

Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual

More Information

Index

A and S, 130, 133 A and B v Norway, 359, 365, 370 Abdulaziz, Cabales and Balkandali v UK, 124 Abdullahi, 93, 165 access to a lawyer, right of, 301-3 access to case materials, right of, 299-301 access to documents, right of, 173, 298 access to the file, right of, 159, 172-73 AFSJ (Area of Freedom Security and Justice) creation of, 58 crucial place of fundamental rights, 5-9 EU's functioning as, 2-5 fundamental rights affected by, 21-22 legal spheres covered by, 21 Åkerberg Fransson, 28, 269 Al Chodor, 114-15, 116 Algeria, 368 Alheto, 160 Amsterdam Treaty, 58, 60, 83, 181 annulment procedures, predominant issues, 25 annulment, growing relevance of fundamental rights, 25 Aranyosi and Căldăraru, 7, 50, 53, 66, 70, 279, 343, 350, 427 Arslan, 108 Associação Sindical dos Juízes Portugueses, 53 asylum quota system, 25

risk of impunity and, 51

Dublin Regulations; effective remedy rights in asylum matters; migration and asylum law; right to asylum; right to liberty in asylum matters asylum seekers applications for short-term visas, 30 detention of, 110-16 enhancing the rights of, 44 exclusion from Family Reunification Directive, 119, 121 fingerprints, 383 minimum standards for reception of, 54-55, 65 risks for in Greece, 65 transfer of, 34, 49, 65-66, 77, 260, 426 unprecedented number of, 373 vulnerability of, 418, 425 audi alteram partem principle, 71, 189 Australia, 381 Austria, 201, 202, 205 automated decision-making, prohibition in data protection law, 390 Avotiņš, 237 B and Vomero, 404 Belgium, 116, 143, 344, 406 Berlusconi, 338 Bero and Bouzalmate, 105, 117 Bourquain, 368 Bozkurt, 155 Brexit, 4, 293 Brussels Convention, 60, 63, 182, 247 Brussels II bis Regulations.

see also asylum seekers;

see under rights of the child and respect for family life Butt v Norway, 137 C and A, 135-36 cases A and S, 130, 133 A and B v Norway, 359, 365, 370 Abdulaziz Cabales and Balkandali v UK, 124 Abdullahi, 93, 165 Åkerberg Fransson, 28, 269 Al Chodor, 114-15, 116 Alheto, 160 Aranyosi and Căldăraru, 7, 50, 53, 66, 70, 279, 343, 350, 427 Arslan, 108 Associação Sindical dos Juízes Portugueses, 53 Avotinš, 237 B and Vomero, 404 Berlusconi, 338 Bero and Bouzalmate, 105, 117 Bourquain, 368 Bozkurt, 155 Butt v Norway, 137 C and A, 135-36 Cassis de Dijon, 57 Celmer, 439 Chakroun, 128-29, 130, 398 Chavez-Vilchez, 401 Cimade and GISTI, 153 CK, 49, 54, 95, 427 Coman, 410 Covaci, 44, 295, 300 Dell'Orto, 324 DH, 113, 163 Di Puma, 361, 370 Diageo Brands, 247 Diallo, 399



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index

Index

447

Digital Rights Ireland, 388, 392 Dogan, 134-36 Dorobantu, 50, 54 E, 132-33 eco cosmetics, 226, 228 Egenberger, 396 El Dridi, 109 El Hassani, 143, 144 Elgafaji, 150 European Parliament v Council, 126-28, 131 Fahimian, 401 Fathi, 153 Franz Fischer, 364 G and R, 106-7, 110, 117 Gambazzi, 246 Gambino and Hyka, 326 Garlsson, 359, 361, 370 Gazprom, 71 Ghezelbash, 94, 95, 165, 167 Gnandi, 154 Gözütok and Brügge, 63, 367 *Gradinger*, 364, 366 Gueye and Salmerón Sánchez, 326 Halaf, 151 Hirsi, 155 HT, 401 IB, 42 Ibrahim, 151 Ilias and Ahmed, 156 Imtech Marine, 226, 227-28 Jafari, 94-95 JD, 409 Jeremy F, 351 JN, 113, 117 K, 112-13, 117, 135-36 K and A, 134, 136 K and B, 131, 133 K and HF, 404 KA and Others, 399, 402 Kadzoev, 104-5, 107-8, 117 Kamberaj, 29 Kampanella v Italy, 204 Karim, 165 Katz, 430 Khachab, 130, 398 Kossowski, 358 Kozłowski, 42, 405 Kraaijenbrink, 363 Kretzinger, 367 Lanigan, 280 LM, 7, 53, 67, 70, 266-67

