jack, B., 373–4
- Jacobs, Advocate General, 672–3, 900, 1003
- Jacobs, M. S., 947–8, 949, 950
- Jančić, D., 128–9
- Jeleva, Rumiana, 101
- Jenny, F., 1084
- Joerges, C., 149–50, 386, 695
- Joshua, J., 976, 1012–13
- judicial activism of Court of Justice, 175
- judicial cooperation in criminal justice, 624, 638–55. *See also* European Arrest Warrant
- European Evidence Warrant, 639
- European Supervision Order, 639, 649
- mutual recognition principle, 624, 638–40
- ne bis in idem*, 651–5
- sanctions, 639
- judicial liability, 333–5
- judicial order of EU, 156–97. *See also* Court of Justice; General Court; preliminary reference procedure
- architecture of, 157, 164–74
- European Union Civil Service Tribunal, 163
- institutions of, 156, 157–63
- management of, 157, 186–97
- national courts, role of, 164–70, 177, 178
- public bodies regarded as courts or tribunals for purposes of, 171–3
- Unified Patent Court, 164–70, 173–4, 177
- judicial review by Court of Justice, 423–65. *See also* non-contractual liability; standing requirements for judicial review
- abuse/misuse of power, 430, 432
- abuse of institutional discretion, 429–33
- administrative process, definitive position as culmination of, 427
- administrative rights, 437–9
- annulment findings, 425, 464–5
- defence, rights of, 433–9
- definitive position requirement, 427–8
- enforcement of competition law by Commission, 974–6
- EU institutions subject to, 177–9, 423, 425
- of European Council, 425
- exceeding powers granted, 429
- failure to act, 424, 455–7
- grounds for, 424, 428
- hearing, right to, humanitarian concerns, 538–9
- illegality, plea of, 424, 437, 457–8
- infringement of Treaties or any related rule of law as grounds for, 439–43
- lack of competence as grounds for, 428–9
- legal certainty, infringements of, 441
- legal effects, acts intended to produce, 426–7
- of legislation, 444–6
- legitimate expectations, infringements of, 442–3

1103 Index

- limitations periods, [443](#), [457](#)
 manifest error of assessment, [430–2](#)
 non-contractual liability, action for, [424](#)
 non-discrimination, infringements of, [439–41](#)
 procedural rights, [433–9](#)
 of Regulations, [444–6](#)
 right to seek, [433](#), [435](#)
 scope of, [423](#), [425–8](#)
 taking action that should have been taken by another institution, [429](#)
 third party action requirements, [427](#)
 transparency requirements, [435](#)
 WTO agreement, no judicial review for non-compliance with, [439](#)
- Juncker, Jean-Claude, [93](#)
- justiciability
 direct effect test, [295–6](#)
 of EUCHR rights, [288](#)
 State liability test, [331](#)
 of subsidiarity principle, [396–9](#)
- justification, proportionality within culture of, [401](#)
- Kant, Immanuel, [6](#), [952](#)
 Kardasheva, R., [120](#), [121](#)
 Keynesian economics, [20](#)
 Krisch, N., [221–2](#)
 Kofman, E., [548](#)
 Kohl, Helmut, [23](#), [24](#)
 Kokott, Advocate General, [215](#)
 Komninos, Asimmakis, [990](#), [992](#)
 Korean War, [12](#)
 Kostakopoulou, D., [471](#), [475](#), [511–12](#)
 Kovacic, W. E., [950](#)
 Kovács, László, [101](#)
 Kritikos, M., [694](#)
 Kroes, Neelie, [953](#), [956](#)
 Kumm, M., [219–20](#)
- labelling and packaging, [781](#), [783](#), [906](#)
- labour law and labour market. *See also* equal opportunities law and policy; occupation undertaken in another State; trade unions; work-seekers; worker residents
 age discrimination, [321–2](#), [324](#)
 asylum-seekers and refugees, employment rights of, [558](#), [567](#)
 differentiated integration regarding, [28](#)
 free movement of services and, [817–19](#)
 part-time workers, [579–81](#), [599–601](#), [854](#)
 past employees, employer treatment of, [610](#)
 self-employed versus employed persons, [850–3](#), [866](#), [880](#)
 sovereign debt crisis, European unemployment levels following, [715](#)
 working time rules, [276–8](#)
- lack of competence, as grounds for judicial review, [428–9](#)
- Lang, J. Temple, [1032–3](#)
- language
 local language film requirements in Spain, [917](#)
 occupation in another State, linguistic restrictions on, [859–60](#)
- laser game arcade ban in Germany, [902–3](#), [934](#)
- Latvia
 accession to EU, [31](#)
 in financial crisis of 2008, [47](#)
 infringement proceedings against, [339](#)
 sovereign debt crisis and, [715](#)
- Laudati, L., [977–8](#)
- Lavenex, S., [630](#)
- law-making. *See* legislation and law-making
- lawful residence, what constitutes, [548](#)
- lawyers
 accountants, partnerships with, [1004](#)
 EAW and right of access to, [647](#)
 lawyer-client privilege, [960](#)
- League of Nations, [8](#)
- least restrictive option to protect public goods, [914–22](#), [926](#)
- legal aid, [303–4](#)
- legal authority of EU. *See* authority of EU
- legal certainty for EU law
 judicial review of infringements of, [441](#)
 Member States required to secure, [214](#)
- legality principle and EAW, [647–9](#)
- legislation and law-making, [106–54](#). *See also* Directives; ordinary legislative procedure
 allocation of law-making power, [106](#), [108–11](#)
 annulments, [425](#), [464–5](#)
 comitology, [107](#), [144–50](#)
 Commission powers regarding, [67–72](#), [117](#), [120](#)
 consent procedure, [108](#), [127](#)
 consultation procedure, [108](#), [123–6](#)
 cooperation procedure, [22–3](#)
 Council of Ministers, powers of, [81](#), [85–6](#)
 Decisions, [112](#), [113](#), [292](#)
 democratic qualities of, [108](#), [151–4](#)
 differentiated, [107](#), [135–43](#)
 direct effect and EU secondary legislation, [292](#), [308–16](#)
 ECU composite architecture and, [722–4](#)
 European Parliament, powers of, [99](#), [100–1](#)
 fundamental rights in EU law and, [275–80](#)
 international agreements with non-EU countries, [112](#), [113](#)
- interpretation of, [115](#), [179–83](#), [275–80](#)
- judicial review of, [177–9](#), [444–6](#)
- model law-making, [115](#)
- national parliaments, role of, [107](#), [127–35](#), [241–2](#)
- non-legislative measures
 distinguished, [114](#)
 ‘predominant purpose’ test for determining procedure, [109–11](#)
- procedures for, [107](#), [117–27](#)
- programming legislation, [115](#)
- proportionality and, [402–4](#)
- publication requirements, [111](#)
- Regulations, [112](#), [113](#), [308](#)
- services already covered by specific legislation, Services Directive exemption for, [843](#)
- soft law (recommendations and opinions), [114–16](#), [321](#)
- special legislative procedures, [108](#)
- types of legal instrument, [107](#), [111–16](#)
- unity of EU law, preserving, [179–83](#)
- legitimacy responses to infringement proceedings, [347](#)
- legitimate expectations, [254](#), [442–3](#)
- Lehman Brothers, collapse of, [47](#), [715](#)
- leniency policies and documents
 Court of Justice challenges to, [988](#), [993](#)
 enforcement of competition law by Commission, [969–71](#)
- letter of formal notice, in infringement proceedings, [359–60](#), [372–3](#)
- Lever, Sir Jeremy, [1073](#)
- Levi, M., [658](#)
- liability. *See* non-contractual liability; State liability doctrine
- Liechtenstein
 in EFTA, [30–1](#)
 Schengen Agreements, as party to, [521](#)
- limitations periods
 illegality, judicial review of plea of, [457](#)
 national courts, [304–5](#)
 on standing to seek judicial review, [443](#)
- Lipponen, Paavo, [37](#)
- Lisbon Treaty, [3](#)
 on agenda-setting powers of Commission, [73](#)
 authority and primacy of EU law recognised in Declaration to, [200](#), [216](#)
 on border checks, immigration, and asylum, [519–20](#)
 competition law and, [955](#)
 Constitutional Treaty, failure to ratify, [38–9](#)
 criminal law in, [623](#), [625–6](#)
 ‘democratic identity’ for Europe established by, [42–6](#)

