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National Procedural Autonomy Revisited



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Good Administration and the Council of Europe Ulrich Stelkens, Agnè Andrijauskaitė, 2020-09-11 Good Administration and the Council of Europe Law Principles and Effectiveness examines the existence and effectiveness of written and unwritten standards of good administration developed within the framework of the Council of Europe CoE and in the case law of the European Court of Human Rights These standards called pan European general principles of good administration cover the entire range of general organizational procedural and substantive legal institutions meant to ensure a democratically legitimized open and transparent administration respecting the rule of law They are about the limiting function of administrative law its function to protect individuals from arbitrary power to legitimize administrative action and to combat corruption This book analyses the sources and functions of the pan European general principles of good administration and seeks to uncover how deeply they are rooted in the domestic legal systems of the CoE Member States It comprises 28 country reports dedicated to an in depth exploration of the impact of these standards on the national legal systems of the Member States written by respective experts on these systems It argues that the pan European general principles of good administration lead to a certain harmonization of the legal orders of the Member States with regard to the limiting function of administrative law despite the many fundamental differences between their administrative and legal systems It comes to the further conclusion that the pan European general principles of good administration can be considered as a concretization of the founding values of the CoE and describes the administrative law obligations a Member State entered into when joining the CoE Cases, Materials and Text on Judicial Review of Administrative Action Chris Backes, Mariolina

Elia Antonio, 2019-08-08 This casebook studies the law governing judicial review of administrative action It examines the foundations and the organisation of judicial review the types of administrative action and corresponding kinds of review and access to court Significant attention is also devoted to the conduct of the court proceedings the grounds for review and the standard of review and the remedies available in judicial review cases The relevant rules and case law of Germany England and Wales France and the Netherlands are analysed and compared The similarities and differences between the legal systems are highlighted The impact of the jurisprudence of the European Court of Human Rights is considered as well as the influence of EU legislative initiatives and the case law of the Court of Justice of the European Union in the legal systems examined Furthermore the system of judicial review of administrative action before the European courts is studied and compared to that of the national legal systems During the last decade the growing influence of EU law on national procedural law has been increasingly recognised However the way in which national systems of judicial review address the requirements imposed by EU law differs substantially The casebook compares the primary sources legislation case law etc of the legal systems covered and explores their differences and similarities this examination reveals to what extent a ius commune of judicial review of administrative action is developing **The Interim Protection of Individuals Before the European**

and National Courts Dimitrios Sinaniotis,2006-01-01 This thesis focuses on the interim protection of the individual in the Community legal order An analysis will be made of the avenues available to individuals for requesting interim relief when a case is brought before the European or the national courts An extensive examination of the relevant case law will be performed to reveal what appears to be an evolving concept of the individual s interim protection in the European Community structure and to suggest any possible changes in order to guarantee an effective remedy of interim relief

Market Supervision in the European Union Pieter van Cleynenbreugel,2014-09-25 In Market Supervision in the European Union Pieter Van Cleynenbreugel compares and reconstructs the emergence of divergently structured supranational market supervision mechanisms in six different sectors of EU regulation competition financial services chemicals consumer law electronic communications and energy EU market supervision developments have been plentiful over the past decade but have so far mainly been studied in their own sector specific context On the basis of an innovative cross sector investigation Pieter Van Cleynenbreugel identifies and conceptualises common or converging EU constitutional benchmarks underlying those sector specific administrative design developments Those benchmarks better allow to conceptualise predict and restrain future EU integrated administration structures and initiatives in those and other fields of European Union law

Article 47 of the EU Charter and Effective Judicial Protection, Volume 2 Matteo Bonelli,Mariolina Eliantonio,Giulia Gentile,2023-11-02 This ambitious innovative project examines the principle of effective judicial protection in EU law over two volumes The principle of effective judicial protection is a cornerstone of the EU s judicial system and is re affirmed in Article 47 of the Charter of Fundamental Rights of the European Union Since the 1980s the Court of Justice has used the principle to shape EU and national procedural rules more recently the principle has acquired an even more central role in the EU constitutional structure In the second volume an expert team explores how the national courts have applied Article 47 and the principle of effective judicial protection It takes a comparative overview of the case law to assess the level of convergence or divergence of the national courts approaches The questionnaire methodology allows for an accurate charting of national courts application of Article 47 at the domestic level Given the wide application of Article 47 the collection will be of interest to EU constitutional scholars comparative lawyers as well as civil servants at both the national and EU level