Lopes Da Silva, 42, 406 MA and Others, 153, 155-56, 420 Mahdi, 106, 107, 117, 155 McB, 34 Md Sagor, 109 Melloni, 25, 28, 41-42, 48, 98, 235, 261, 268, 351 Menci, 361, 370 Meroni, 247 MG, 404 Michaud v France, 204 Mikolenko v Estonia, 104 Milev, 45, 305 ML, 7, 50 Moro, 37 MSS v Belgium and Greece, 54, 116 Nabil and Others v Hungary, 112 NF, 154 Noorzia, 133-34, 136 NS and Others, 7, 29, 47-48, 49, 54, 92, 150-51, 164-65, 260, 264 O, S and L, 129, 130, 399, 401 Oliveira, 364 Onuekwere, 404 Paoletti, 33 Parliament v Council, 24 Pellegrini v Italy, 217 Petruhhin, 407 Pham, 117 PI, 404 Piotrowski, 345 Pisciotti, 407 Popławski, 406 Povse, 51, 201-5 Puigdemont, 345 Pula Parking, 71, 190 Pupino, 319, 430 R (Zagorski and Baze) v Secretary of State for Business, Innovation and Skills, 32 Radu, 47, 343 Raugevicius, 407 Rayonna prokuratura Lom, 29 S and Marper v UK, 389 Saadi v UK, 113 Saciri, 55

Salvoni, 179-80, 188

Schrems, 388, 392 Schwarz v Bochum, 389 Scialdone, 338 Scoppola, 347 Segerstedt Wiberg v Sweden, 391 Sharifi, 155 Spasic, 369 Spetsializirana prokuratura, 36 Suso Musa v Malta, 113 Sut 406 Syrian Humanitarian Visas, 142-43 Tarakhel v Switzerland, 49, 54 Taricco, 347, 351, 353 TC, 279 Torubarov, 160, 162 Trade Agency, 222, 245 Tranca, Reiter and Opria, 300 Tsakouridis, 404 Van Esbroeck, 362, 363, 366, 369 Van Straaten, 363 Wolzenburg, 42, 406 X, 399 X and X, 30, 32, 143-44, 154 YZ and Others, 137 Zambrano, 121, 129, 400 Zarraga, 201-4 Zeman, 397 Zolotukhin, 363-64, 365, 369 Cassis de Dijon, 57 Celmer, 439 certified mutual trust, 179-91 development of the principle of mutual recognition and, 180-83 formal requirements and judicial review, 186-89 judicial organs and their independence, 189-91 limits on free circulation of judicial decisions, 184-86 Chakroun, 128-29, 130, 398 Charter of Fundamental Rights of the EU, scope of application. see scope of application of the Charter



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index More Information

448 Index

Chavez-Vilchez, 401 child abduction by a parent, 51-52 changes to overriding mechanism, 207-9 CJEU case law (Povse and Zarraga), 201-4 ECtHR analysis of Povse, 204-5 overriding mechanism, 198-205 Brussels II bis Recast, 205-9 return and protection proceedings enhancement proposals, 206-7 children citizenship law and, 399 definition of child, 194-95 detention of, 120 **Dublin Regulations** and, 153, 420 family life and the best interests of, 119-38 free movement rights and, 409 minimum standards for reception of asylum seekers and, 55 potential use of DNA samples, 383 procedural safeguards for in criminal matters, 307-8 rights of child victims, 318, 320, 404 vulnerability rationale, 420-23, 428-30 see also child abduction; Family Reunification Directive; rights of the child and respect for family life Cimade and GISTI, 153 citizenship and nondiscrimination rights, 394-412 EU immigration policy and, 398-402 free movement rights and EU citizenship, 395-98 judicial cooperation in civil matters, 408-10 security perspectives, 402-8