1104 Index

- Lisbon Treaty (*cont.*)
 drafting and signing of, 39
 entry into force, 46
 EUCHR and, 255
 European Council, role of, 88, 92
 fiscal compact treaty amendment, 51
 flexibility provision, 240–1
 fundamental rights in EU law, TEU
 Article 6 on, 249
 identity provision, 235
 institutional reform in, 46
 Irish referendum on, 46
 law-making procedures under, 108
 on legislative powers of Commission, 68, 71
 legitimisation strategies used by, 39
 on mainstreaming, 618
 nature of, 39
 TEU and TFEU, 40–2
 voting methods of Council of Ministers and, 83, 86
- Lithuania
 accession to EU, 31
 surname law in, 486
- Loader, I., 627, 630–1
- lobbying and lobbyists, 410
- local governments
 right to vote in local elections, 513, 514
 state aid law, 1064–5
- locus standi*. *See* standing requirements for judicial review
- long-term residents. *See also* permanent residents
 EU nationals living in another EU country three months or more, 476
 fraudulent acquisition of status, 472–4, 549
 humanitarian concerns regarding, 537
 lawful residence, what constitutes, 548
 non-EU nationals, 518, 537, 546–54
 lotteries. *See* gambling and lotteries
- lump sum penalties in infringement proceedings, 374–7
- Luxembourg
 BENELUX, 12, 13, 222
 competition law in, 943
 Constitutional Treaty, ratification of, 38
 establishment of European communities, 11–23
 limitations on EU residents voting in local elections, 513
 political economy compared to Bulgaria, 32
 Prüm Convention (2005), 141
 transfer of sovereign rights to international organisations in, 201
- Luxembourg Accords, 2, 15, 18, 22
- Maastricht Treaty (Treaty on European Union or TEU), 2, 519
- legitimation strategies, 24–8
 ratification of, 28–9
 signing of (1991), 24
- Macedonia, Former Yugoslav Republic of (FYROM), application for accession to EU, 31–2, 614
- machinery of the State, derogations due to preservation of, 897, 919–21
- MacRae, Heather, 620, 621
- macroeconomic adjustment programmes, 744
- macroeconomic imbalance, finding of, 51, 749
- mad cow disease (bovine spongiform encephalopathy or BSE), 68, 78
- Maduro, M., 670, 671–2, 789
- mainstreaming, 571, 618–21
- Majone, Giandomenico, 33–4, 695–6, 701, 922–5
- Malmöborg, M., 10
- Malta
 abortion laws in, 287
 accession to EU, 31
 asylum applications, 541
 preliminary references from, 189
- managerial responses to infringement proceedings, 347
- Mancini, Advocate General, 515
- mandate procedure for legislative involvement of national parliaments, 129
- mandatory requirements
 distinguished from Treaty exceptions, 900
 free movement of services and, 832, 845
 for product rules and standards, 775, 779–85
- manifest error of assessment, 430–2
- Marengo, G., 884
- margin of appreciation regarding public goods, 894, 935
- marginal review test, 417
- market access, barriers, 1033–5
- market externalities, 896
 derogation of free movement due to, 896, 916–17
 harmonisation as response to, 697
- market power, concept of, 946, 952
- market shares as marker of dominance, 1033
- market society, 832–3
- market-specific pricing, 757
- Marquis, M., 1024–5
- marriage. *See* family rights
- Marshall, T. H., 469
- Martiniello, M., 472
- material reception conditions for asylum-seekers and refugees, 557–60
- material selectivity of state aid, 1065–9
- measures of equivalent effect (MEQRs) defined in *Dassonville*
- diminished sales, measures leading to, 762
 form of measure, 763–5
 limitations of, 759–63
 as quantitative restriction, 756
 selling arrangements as, 786–7
 usage bans or restrictions as, 760–2
- medical care. *See* health care; social assistance and benefits
- Medium Term Budgetary Objective (MTBO), 711, 719, 748–52
- Member States. *See also* entries at national
 criminal law and internal security of, 626–8
 criminal law, national controls over, 635–6, 656
 harmonisation and internal market, effects on individual States of, 696
 infringement proceedings against. *See* infringement proceedings
 judicial review, privileged standing for, 443
 policing of EU law by, 214
 rules penalising national citizens for leaving home State, 484–7
 shared competencies between EU and, 210, 211–13
 State liability doctrine, adoption of, 327
- Mendes, J., 438
- MEQRs. *See* measures of equivalent effect
- Merger Treaty (1965), 18
- mergers. *See also* competition law and policy
 EU power to regulate, 953
 Harvard School on, 946
- Middelaar, Luuk van, 25, 27
- migration into EU. *See* immigration
- migration within EU. *See* free movement and residence of persons; occupation undertaken in another State
- military
 age and disability discrimination in, 605
 sex discrimination in, 602
 sexual orientation discrimination in, 603
- minimalist internal market, 697–702
- minimum harmonisation, 692–3
- minimum prices, 794, 823–4
- Ministers, Council of. *See* Council of Ministers
- minor children. *See also* children; family rights
- misuse/abuse of power, judicial review of, 430, 432
- mitigation and exercise of due diligence by claimants, 305
- Mitsilegas, V., 651, 655
- Mitterand, François, 23, 24, 28
- mobile phones. *See* telecommunications