Standing to Enforce European Union Law before National Courts Hilde K Ellingsen,2021-03-25 Access to court has long been recognised as an essential element of a Union based on the rule of law This book asks how can Member States ensure that their rules on standing guarantee that right The book answers this question by analysing the requirements of EU law from two angles first the effective protection of Union rights second the effectiveness of Union law per se With detailed case law examination the book formulates an autonomous Union law doctrine of standing based on the principle of effective judicial protection It then goes further setting out an effectiveness test of Member States enforcement mechanisms to ensure that EU law is rendered operative in practice This is a rigorous study on

a question of immense importance **EU and EEA Law Litigation Before National Courts** Zsófia Varga, 2024-03-07 This book provides practical and comprehensive guidance for national practising lawyers judges and litigation attorneys on the application of EU EEA law before national courts It describes the essential rules regarding the application of EU EEA law before national judicial instances and structures them systematically in order to enable national judges and litigation attorneys to comprehend the main standards In short the book is about legal norms that would fall under the category of civil and administrative procedural law in a national legal order These rules developed by the ECJ and the EFTA Court govern when and how national judges should apply EU EEA law in national proceedings The book is divided into six chapters each dealing with a specific topic For pragmatic purposes the structure of the chapters is uniform and each chapter can be read individually As the norms have been developed by the ECJ EFTA court and consist mainly of case law principles the topics are presented based on thorough analysis of the judgments rendered by those courts The book s unique practical focus makes a great addition to the library of any national lawyer and EU law expert **EU Administrative Law** Paul P. Craig, 2018 Part I Administration and Law 1 History and Typology 2 Crisis Reform and Constitutionalization 3 Centralized Management 4 Shared Management 5 Comitology 6 Agencies 7 Open Method of Coordination 8 Social Partners Part II Law and Administration 9 Foundations 10 Courts 11 Access **The Law of the European Union and the European Communities** Pieter Jan Kuijper, Fabian Amtenbrink, Deirdre Curtin, Bruno De Witte, Alison McDonnell, 2018-09-28 The Law of the European Union is a complete reference work on all aspects of the law of the European Union including the institutional framework the Internal Market Economic and Monetary Union and external policy and action Completely revised and updated with many newly written chapters this fifth edition of the most thorough resource in its field provides the most comprehensive and systematic account available of the law of the European Union EU Written by a new team of experts in their respective areas of European law its coverage incorporates and embraces many current controversial and emerging issues and provides detailed attention to historical development and legislative history of EU law Topics that are constantly debated in European legal analysis and practice are touched on in ways that are both fundamental and enlightening including the following powers and functions of the EU law institutions and relationship among them the principles of equality loyalty subsidiarity and proportionality free movement of persons goods services and capital mechanisms of constitutional change treaty revisions accession treaties withdrawal agreements budgetary principles and procedures State aid rules effect of Union law in national legal systems coexistence of EU European Convention of Human Rights ECHR and national fundamental rights law migration and asylum law liability of Member States for damage suffered by individuals competition law cartels abuse of dominant position merger control social policy equal pay and equal treatment environmental policy consumer protection public health cultural policy education and tourism nature of EU citizenship its acquisition and loss and law and policy of the EU s external relations The fifth edition embraces many new ongoing and emerging European legal issues As in the previous

editions the presentation is notable for its attention to how the law relates to economic and political realities and how the various policy areas interact with each other and with the institutional framework The many practitioners and scholars who have relied on the predecessors of this definitive work for years will welcome this extensively revised and updated edition Those coming to the field for the first time will instantly recognize that they are in the presence of a masterwork that can always be turned to with profit and that helps in understanding the rationale underlying any EU law provision or principle

Preliminary References to the Court of Justice of the European Union and Effective Judicial Protection Clelia Lacchi, 2020-09-09 The preliminary reference procedure under Article 267 TFEU is the keystone of the EU judicial system and its legal order Based on a dialogue between the Court of Justice and national courts it is strictly linked to the protection of the rights that individuals derive from EU law This book focuses on this procedure from the perspective of the right to effective judicial protection in light of Article 19 1 second subparagraph TEU and Article 47 of the Charter of Fundamental Rights of the EU It explores the level of protection that is ensured to individuals in order to access to the Court of Justice through preliminary references on the validity of EU acts and on the interpretation of EU law The book offers a threefold perspective on preliminary references through an analysis of the case law of the Court of Justice itself of the European Court of Human Rights in relation to Article 6 1 ECHR and of the constitutional courts of Austria Croatia Czech Republic Germany Slovakia Slovenia and Spain where the national courts refusals to refer can lead to the violation of national constitutional rights It further investigates the obligations for Member States and national courts in the framework of the preliminary reference procedure and how the right to effective judicial protection affects them The examination outlines the implications that could flow from the recognition of a right for individuals to have a question referred to the ECJ as part of the right to effective judicial protection under EU law in particular its nature and its enforcement Building upon the existing system of sanctions for the violations of the obligation to submit a preliminary question the book advances some proposals to rethink the current system of remedies