CK, 49, 54, 95, 427 Coman, 410 Common European Asylum System (CEAS), 49 Convention on the Rights of the Child, 193, 195 Covaci, 44, 295, 300 data protection, 373-93 application of the law, 386-92 effective judicial protection rights, 391-92 prohibition of automated decision-making, 390 purpose limitation, 386-88 special categories of personal data, 388-89 strict necessity test, 388 transfer of personal data to third states, 391 data processing within AFSJ, 373-74 databases and interoperability, 382-86 establishment of new databases, 385 Eurodac, 383 regulations on interoperability, 386 Schengen Information System, 382-83 Visa Information System, 384-85 ECHR and data protection in the Council of Europe framework, 374-75 in EU law, 375-77 information exchange, 378-82 Europol and Eurojust, 378-79 passenger data, 380-81 Prüm Decision, 379-80 third-country agreements, 381-82 see also GDPR defence rights and effective remedies in criminal matters, 289-311 access to a lawyer, 301-3 directives on procedural rights, 291-93

information rights, 298-301 arrested or detained individuals, 298-99 information on the accusation and right of access to case materials, 299-301 interpretation and translation rights, 293-98 infringement, 297 interpretation, 295-96 legal requirements, 294-95 quality obligations, 297 translation of essential documents, 296-97 legal aid, 308-10 presumption of innocence and right to be present at the trial, 304-7 procedural safeguards for children, 307-8 way forward, 310-11 Dell'Orto, 324 Denmark, 292 detention asylum seekers Asylum Reception Conditions Directive, 111-14 Dublin Regulations, 114-16 grounds for under the Return Directive, 104 information rights, 298-99 infringement of rights as grounds for automatic release, 106 maximum period under the Return Directive, 108, 117 pending recognition of EAW, 277-80 permissibility under the Return Directive, 100 pre- and post-conviction alternatives to, 285-87 detention of children, incompatibility with right to family life and best interests of the child principle, 120 DH, 113, 163



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index

Index 449

Di Puma, 361, 370 Diageo Brands, 247 Diallo, 399 Digital Rights Ireland, 388, Dogan, 134-36 Dorobantu, 50, 54 **Dublin Regulations** compatibility with fundamental rights of asylum applicants, 48, 98-99, 150, 152, 175, 260-65 detention of asylum seekers, 536.1 effective remedy rights in asylum matters, 164-69, 175 Eurodac and, 383 **Expulsion Decisions** Directive and, 92 family reunification criteria, 119 mutual trust and, 62 perverse incentives created bv. 94-95 potential for challenging a transfer under, 93 reform, 44 relationship with Schengen, 95 rights-restricting measures, 92-97 transfer of asylum seekers, 526.1, 526.2, 526.3, 93-95, 97 unaccompanied children and, 153 VIS and, 384 vulnerability and, 420, 426-27

E, 132–33
eco cosmetics, 226, 228
effective remedies and fair
trial in civil matters. see
fair trial and effective
remedies in civil
matters
effective remedy rights in
asylum matters
asylum directives, 160–64
critical assessments,
161–64, 166

Dublin procedures, 164-69 in CJEU case law, 160-61, 164-66 procedural rights related to right to be heard, 172-74 right to be heard, 169-72 Egenberger, 396 El Dridi, 109 El Hassani, 143, 144 Elgafaji, 150 Estonia, 407 European arrest warrant (EAW) access to a lawyer, 302 adoption following 9/11 attacks, 403 compatibility with fundamental rights, 257-60 compliance with legality principle, 25 detention pending recognition of, 277-80 fairness of proceedings and, 297 legal aid, 310 legality principle and, 341-42 motivations for use, 439-40 mutual recognition and, 66, 257-60, 343 mutual trust and, 63, 253, 254-57 mutual trust and recognition, 254-57 ne bis in idem context, 354, 356 non-execution for minors, 344 potential for suspension, 52, 54, 66-68 prevention of impunity and, 51, 368-69, 407, 408 protection of fundamental rights and, 41, 43, 48, 54 reintegration and, 405-6, 411 relationship with mutual trust and fundamental rights, 260-70