1105 Index

- model law-making, [115](#)
 Model Leniency Programme, [970](#)
 monetary policy, ECB responsibility for, [731–3](#)
 Monnet, Jean, [11](#)
 monopolies. *See also* competition law and policy
 cartels behaving like, [1008](#)
 economic theory regarding, [946](#)
 price squeeze, [1046](#)
 Montenegro, application for accession to EU by, [32](#)
 morals, as grounds for exclusion or deportation, [510](#)
 Möschel, W., [951](#)
 movement, right of. *See entries at* free movement
 MTBO (Medium Term Budgetary Objective), [711](#), [719](#), [748–52](#)
 mutual control and distrust, [153](#)
 mutual recognition
 of judicial decisions in criminal law, [624](#), [638–40](#)
 of product rules and standards, [754](#), [775](#), [776–8](#)
 of professional diplomas and qualifications, [866–73](#)
 public goods protections and, [913–14](#)
 services, free movement of, [821](#), [822](#)
 NAAT (no appreciable affectation of trade) test, [1002](#)
 Narjes, Karl-Heinz, [21](#)
 national central banks (NCBs)
 challenging ECB measures, [732](#)
 enforcement proceedings against, [732](#)
 in ESCB, [731](#)
 on Governing Council of ECB, [725](#), [726](#)
 lending activities compromising independence, prohibition of, [728](#)
 national citizenship
 deprivation of, [472–4](#)
 EAW and, [649–51](#)
 EU citizenship tied to, [472–5](#)
 transformed by EU citizenship, [475](#)
 National Competition Authorities (NCAs), [979–80](#), [982–4](#), [985](#), [987–8](#), [1025](#)
 national courts, [291–335](#). *See also* direct effect; State liability doctrine
 absent or contradictory national measures, duty to disapply, [321–3](#)
 authority of EU law recognised by, [200](#), [215](#)
 binding effects of Court of Justice judgements, [192–5](#)
 competition law in. *See* private enforcement of competition law
 competition law of EU, breaches of, [307](#)
 compromise of EU law, duty to refrain from, [323–5](#)
 damages in, [301](#)
 effective judicial protection principle, [301–4](#)
 equivalence principle, [300](#)
 EU procedures and remedies, use of, [305–8](#)
 impossibility or excessive difficulty of exercise of EU rights in, [300](#)
 indirect effect, [292](#), [316–25](#)
 infringement proceedings against, [352–4](#)
 interim relief in, [307](#)
 judicial liability of, [333–5](#)
 legal aid requirements, [303–4](#)
 limitations periods, [304–5](#)
 local remedies and procedures, EU oversight of, [300–5](#)
 managing circumstances in which national courts refer, [186–92](#)
 mitigation and exercise of due diligence by claimants, [305](#)
 pan-European system of remedies and procedures, failure to develop, [299–300](#), [308](#)
 repayment of charges or taxes levied contrary to EU law, [306](#)
 role in judicial order of EU, [164–70](#), [177](#), [178](#)
 state aid law, private enforcement of, [1074–6](#)
 national elections, no right of migrant citizens to vote in, [514](#)
 national fundamental rights
 constitutional traditions regarding, [248](#), [251–4](#), [265–6](#)
 EU law conditioned by, [200](#), [225–9](#), [245](#)
 national infringements of EU law. *See* infringement proceedings
 national law
 absent or contradictory, [321–3](#)
 all law to be interpreted in light of EU law, [317](#)
 ambiguity in, [316](#)
 authority of EU law under, [222–5](#)
 common goods in, [217–18](#)
 EUCHR and, [257](#)
 fundamental rights in EU law and, [280–8](#)
 infringement proceedings for conflicts with EU law, [355](#)
 legal certainty for EU law, Member States required to secure, [214](#)
 legal system as whole to be interpreted in light of EU law, [318](#)
 notification of Commission of problems applying or enforcing EU law, [214](#)
 penalties for infringement of EU law, [214](#)
 pre-emption by EU law, [199](#), [200](#), [204](#), [209–13](#)
 services, protection of public interest regarding, [821](#)
 sex equality laws, Court of Justice challenges to, [579–81](#)
 national obligations under fidelity principle, [213](#)
 national parliaments
 asymmetrical involvement of, [134](#)
 authority of EU law and, [241–2](#), [245](#)
 criminal law of EU, controls over, [636](#)
 document-based procedure for legislative involvement of, [129](#)
 ECB and, [730](#)
 ESM and, [742](#)
 European Semester for Economic Policy and, [705](#)
 legislative role of, [107](#), [127–35](#), [241–2](#)
 mandate procedure for legislative involvement of, [129](#)
 political content of EU legislation and, [128–30](#)
 Protocol on the Role of National Parliaments, [129](#)
 subsidiarity principle policed by, [131–2](#)
 as virtual third chamber, [132–5](#)
 national security. *See* security issues
 national sovereignty, [200](#), [217](#), [528–36](#), [626](#)
 nationality discrimination
 companies, free movement of, [884](#)
 coverage of, [593–5](#)
 free movement of services and, [808](#)
 prohibition on, [481–4](#)
 nations as members of EU. *See* Member States
 NATO (North American Treaty Organisation), [12](#)
 NCAs (National Competition Authorities), [979–80](#), [982–4](#), [985](#), [987–8](#), [1025](#)
 NCBs. *See* national central banks
ne bis in idem, [639](#), [651–5](#)
 negative mutual recognition, [542](#)
 negotiation and bargaining, democratic, [153](#)
 Netherlands
 on amount of legislation informed by EU law, [394](#)
 BENELUX, [12](#), [13](#), [222](#)
 borders, identity paper checks within 20K of, [530](#)
 competition law in, [943](#)
 Constitutional Treaty, failure to ratify, [38](#)
 corporate law in, [889](#)
 establishment of European communities, [11–23](#)
 extradition ban in, [650](#)
 first readings in Dutch Parliament, study of, [121](#)
 infringement proceedings against, [361](#)
 on integration conditions, [549](#)