role of national courts, 25

transfer of prisoners, 286 translation issues, 444

427

vulnerability rationale, 420,

European Firearms
Directive, 397
European Pact on Immigration
and Asylum, 85
European Parliament v
Council, 126–28, 131
'exceptional circumstances'
jurisprudence, 68, 70,
71, 191, 226
exequatur procedure, 208,
221, 223, 243
suppression of, 181–82
Expulsion Decisions Directive
(EDD), 84–87

Fahimian, 401 fair trial and effective remedies in civil matters, 211-30 Charter, 218-227 ECHR, 212-18 exequatur and public policy review, 221-23 exhaustion of remedies, 223-24 guarantees and scopes, 218-21 instruments and scrutiny, 224-27 Member State of origin challenges, 223-27 preliminary references and the enhancement of justice, 227-30 see also procedural rights in civil matters family life, right to, 42-44 Family Reunification Directive CJEU case law, 125-137 criticisms, 121 development and state practice, 120-23 differentiation and fragmentation, 138 European Parliament v Council, 126-28 fraud case, 137 human rights perspective, 123-25 immigration policy and citizenship rights, 398-402 implementation in Member States, 122-23 integration cases, 133-37



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index

450 Index

Family Reunification (cont.) refugee cases, 130-33 resources cases, 128-30 Fathi, 153 forced labour, prohibition of slavery and, 70 France, 368 Franz Fischer 364 free movement of goods, mutual recognition and, 58 free movement rights children and, 409 EU citizenship and, 395-98, 407 judicial cooperation in civil matters and, 408-10 mutual recognition and, 58, 61, 408 Return Directive and, 109 right to family reunification and, 122 same-sex marriage and, 410 scope of legal provisions, 32 security perspectives, 402-8 TCNs, 79-88, 122 Frontex, 26 G and R, 106-7, 110, 117 Gambazzi, 246 Gambino and Hyka, 326 Garlsson, 359, 361, 370 Gazprom, 71 GDPR (General Data Protection Regulation), 376-77, 387-88, 390-93 Germany, 44, 105, 179, 202, 343, 368-69, 407 Ghezelbash, 94, 95, 165, 167 Gnandi, 154 Gözütok and Brügge, 63, 367 Gradinger, 364, 366

Sánchez, 326

Halaf, 151

Hirsi, 155

HT, 401

human rights, 39–56

debate on the role of EU

law, 41–47

ECHR's role in cases

of horizontal

cooperation, 53–55

Greece, 65, 116, 151

Gueve and Salmerón

fair trial and effective remedies in civil matters, 212-18 Family Reunification Directive, 123-25 grounds for suspension of mutual recognition, 52-53 judicial cooperation and the role of impunity, 50-52 mutual trust and presumption of sufficient protection, 47-55 right to family life, 42-44 role of secondary law, 44-47

impunity EAW prevention measures, 51, 368-69, 407, 408 judicial cooperation and, 50-52 Imtech Marine, 226, 227-28 information exchange Europol and Eurojust, 378-79 passenger data, 380-81 Prüm Decision, 379-80 third-country agreements, 381-82 information rights arrested or detained individuals, 298-99 information on the accusation and right of access to case materials, 299-301

IB, 42

Ibrahim, 151

Ilias and Ahmed, 156

see presumption of innocence interpretation and translation rights infringement, 297 interpretation, 295–96 legal requirements, 294–95 quality obligations, 297 translation of essential

innocence, presumption of.

documents, 296–97 interpretation and translation, rights to in criminal matters, 293–98 Ireland, 292 Irish Refugee Appeal Tribunal, 161 Italy, 201, 204, 261, 346, 353, 363, 369, 408

Jafari, 94-95 JD, 409 Jeremy F, 351 JN, 113, 117 judicial cooperation and right to liberty in criminal matters, 273-74 certified mutual trust, 179-91 citizenship and nondiscrimination rights, 408-10 development within mutual trust and recognition, 60-62 effective remedies and fair trial in civil matters, 211-30 impunity and, 50-52 judicial organs and their independence, 189-91 judicial knowledge, mutual trust and recognition, 441-45 Judicial Redress Act, 381