1106 Index

- Netherlands (*cont.*)
 NCA, 1030
 positive or affirmative action programmes in, 614–15
 Prüm Convention (2005), 141
 refugee status in, 538
 review of balance of competencies between EU and, 55
 on subsidiarity principle, 397–8
 voting rights in European elections of Dutch citizens in non-EU countries, 514
- New Deal, 701
- Newdick, C., 840–1
- Neyer, J., 149–50
- Nice, Treaty of, 3, 36, 573
- no appreciable affectation of trade (NAAT) test, 1002
- noble titles, Austrian prohibition on use of, 486, 917
- non-contractual liability, 424, 458–64
 burden of proof in, 463
 causal link between loss and breach of EU law, 462–4
 damages sought in, 458, 462–4
 establishment and development of, 458
 joint or concurrent liability, cases involving, 463
 quality and severity of breach of EU law, 459–62
 recoverable losses, 462
- non-discrimination. *See also* equal opportunities law and policy; *specific types of discrimination*
 free movement and residence requirements, 481–4
 judicial review of infringement of, 439–41
 justification of differential treatment, 440
 for non-EU nationals, 549–52
 occupation in another State, right to pursue, 858
 as principle, 254
 public goods, prohibition of arbitrary discrimination in derogations protecting, 911–14
 reverse discrimination claims based on nationality and citizenship, 491–4
- non-EU nationals, 517–68. *See also* asylum-seekers and refugees; immigration; international protection
 AFSJ and, 518
 ‘Blue Card’ scheme, 527
 border checks, 517, 519–24, 528–9
 central EU competencies regarding, 517
 detention of irregular immigrants, 546
 differentiated integration regarding, 520–4
 economic mercantilism, 518, 525, 526–7
 family rights, 519, 520, 539, 552–4, 558, 567, 568
 free movement and residence of persons, 545
 humanitarianism, 518, 525, 536–9
 information databases on, 532–4
 integration conditions, 548–9, 553
 ‘internal situations’ versus EU law, 491–4
 long-term residents, 518, 537, 546–54
 marriage of non-EU national to EU citizen residing in another State, 539
 national security issues, 518, 525, 528–36
 nationality discrimination, no coverage for, 593–5
 non-discrimination requirements, 549–52
 permanent residents, 519
 Returns Directive, 518, 524, 544–6
 Schengen Agreements and, 518, 520, 521–4, 528
 solidarity of Member States regarding, 518, 526, 539–44
 state aid law and, 1058
 worker residents, 518, 527, 546–54
- non-institutional actors, participation by. *See* citizenship in EU; participatory democracy; private parties
- non-legislative and legislative measures distinguished, 114
- non-refoulement, 568
- non-retroactivity, 254, 441
- Nonon, Jacqueline, 583
- North American Treaty Organisation (NATO), 12
- Norway
 application for accession to EEC, 15, 20
 in EFTA, 20, 30–1
 referendums rejecting admission to EU, 20, 89
 Schengen Agreements, as party to, 521
- notification requirements
 competition, notified agreement on, 978, 979, 1022, 1025
 problems applying or enforcing EU law, 214
 state aid law, 1057, 1071–2
- Notre Europe, 93
- O’Brien, C., 855–6
- obstacle pre-emption, 209, 212
- occupation undertaken in another State
 abuse of free movement restrictions, 873–5, 884–90
 authorisation schemes, 890
 business activities, right to pursue, 878–9
 companies, free movement of, 849, 873, 883–90
 cross-border occupation, what constitutes, 856
de minimis rule, 863–4, 883
 derogations in the public interest, 895
 differentiation between right to pursue versus right to take up occupation, 857–9
 disabled persons, 854
 employer, discrimination on grounds of, 878
 equally applicable restrictions, 860–3, 879–83
 establishment, freedom of, 849, 850, 890–1
 establishment of service, 854
 general commercial or professional knowledge, activities requiring, 871–2
 ‘general system for the recognition of evidence of training’, 869–70
 guardians and carers, 853
 in-kind payment for, 853
 labour markets, discrimination in, 876–8
 language restrictions, 859–60
 part-time employment, 854
 partial recognition of qualifications, 871
 professional diplomas and qualifications, 866–73
 public funds, work sponsored with, 853
 regulated professionals, 872–3
 reincorporation, 884–90
 restrictions on exercise of occupation, 849, 875–83
 restrictions on taking up an occupation, 849, 856, 859–75
 right of, 856–9
 scope of right of, 848, 849–51
 secondary establishment restrictions, 864–6, 884–90
 self-employed versus employed persons, 850–3, 866, 880
 services, relationship to free movement of, 815, 851
 significant economic activity requirement, 853–6
 social benefits, 877
 students, 853
 tax benefits, 877, 878
 trade union rights, 877
 training and trainees, 853, 864, 873, 879
 U-turns, 874, 875, 884–90
 work-seekers, 856
 workers, free movement of, 849
 working in one State and living in another, 856
- Odudu, O., 1021
- official authority and public service, derogations for, 802, 895, 937–41

1107 Index

- OMT (Outright Monetary Transactions) programme, **48**, **720–1**, **722**, **736–8**
- openness, as governance norm, **382**
- opinions and recommendations (soft law), **114–16**, **321**
- Oporto, Treaty of (1991), **30**
- oral hearings in Commission enforcement proceedings on competition, **964–5**
- orange card procedure, **131**, **132**
- ordinary legislative procedure, **108**, **117–23**
- amendments, **119–20**
- assent of Council, **119**
- Commission powers regarding, **117**, **120**
- Conciliation Committee, **119**, **120**
- first reading, **118**, **120–1**
- introduced by Maastricht Treaty, **26**
- joint agreement, **118**
- orange card procedure for, **131**, **132**
- in practice, **119–20**
- QMV required by, **109**
- second reading, **118**
- TFEU requirements, **117–18**, **164**
- third reading, **118**
- trilogues, **121–3**
- veto powers of Parliament, **118**, **119**
- ordinary revision procedure for treaty reform, **89**
- ordoliberalism, **670**, **696**, **951**
- organisations. *See* associations and organisations; *specific organisations*
- organised crime, **649**, **657–60**
- OTOC (Portuguese Accountancy Association), **1005**
- Outright Monetary Transactions (OMT) programme, **48**, **720–1**, **722**, **736–8**
- packaging and labelling, **781**, **783**, **906**
- Panke, D., **346–7**
- parallel trade, **757**, **1016**, **1018–19**
- parent and subsidiary companies, **999–1001**
- parents. *See* family rights
- Paris, Treaty of (1952), **12**
- parliaments. *See* European Parliament; national parliaments
- part-time workers, **579–81**, **599–601**, **854**
- partial recognition of qualifications, **871**
- participation in criminal proceedings, victims' rights to, **664**
- participatory democracy, **380**, **388–93**
- ECI, **389–93**
- as feature of governance, **387–8**
- infringement proceedings and, **348**, **365–70**
- as norm of governance, **382**
- particularism and universalism, fundamental rights and debate between, **285–6**
- PASP (*Protocol on the Application of the Principles of Subsidiarity and Proportionality*), **131**, **393–4**, **398**
- passerelle provisions, **89**, **240**
- patents
- stem cell research, **267–71**
- Unified Patent Court, **164–70**, **173–4**, **177**, **206–8**
- unified patents and differentiated law-making, **136–7**
- Pelkmans, J., **698**
- penalties. *See* sanctions and penalties
- Penot, A. Iliopoulou, **483**
- periodic penalty payments in infringement proceedings, **374–7**
- permanent residents
- EU nationals living in another EU country, **476**
- non-EU nationals, **519**
- petroleum stocks, **919–20**, **935**
- Piris, Jean-Claude, **35**
- Plaumann formula, **424**, **448–52**
- Pléven (French Defence Minister), **12**
- pluralism
- authority of EU law, pluralist approach to, **200**, **221–2**
- comitology, **152**, **154**
- consultative process and, **411–12**
- Poland
- accession to EU, **31**
- on authority of EU law, **222**
- Constitutional Treaty and, **38**, **39**
- extradition ban in, **649**
- fundamental national rights, EU law conditioned by, **228–9**
- identity review in, **239**
- infringement proceedings against, **349–50**
- Lisbon Treaty and, **44**, **287**
- NCA, **1025–6**
- preliminary references from, **189**
- QMV in Council of Ministers and, **84**
- Polanyi, Karl, **832**
- policy reversals, **443**
- political authority of EU, intergovernmental and supranational models of, **2**, **14–19**
- political dimensions of competition law, **950–2**
- political expression and hate speech, **273–5**
- political harmonisation, **675**
- political integration
- economic integration as step towards, **669**
- EMU requiring, **24**
- Maastricht Treaty strategies for, **25–8**
- political nature of Commission decision process in competition enforcement proceedings, **977–8**
- political opinion, no protection for discrimination based on, **582**
- political parties and European Parliament, **95**, **100**
- political rights of EU citizens, **467**, **513–15**
- polypropylene cartel, **1009–12**
- Porat, I., **401**
- pornographic materials, **903**
- Portugal
- accession to EEC, **20**
- asylum applications, **541**
- Constitutional Treaty, referendum on, **39**
- in EFTA, **20**
- ESM support, **48**, **744**
- identity review in, **239**
- national parliamentary involvement in EU legislation by, **134**
- preliminary references from, **189**
- sovereign debt crisis and, **714**, **715**, **716**
- Portuguese Accountancy Association (OTOC), **1005**
- positive or affirmative action programmes, **571**, **614–16**
- Posner, Richard, **952**
- post-Chicago economic theory on competition, **947–9**, **950**
- Pottage, A., **270**
- pre-emption of national law, **199**, **200**, **204**, **209–13**
- precedent, doctrine of, **193**
- predatory pricing, **948**, **952**, **998**, **1038–41**
- 'predominant purpose' test for determining law-making procedure, **109–11**
- preliminary reference procedure, **157**, **174–85**
- architecture of, **157**, **164–74**
- binding effects of Court of Justice judgements, **192–5**
- circumstances in which national courts refer, **186–92**
- delays, protection of parties against, **195–7**
- development of EU law through, critiques of, **175–7**
- dispute resolution and, **183–5**
- interim relief, **196**
- judicial review of EU institutions via, **177–9**
- management of, **186–97**
- national courts and Court of Justice, relationship between, **164–70**
- unity of EU law, preserving, **179–83**
- preservation of machinery of the State, derogations due to, **897**, **919–21**
- President of Commission, **64**, **90**, **101–2**
- President of Council of Ministers, **86–7**

1108 Index

- President of European Council, [91–2](#)
 price fixing, [1016–17](#)
 price squeeze, [1046–7](#)
 pricing
 books, minimum prices for, [794](#)
 excessive prices, as exploitative
 abuse of dominant position, [1035](#)
 free movement of services, marketing
 and pricing restrictions on, [822–5](#)
 health care reimbursements, [837–8](#)
 market-specific, [757](#)
 minimum prices, [794](#), [823–4](#)
 predatory pricing, [948](#), [952](#), [998](#),
 [1038–41](#)
 primacy of EU law, [199](#), [200](#), [204](#),
 [208–9](#), [216](#)
 private enforcement of competition law,
 [944](#), [988–95](#)
 Commission initiatives on damages,
 [989](#), [992–4](#)
 Court of Justice support for damages
 claims in, [989–92](#)
 desirability of damages actions in
 competition law, [995](#)
 direct purchaser claims, restriction
 to, [994](#)
 follow-on damage actions, [993](#), [995](#)
 group and representative actions, [994](#)
 harmonisation and, [995](#)
 indirect purchasers, claims by, [993](#)
 leniency documents, [993](#)
 private enforcement of state aid law,
 [1074–6](#)
 ‘private investor test’ for state aid,
 [1061–3](#)
 private parties
 competition enforcement proceedings
 by Commission, complaints
 leading to, [957](#)
 horizontal direct effect against, [292](#),
 [296–8](#), [310–11](#), [312](#)
 import restrictions imposed by, [755](#),
 [768–73](#)
 public service including work for,
 [941](#)
 standing requirements for judicial
 review as non-privileged
 applicants, [444–55](#)
 state aid, involvement in, [1060–1](#)
 private security firms, regulation of,
 [826–7](#)
 problem-solving, as EU governance
 feature, [383–4](#)
 procedural remedies against
 discrimination, [608–10](#)
 procedural rights, [433–9](#)
 product rules and standards, [754](#),
 [773–85](#)
 Cassis de Dijon decision, [756–60](#),
 [773–6](#)
 for consumer protection, [780–3](#)
 country of origin versus country of
 sale, [776–7](#)
 for environmental protection, [783–5](#)
 harmonisation of, [773](#), [775](#), [776](#)
 information-based approach to, [781](#),
 [783](#)
 mandatory requirements, [775](#),
 [779–785](#)
 mutual recognition of, [754](#), [775](#),
 [776–8](#)
 proportionality applied to, [776](#), [781](#),
 [785](#)
 selling arrangements contrasted with,
 [787](#), [789–92](#)
 productive (technical) efficiency, [945](#)
 professions. *See* regulated industries
 and professions
 programming legislation, [115](#)
 PROGRESS, [619](#)
 proportionality, [399–404](#)
 Article 5 TEU on, [393](#)
 authority, within culture of, [401–2](#)
 case law establishing, [399–400](#)
 citizenship in EU, actions resulting in
 loss of, [474](#)
 co-regulation and, [402](#), [403](#)
 conflation with and relationship to
 subsidiarity, [393–4](#)
 defined, [393](#)
 deportation or exclusion on grounds
 of public policy or public security,
 [510](#)
 of derogations of free movement,
 [899](#), [921](#)
 EAW and, [649](#)
 free movement and residence rights,
 conditions on, [479](#)
 free movement of services, [800](#), [824](#)
 fundamental rights law and, [254](#)
 as governance norm, [380](#), [382](#)
 harmonisation and, [686](#)
 infringements, judicial review of, [439](#)
 justification, within culture of, [401](#)
 legislative culture affected by,
 [402–4](#)
 market-specific approach to, [824](#)
 necessity test, [400](#), [401](#)
 PASP, [128](#), [131](#), [393–4](#), [398](#)
 in product rules and standards, [776](#),
 [781](#), [785](#)
 self-regulation and, [402](#), [403](#)
 Smart Regulation and, [405–6](#)
 of state aid, [1077](#)
 suitability test, [400](#), [401](#)
 prostitution, [620](#), [831](#), [904](#)
 protection. *See also* international
 protection
 consumer protection, product rules
 and standards for, [780–3](#)
 of environment, [783–5](#)
 victims of crimes, rights of, [665](#)
 protectionism, [898–9](#)
Protocol on National Parliaments, [129](#)
*Protocol on the Application of the
 Principles of Subsidiarity and
 Proportionality* (PASP), [128](#), [131](#),
 [393–4](#), [398](#)
Protocol on the Schengen Acquis,
*Protocol on United Kingdom and
 Ireland*, [518](#), [528](#)
 Proudhon, Paul, [8](#)
 proximity principle, [929–30](#)
 prudential supervision by ECB, [733–6](#)
 Prüm Convention (2005), [141](#)
 public assistance. *See* social assistance
 and benefits
 public health, [930–3](#), [893](#)
 administration of restrictions due
 to, [932](#)
 consumer concerns, [932–3](#)
 free movement of services
 derogations, [802](#), [821](#)
 least restrictive option to protect,
 [914–22](#), [926](#)
 necessity of measures to protect,
 [901–2](#)
 nutritional content of foods, [931–2](#)
 procedural approach to restrictions
 due to, [930–1](#)
 procedural fairness of measure to
 protect, [922–3](#), [925](#)
 scientific uncertainty and, [901](#)
 public interest and public goods,
 [892–941](#). *See also* environmental
 protection; public health; public
 morality; public policy; security
 issues
 animal welfare, [906](#), [911–12](#)
 arbitrary discrimination in
 derogations protecting, prohibition
 of, [911–14](#)
 civil liberties, [896](#)
 competition law and, [982](#), [1047](#)
 consistency of policy on, [903–5](#),
 [908–10](#)
 context of derogations in light of,
 [892](#)
 coordination of policy at different
 government levels, [910–11](#)
 deportation or exclusion on grounds
 of, [509–12](#)
 economic reasons, no derogation
 purely for, [897](#)
 effectiveness of measure to protect,
 [906–11](#)
 establishment derogations, [895](#)
 European public order, concept of,
 [630–4](#), [934](#)
 free movement of capital
 derogations, [894](#), [908](#)
 free movement of goods derogations,
 [894](#), [928](#)
 free movement of services
 derogations, [802](#), [821](#), [845](#), [895](#)
 free movement of workers
 derogations, [895](#)
 harmonisation and the internal
 market, non-economic interests in,
 [693–7](#)
 infringement proceedings as tool of,
 [343–8](#)