K and A, 134, 136 K and B, 131, 133 K and HF, 404 KA and Others, 399, 402 Kadzoev, 104–5, 107–8, 117 Kamberaj, 29 Kampanella v Italy, 204 Karim, 165 Katz, 430 Khachab, 130, 398 knowledge, judicial, 441–45 Kossowski, 358 Kozłowski, 42, 405 Kraaijenbrink, 363 Kretzinger, 367

K, 112-13, 117, 135-36

Lanigan, 280 Latvia, 247, 407 legal aid, right to, 13, 71, 159, 172, 173–74, 301,



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index

Index 451

308-10, 320, 324-25, 329 legal assistance and representation, right to, 173 legality principle, 331-53 balancing security and liberty, 352-53 challenges for the principle in EU law, 348-53 ECHR, 333-34 interpretation of criminal law, 339-40 jurisdiction rules, 345-46 limitation rules, 346-48 limiting the principle, 340-48 multilevel justice, 350-52 mutual recognition and, 341-45 national constitutional traditions, 333 non-retroactivity of criminal law, 337-39 origins in EU, 332-34 precision of criminal law, 336-37 purpose, 348 requirements, 331-32 sources of criminal law, 334-36 theoretical rationales, 348-50 Lisbon Treaty asylum rights and, 78, 150 defence rights and, 267 EAW and, 260 human rights and, 270 victims' rights and, 313-15, 317 vulnerability and, 419 LM, 7, 53, 67, 70, 266-67 Lopes Da Silva, 42, 406 MA and Others, 153, 155-56, 420 Maastricht Treaty, 58 Mahdi, 106, 107, 117, 155 McB, 34

MG, 404 Michaud v France, 204 migration and asylum law, 77-99 effective remedies and defence rights, 159 'exceptionalisation' of fundamental rights, 97-99 family life and the best interests of the child, 119-38 immigration policy and citizenship rights, 398-402 mutual recognition and, 79-97 objectivation of mutual trust and, 77-79 rights-conferring measures, 79-84, 90-92 rights-restricting measures, 84-88, 92 - 97strengthening procedural rights, 174-76 see also asylum; asylum seekers; Dublin Regulations; effective remedy rights in asylum matters; right to asylum; right to liberty in asylum matters Mikolenko v Estonia, 104 Milev, 45 ML, 7, 50 Moro, 37 MSS v Belgium and Greece, 54, 116 mutual recognition as cornerstone of judicial cooperation, 61 EU asylum law, 88-97 rights-conferring measures, 90-92 rights-restricting measures, 92-97 EU migration law, 79-88 rights-conferring measures, 79-84 rights-restricting measures, 84-88

fundamental rights as

exceptions to, 34-35

human rights grounds for suspension of, 52-53 legality principle and, 341-45 limits on free circulation of judicial decisions, 184-86 political background and legislative developments, 180-83 suppression of exequatur, 181-82 see also mutual trust and recognition mutual recognition in criminal matters, 253-71 fundamental rights concerns in legislation, 257-60 mutual trust and the EAW, 254-57 relationship with mutual trust and fundamental rights, 260-70 transformative role of compliance with fundamental rights, 270-71 mutual trust Dublin Regulation on the need to develop, 62 first explicit reference to, 60-61 moral foundation for the principle of mutual recognition, 64 mutual trust and recognition balance between AFSJ integration and fundamental rights, 68-73 development of the principles, 57-59 development within judicial cooperation, 60-62 exceptional circumstances jurisprudence, 57-74, 191, 226 judicial knowledge and, 441-45 mutual cooperation and, 438-40 mutual trust as counterpoint to mutual recognition in CJEU case law, 62-65 the law and, 433-37