Cambridge University Press

978-1-107-66434-0 - European Union Law: Text and Materials: Third Edition

Damian Chalmers, Gareth Davies and Giorgio Monti

Index

[More information](#)

1109 Index

- interpretation of derogations in light of, **899**
- least restrictive option requirement to protect, **914–22**
- mandatory requirements and general public interest objectives distinguished from Treaty exceptions, **900**
- margin of appreciation regarding, **894, 935**
- market externalities, **896, 916–17**
- in market society, **833**
- mutual recognition and, **913–14**
- necessity of measure to protect, **901–6**
- non-domestic threats, **906**
- preservation of machinery of the State, **897, 919–21**
- principles mediating conflict between free movement and, **893**
- procedural fairness of measure to protect, **922–5**
- procedural principles for determining legitimacy of derogations, **894, 921, 930–1**
- product rules and standards, mandatory requirements in, **775**
- proportionality, derogations in light of, **899, 921**
- public service and official authority, **802, 895, 937–41**
- range and scope of protected goods, **892**
- socio-cultural preferences, **897, 917–18**
- standing requirements for judicial review and, **452–5**
- transparency exceptions, public interest defence to, **415, 416, 418–21**
- public morality, **893, 933–6**. *See also* gambling and lotteries
- laser game arcade ban in Germany, **902–3, 934**
- pornographic materials, **903**
- prostitution, **620, 831, 904**
- values of society, securing, **934**
- public order, European, **630–4, 934**
- public policy, **893, 933–6**
- deportation or exclusion on grounds of, **508–13**
- French blockade on agricultural imports, **935–6**
- fundamental interests of society, protection of, **933**
- harmonisation and the internal market, non-economic interests in, **693–7**
- infringement proceedings as tool of, **343–8**
- standing requirements for judicial review and, **452–5**
- public procurement and the internal market, **674–5**
- public security. *See* security issues
- public service and official authority, derogations for, **802, 895, 937–41**
- public services
- commitments in energy markets, **1049–50**
- renewable energy requirements in Germany, **1059–60**
- as undertakings, **999**
- public versus private measures leading to import restrictions, **755, 768–73**
- Qualified Majority Voting (QMV)
- CERP, **90**
- choice of legislative procedure and, **109**
- comitology, **147**
- by Council of Ministers, **14, 22, 58, 82–5**
- criminal law and, **626**
- ECB, **726**
- ESM, **740**
- extension of, **30, 36, 46**
- ordinary legislative procedure requiring, **109**
- passerelle provisions, **89, 240**
- reverse QMV on sanctions for excessive deficit, **750–2**
- treaty amendment and, **89**
- quantitative restrictions on imports. *See* import restrictions
- Race Directive, **574, 593, 611, 614–17**
- racial or ethnic origin
- compensatory damages for discrimination claimants, **611**
- dialogue on, **616–17**
- institutional racism, **613**
- labour market, extension of rights beyond, **617**
- nationality discrimination, no coverage for, **593–5**
- no definition for, **585**
- positive or affirmative action programmes, **614–16**
- prohibition of discrimination based on, **585–6**
- Rasmussen, H., **298**
- Reagan, Ronald, **953**
- reasonable accommodation of disability, **588–90**
- indirect discrimination due to lack of, **598**
- Reasoned Opinion, in infringement proceedings, **360–3, 372**
- recommendations and opinions (soft law), **114–16, 321**
- recovery of unlawful state aid, **1072–9**
- recycling, **783–5, 929**
- reflexive harmonisation, **702**
- refugees. *See* asylum-seekers and refugees; international protection
- Regan, D., **759**
- regional governments. *See also* Committee of the Regions
- Assembly of European Regions, **1057**
- Flemish and Wallonian regional governments in Belgium, **355**
- state aid law, **1057, 1062–3, 1064–5**
- registration of residents with authorities, **506–8**
- regulated industries and professions. *See also* lawyers
- free movement of services and, **825–8**
- professional diplomas and qualifications, **866–73**
- right to occupation in another State and, **872–3**
- Regulations, **112, 113, 308, 385, 444–6**
- regulatory agencies, independent, **78–80**
- regulatory authority over competition, **944, 978–88**
- block exemption regulations, **978, 1029–31**
- case allocation, **982–3**
- comfort letters in response to notified agreement, **978, 979, 1022, 1025**
- Commission report on, **985–6**
- Commission's role in, **981–2, 984**
- cooperation within ECN, **983–4**
- Court of Justice on, **987–8**
- as deterrence-based enforcement ECN, **982–7**
- European Cartel Office proposals, **978**
- exemption decision, power to issue, **1025**
- modernisation of competition enforcement, **978–80**
- NCA's, **979–80, 982–4, 985, 987–8, 1025**
- regulatory competition, **702**
- regulatory communications, as soft law, **115**
- regulatory competition, **668, 697–702**
- Regulatory Fitness programme, **406**
- regulatory procedure with scrutiny, comitology, **144–7**
- regulatory standards, 'race to the bottom' in, **698–701, 778**
- regulatory tool, harmonisation of crimes as, **656, 661**
- reincorporation in another State, **884–90**
- religion or belief
- abortion, **25, 259, 284–5, 287, 831–2**
- atheism, humanism, and absence of belief, **587**
- employment practices of religious institutions, **604–5**
- Framework Directive on, **574**
- GMOs, **349–50**
- prohibition of discrimination based on, **586**

1110 Index

- remedies
 in competition enforcement
 proceedings by Commission, **965–6**
 against discrimination, **608–11**
 in national courts. *See* national courts
 recovery of unlawful state aid, **1072–9**
 repatriation assistance, **568**
 repayment of charges or taxes levied contrary to EU law, **306**
 reprisals against discrimination claimants, **610**
res judicata, **352–4**
 residence, right of. *See* free movement and residence of persons
 restructuring of banks, **1083–4**
 retroactivity, prohibition of, **254, 441**
 Returns Directive, **518, 524, 544–6**
 reunification of families, **278–80, 519**
 reversals of policy, **443**
 reverse discrimination claims based on nationality and citizenship, **491–4**
 reverse QMV, **750–2**
 rights. *See also* Area of Freedom, Security and Justice; civil rights; family rights; *entries at* free movement; fundamental rights in EU law; national courts
 Community Charter of Fundamental Social Rights of Workers, **253, 254, 277, 572**
 political rights of EU citizens, **467**
 of process, **433–9**
 services, right to provide and receive, **844–5**
 of undertaking an occupation in another State, **856–9**
 of victims of crimes, **624**
 'Roman' legitimisation strategy, **25, 40**
 Romania
 accession to EU, **31**
 in financial crisis of 2008, **47**
 Schengen Agreements and, **522**
 Schengen Agreements not implemented in, **34**
 sovereign debt crisis and, **715**
 Rome, Treaties of (1957), **13, 18, 24, 458**
 Rousseau, Jean-Jacques, **6**
 Royal Bank of Scotland, restructuring of, **1083**
 rule pre-emption, **209, 211**
 Sabel, C., **150, 386**
 SAM (State Aid Management) programme, **1080**
 same-sex marriages/partnerships, **497, 592–3**
 Samuels, H., **601**
 sanctions and penalties
 competition enforcement by
 Commission, **965**
 deficit adjustment path, significant deviations from, **706, 748–52**
 EMU powers, extension of, **705, 719**
 financial penalties in infringement proceedings, **373–7**
 harmonisation of, **624, 655–61**
 infringement proceedings imposing, **338, 371–7**
 judicial cooperation in criminal justice, **639**
 national penalties for infringement of EU law, **214**
 recovery of state aid, **1072–9**
 Sandholtz, W., **669**
 Santer Commission (1998), **381, 619**
 Saurugger, S., **388, 389**
 Scharpf, Fritz, **700–1**
 Schengen Agreements, **29, 30, 34, 139–40, 141, 518, 520, 521–4, 528**
 Schengen Borders Code, **534–5, 535, 544**
 Schengen Implementing Convention (CISA), **651**
 Schengen Information System (SIS), **532–3**
 Schepel, H., **819**
 Schiek, D., **575**
 Schuman, Robert, and Schuman Plan, **11–12**
 scientific bias in harmonisation practices, **694–5**
 scientific uncertainty, **901, 932**
 Scientology, **309, 899, 904, 923**
 Scott, H., **334**
 SEA (Single European Act), **2, 20–3, 24, 30, 94, 707, 953**
 seal products, EU ban on, **682–3**
 search of premises in enforcement of competition law by Commission, **960–3**
 secondary establishment, **864–6, 884–90**
 Secretariat of Council of Ministers, **87**
 Securities Market Programme (SMP), **48, 714, 716, 720–1, 736**
 security issues. *See also* Area of Freedom, Security and Justice
 augmentation of security by cooperation with other States in EU criminal law, **629–30**
 criminalisation of migration, **531–4**
 as defence to discrimination charges, **603–4**
 defined, **627**
 deportation or exclusion on grounds of, **509–12**
 free movement of services
 derogations, **802**
 frontier controls, **528–30, 534–6**
 fundamental interests of society, protection of, **933**
 judicial review and rights of defence, **436**
 as Member State issue, **627**
 non-EU nationals and national security, **518, 525, 528–36**
 private security firms, regulation of, **826–7**
 public goods claims and derogation of free movement, **893, 933–6**
 purpose of restriction actually serving, **935**
 transparency exceptions, **414, 416, 417–18**
 selectivity test for prohibited state aid, **1063–9**
 self-employment, **850–3, 866, 880**
 self-regulation, **402, 403**
 selling arrangements as import restrictions, **755, 756, 786–94**
 Senegal, refugees from, **557**
 separation and family rights, **497–8**
 Serbian application for accession to EU, **32**
 Services Directive, **800, 842–6**. *See also* free movement of services
 administrative cooperation between Member States in, **845–6**
 administrative simplification as aim of, **843–4**
 on freedom of establishment, **849, 890–1**
 purpose of, **842**
 right to provide and receive services enshrined in, **844–5**
 scope and application, **842–3**
 special emergency procedure under, **846**
 specific EU legislation, exemption for services already covered by, **843**
 sex and gender
 compensatory damages for discrimination claimants, **610**
 Court of Justice challenges to national equality laws, **578, 583–5**
 domestic violence, **618**
 employment discrimination, gender-based, **295–8, 305, 310–11, 317**
 equal pay, **295–8, 305, 571, 574, 579, 583**
 equality directives regarding, **574**
 EUCFR and, **576**
 genuine occupational requirement
 defences for military positions, **602**
 labour market, extension of rights beyond, **613–14**
 mainstreaming, **619–21**
 part-time workers, discrimination against, **579–81, 599–601**
 positive or affirmative action programmes, **614**