Md Sagor, 109

Menci, 361, 370

Meroni, 247

Melloni, 28, 41-42, 48, 98,

235, 261, 268, 351



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index More Information

Nabil and Others v

452 Index

and asylum matters, Hungary, 112 Pham, 117 PI 404 strengthening, 174-76 national courts cooperation with CJEU, 4 Piotrowski, 345 public powers, scope of role in policing compliance Pisciotti, 407 application of the of EU acts with Poland, 66, 143 Charter, 23-26 fundamental rights, 25 Puigdemont, 345 Popławski, 406 ne bis in idem Povse, 51, 201-5 Pula Parking, 71, 190 Pupino, 319, 430 principle, 354-70 presumption of innocence bis element, 357-61 burden of proof issues, 36 legality principle and, 349 development of R (Zagorski and Baze) v pre-trial detention and, 36, Secretary of State for interpretation, 369-70 enforcement requirement 276, 282-84 Business, Innovation from art 54 CISA, 367, and the right to be present and Skills, 32 Radu, 47, 343 369 at the trial, 304-7 right to liberty and, 45-46, Raugevicius, 407 idem element, 361-65 implications for mutual 273-74 Ravonna prokuratura Lom, 29 trust in criminal justice private life and data Reception Conditions Directive protection. see data (RCD), 99, 111, 112, systems, 63 113-14, 423 scope of protection application, 365-66 procedural rights in civil refoulement significance for the matters prohibition of, 146 AFSJ, 354-55 application by CJEU and see also non-refoulement sources, 355, 357 national courts, 244-48 principle Refugee Convention, 87, 90, NF. 154 judgments in default, 247-48 97, 98, 141 non-discrimination principle, and the right to family obligation to use all refugee crisis, EU and life, 43 remedies in the Member States' policy Member State of responses, 139-42 non-refoulement principle, 92, origin, 246-48 refugees, movement rights 95, 142, 146, 150, under EU law, 90-91 153-54, 155-56 public policy Noorzia, 133-34, 136 clause, 246-47 resilience, vulnerability and, 417-21 NS and Others, 7, 29, 47-48, balancing parties' Return Directive 49, 54, 92, 150-51, 155, rights, 240-42 definition of procedural aim and scope, 103 164-65, 260, 264 deprivations of liberty rights, 231 O, S and L, 129, 130, 399, 401 potential influence of EU under, 104-8 effectiveness, 108-10 Oliveira, 364 rules, 243-44 free movement rights Onuekwere, 404 sources, 235-36 outsourcing, of administrative fundamental rights and, 109 tasks, 26 and interests grounds for detention, 104 perspective, 240-44 maximum period Paoletti, 33 of detention importance of ECHR, 236, parental abduction of a 237 provisions, 108, 117 child, 51-52 mutual trust and, 77 primary law, 236 Parliament v Council, 24 regulatory permissibility of detention passenger name record data, under, 100 competences, 237-40 secondary law, 237-44 provision of draft agreement between Canada procedural rights in criminal effective remedy and EU on transfer/ matters requirements, 108 vulnerability and, 418, 424, processing, 24 requirements of all directives, 291-93 427 Pellegrini v Italy, 217 personal data, transfer to third right to information, 298 right of access to states, 391 right to liberty, 280-85 documents, 173, 298

Petruhhin, 407

procedural rights in migration



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index

Index 453

right to asylum, 139-58 CJEU case law, 149-55 challenges for (refugee crisis), 139-42 definition issues, 140-41 ECtHR case law, 155-56 EU Treaties and national institutions, 148-49 Member States' recognition and influence, 148-49 non-refoulement principle, 92, 95, 142, 146, 150, 153-54, 155-56 normative components, 145-56 scope of application, 142-45 value of art 18 and future prospects, 157-58 right to be heard CJEU case law, 125-37 critical assessment, 170, 172 infringement as grounds for automatic release of detainees, 106 related procedural rights, 172-74 see also access to documents: access to the file right to family life, 42-44 right to family reunification eligibility criteria, 119 see also Family Reunification Directive right to legal aid, 13, 71, 159, 172, 173-74, 301, 308-10, 320, 324-25, 329 right to legal assistance and representation, 13, 159, 172-73 right to liberty in asylum matters, 100-18 Charter provisions, 101-3 comparison of legal instruments, 117-18 deprivation of liberty under the Return Directive, 104-8 detention of asylum