1111 Index

- prohibition of discrimination on basis of, [583–5](#)
 retirement ages for men and women, [590](#)
 services, free movement of, [820](#)
 transsexuals, [583–4](#)
 sex trade, [620](#), [831](#), [904](#)
 sexual harassment, [599–601](#)
 sexual orientation
 Framework Directive on, [324](#), [592](#)
 genuine occupational requirement defence and, [603](#)
 military, gay persons in, [603](#)
 prohibition of discrimination based on, [591–3](#)
 refugee status based on, [538](#)
 same-sex marriages/partnerships, [497](#), [592–3](#)
 transsexuals, [583–4](#)
 Shapiro, M., [79](#)
 shared competencies between EU and Member States, [210](#), [211–13](#)
 Sharpeville massacres, [20](#)
 Sharpston, Advocate General, [249](#)
 Shaw, J., [470](#)
 short-term residence (less than three months), [476](#), [506](#)
 sickness insurance. *See* health care;
 social assistance and benefits
 significant credit institutions, what constitutes, [734](#)
 significant economic activity in another State, [853–6](#)
 Significant Observed Deviation procedure, [705](#), [719](#), [748–52](#)
 simplified revision procedure for treaty reform, [89](#)
 Single European Act (SEA), [2](#), [20–3](#), [24](#), [30](#), [94](#), [707](#), [953](#)
 single market. *See* internal market
 Single Market Act, as programming legislation, [115](#)
 single supervisory mechanism (SSM) of ECB, [54](#), [730](#), [733–4](#), [736](#)
 SIS (Schengen Information System), [532–3](#)
 Six Pack, [50–3](#), [717](#), [750](#)
 Slovakia
 accession to EU, [31](#)
 infringement proceedings against, [353–4](#)
 preliminary references from, [189](#)
 Slovenia's accession to EU, [31](#)
 small and medium-sized enterprises (SMEs), [115](#), [843](#), [898](#), [1035](#), [1042](#), [1043](#), [1055](#), [1059](#), [1080](#), [1081](#), [1083](#)
 Smart Regulation, [405–6](#)
 SMEs (small and medium-sized enterprises), [115](#), [843](#), [898](#), [1035](#), [1042](#), [1043](#), [1055](#), [1059](#), [1080](#), [1081](#), [1083](#)
 Smith, M., [364](#)
 SMP (Securities Market Programme), [48](#), [714](#), [716](#), [720–1](#), [736](#)
 Snake (exchange rate system, 1972), [707](#)
 social assistance and benefits
 conditions on free movement and residence rights regarding, [478–81](#)
 equal rights for EU citizen workers, [487–9](#)
 equal rights for non-EU national residents, [549–52](#)
 experimental treatments, [837](#)
 family reunification and, [554](#)
 free movement of services and, [799](#), [833–41](#)
 integration into society of host State and, [489–91](#)
 for international protection beneficiaries, [567](#)
 material reception conditions for asylum-seekers and refugees, [557–60](#)
 occupation undertaken in another State, [877](#)
 regulatory competition and, [700–1](#)
 services and treatment provided abroad, [833–41](#)
 sovereign debt crisis affecting, [715](#)
 sufficient resources requirements for non-EU nationals, [548](#)
 work-seekers, [488–9](#)
 social-democratic societies, effects of internal market on, [696](#)
 social integration, economic integration as step towards, [669](#)
 social movements following sovereign debt crisis, [716](#)
 'social welfare' standard for assessing state aid, [1078](#)
 socio-cultural preferences
 abortion, [25](#), [259](#), [284–5](#), [287](#), [831–2](#)
 derogations of free movement due to, [897](#), [917–18](#)
 GMOs, [349–50](#)
 soft drink containers, recycling rules for, [783–5](#)
 soft law (recommendations and opinions), [114–16](#), [321](#)
 Solemn Declaration on European Union (1983), [20](#)
 solidarity
 EUCFR on, [256](#), [288](#)
 internal market, effects of, [696](#)
 on non-EU nationals, [518](#), [526](#), [539–44](#)
 Somek, A., [598–9](#), [696](#)
 South Africa, Sharpeville massacres in, [20](#)
 sovereign debt crisis of 2009, [3](#), [46–53](#), [705](#), [714–17](#)
 sovereignty, State, [200](#), [217](#), [528–36](#), [626](#)
 Spaak, Henri-Paul, [13](#)
 Spaak Report (1956), [13–14](#)
 Spain
 accession to EEC, [20](#)
 Constitutional Treaty and, [38](#)
 consultative process and, [408](#)
 ESM support, [48](#)
 idea of European Union in, [11](#)
 judicial liability in, [334](#)
 local language film requirements in, [917](#)
 Prüm Convention (2005), [141](#)
 'Road to European Citizenship' proposal, [471](#)
 sovereign debt crisis and, [714](#), [715](#), [716](#)
 unitary patents and, [136–7](#)
 on voting rights of commonwealth citizens in Gibraltar, [513–14](#)
 youth unemployment in, [52](#)
 special legislative procedures, [108](#)
 Spinelli, Alfiero, [21](#)
 sport
 competition law, anti-doping agreements exempted from, [1004–5](#)
 football transfer system and right to take up or pursue occupation, [860–2](#)
 free movement of services and, [815–17](#)
 SSM (single supervisory mechanism) of ECB, [54](#), [730](#), [733–4](#), [736](#)
 Stability and Growth Pact (1997), [711](#), [717](#)
 Stalford, Helen, [499](#)
 standards. *See also* product rules and standards
 regulatory standards, 'race to the bottom' in, [698–701](#), [778](#)
 technical standards, harmonisation of, [687–92](#)
 standing requirements for judicial review, [424](#), [443–55](#)
 contextual nature of, [452](#)
 direct concern requirement, [446–8](#)
 in failure to act cases, [456](#)
 hearing, right to, [437](#)
 illegality, plea of, [457](#)
 implementing measures and, [446–8](#)
 individual concern requirement, *Plaumann* formula for, [424](#), [448–52](#)
 interest groups, [452–5](#)
 narrow versus broad interpretation of, [452](#)
 non-privileged applicants (private parties), [444–55](#)
 privileged applicants, [443](#), [456](#)
 regulatory and legislative acts, [444–6](#)
 semi-privileged applicants, [443–4](#)
 time limits on, [443](#)
 Stares, S., [270](#)
 Starting Line Group, [585](#)
 State Aid Action Plan of 2005, [1053](#), [1055](#), [1077](#)