Dublin regulations, 114-16 Reception Conditions Directive, 111-14 effectiveness of the Return Directive, 108-10 legal instruments, 100-1 return proceedings context, 103-10 right to liberty in criminal matters, 272-88 detention pending recognition of EAW, 277-80 judicial cooperation and, 273-74 key features of EU law, 275-76 pre- and post-conviction alternatives to detention, 285-87 procedural rights directives and, 280-85 rights of the child and respect for family life, 192-210 best interests of the child, 197-98 comparison of Brussels II bis Regulation with Recast, 209-10 definition of child, 194-95 EU legislation, 192-94 overriding mechanism in child abduction cases, 198-205 Brussels II bis Recast, 205-9 right to be heard, 195-97, 244 see also child abduction; children Russia, 407 S and Marper v UK, 389 Saadi v UK, 113 Saciri, 55 Salvoni, 179-80, 188

same-sex marriage, free

and, 410

TCNs' rights, 79-80

Schengen Agreement

movement rights

Dublin Regulations and, 95

Schengen Information System (SIS), 382-83 Schrems, 388, 392 Schwarz v Bochum, 389 Scialdone, 338 scope of application of the Charter, 21-38 Art 51(1) as autonomous scope-defining rule, 23-30 challenges for expansion, 34-37 fundamental rights as exceptions to mutual recognition, 34-35 Member States in the AFSJ, 27-30 overlapping of rights and secondary law, 35-37 personal scope, 31-32 public powers, 23-26 role of rights, 31 temporal scope, 33 territorial scope, 32 Scoppola, 347 Segerstedt Wiberg v Sweden, 391 Sharifi, 155 slavery and forced labour, prohibition of, 70 Spasic, 369 Spetsializirana prokuratura, 36 Stockholm Programme, 181, 290, 315, 317 Suso Musa v Malta, 113 Sut. 406 Switzerland, 261 Syrian Humanitarian Visas, 142-43 Tampere European

Council, 61, 180–81, 290

Tarakhel v Switzerland, 49, 54

Taricco, 347, 351, 353

TC, 279
terrorism
counterterrorism
directive, 336
cross-border cooperation
and, 379
derogation of rights
and, 303

seekers, 110-16



Cambridge University Press & Assessment 978-1-108-48813-6 — Fundamental Rights in the EU Area of Freedom, Security and Justice Edited by Sara Iglesias Sánchez, Maribel González Pascual Index More Information

454 Index

terrorism (cont.) victims' access to legal aid, 320 terrorist attacks, 332, 373, 403 Terrorist Financing Tracking Programme (TFTP), 381 Torubarov, 160, 162 Trade Agency, 222, 245 trafficking, 318, 320, 414, 418, 421, 422, 424, 428 Tranca, Reiter and Opria, 300 translation of documents, Member States' responsibilities, 45 trust and recognition, the law and, 433-37. see also mutual trust and recognition, Tsakouridis, 404 Turkey, 26, 151

United Kingdom (UK), 259, 292 see also Brexit United States of America (USA), 373, 381, 407

Van Esbroeck, 362, 363, 366, 369 Van Straaten, 363 victims' rights, 312-30 compensation rights of cross-border victims, 315-17 development in the EU, 312-15 establishment of minimum standards on rights support and protection, 323-27 future expectations, 328-30 information about procedural rights, 429 protection measures for victims of certain offences, 317-20 protection through mutual recognition instruments, 320-23 vulnerability, 421 Visa Code, 30, 32, 143, 164, 384 vulnerability, 431-32

collective
vulnerability, 415–17
duty to protect and, 424–30
as normative criterion for
justice, 430–32
negative adaptations of
protection, 425–28
positive adaptations of
protection, 428–30
presumptive
vulnerability, 421–23
resilience and, 417–21
special protection
regimes, 424–25

Wolzenburg, 42, 406

X, 399

X and X, 30, 32, 143-44, 154

YZ and Others, 137

Zambrano, 121, 129, 400 Zarraga, 201–4 Zeman, 397 Zolotukhin, 363–64, 365, 369