Judging Composite Decision-Making Filipe Brito Bastos, 2024-11-14 This book examines the European Court of Justice s principles relating to composite decision making Through rigorous case law analysis it shows how these rely on national and Union observance of rule of law requirements under what the book calls the Unitary Protection doctrine It explores the theoretical dimension of this doctrine illustrating how it represents a departure from the EU s foundational federalist approach to administrative law This fills a long standing gap in the literature and in our full understanding of composite decision making a key tenet of EU law EU constitutional and administrative law scholars will be fascinated by this compelling study

Direct Effect in EU Law Daniele Gallo, 2024-12-23 Direct Effect in EU Law is the first book in English to thoroughly examine this revolutionary legal principle tracing direct effect s evolution throughout the multiform process of European integration A founding doctrine of EU constitutional law and the driving force of the EU legal system direct effect enables individuals and companies to invoke their rights before domestic authorities and the Court of

Justice of the EU CJEU Yet while the doctrine of direct effect remains the backbone of the EU legal system it lacks clear legal framing by the CJEU Emphasizing the need for the CJEU to fully articulate and systematize direct effect as to its core components and consequences the book advocates for an innovative understanding of such principle that acknowledges its transformative impact on EU law It bridges theory and practice drawing upon the CJEU rulings dating from the 1950s up to 2024 The book reconstructs direct effect beyond the doctrine originating from Van Gend Loos and ultimately puts forward solutions for its principled comprehension and enforcement Network-Based Governance in EC Law Maartje De Visser, 2009-11-23 To strengthen the credibility of the EU and its policies the European Community is increasingly concerned to emphasise effective enforcement of EC law This book engages in the debate on the better application of European law by offering an integrated analysis of a new institutional arrangement one that relies on networks grouping the Commission and national administrative authorities Taking the traditional enforcement paradigms of decentralisation centralisation and agency based enforcement as starting points their benefits and downsides are described and critiqued and the author concludes that there is considerable room for improvement The book then undertakes a comprehensive analysis of the network model to determine its core characteristics and assess its effectiveness European competition law and electronic communications law are used as case studies because inter alia the networks there have developed an adequate level of sophistication The book also employs a bottom up approach considering how four key Member States France Germany the Netherlands and the United Kingdom have given effect to the relevant European rules At the core of the book is a critique of the wider normative attractiveness of the network model The discussion is kaleidoscopic engaging with a wide variety of notions including legitimacy judicial review subsidiarity institutional balance and efficiency The thrust of the book is that network based governance deserves careful consideration as the model that is able to mediate the competing concerns of coherence for Internal Market reasons and of diversity and respect for local autonomy This book is useful for EC competition law and communications law practitioners and those with a keen interest in institutional and administrative law

Landmark Cases in EU Law, Volume 1 Paul Craig, Robert Schütze, 2025-05-29 From Van Gend en Loos and Costa v ENEL to Cassis de Dijon and Consten and Grundig Landmark Cases in EU Law explores the most important and well known EU law cases in two volumes These volumes show how the European Court of Justice has played a fundamental role in the construction of the European Union in the past 70 years Many EU landmark cases have been controversial yet no one can deny that they have been essential in defining the Union legal order as we find it today Volume 1 explores the constitutional cases that have come to define the legal nature and competences of the Union its judicial architecture as well as its fundamental rights system Each of the twenty cases within this volume is placed in its historical and doctrinal context and each chapter also presents the history of its reception by the Court and academia **Revisiting the Liberal**

Constitutional Features of the European Union Inês Quadros, Miguel Gorjão-Henriques, 2025-08-27 This book offers an

innovative insight into constitutionalism as a well established framework for describing the legal and political features of the European Union It revisits and updates the core pillars upon which the European way of life was built liberal democratic constitutionalism while confronting the threats the EU is currently facing Examining the political tensions that surface in the European Union the tools used to address the rule of law crisis and the challenges posed to the autonomy of EU law while offering a fresh look into contemporary EU policies the book is a valuable resource for scholars researchers and practitioners eager to engage in the ongoing European dialogue

The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law -La Cour de Justice et la Construction de l'Europe: Analyses et Perspectives de Soixante Ans de Jurisprudence

Court of Justice of the European Union, A. Rosas, E. Levits, Y. Bot, 2012-12-05
This book is a contributed volume published by the Court of Justice of the European Union on the occasion of its 60th anniversary It provides an insight to the 60 years of case law of the Court of Justice and its role in the progress of European Integration The book includes contributions from eminent jurists from almost all the EU Member States All the main areas of European Union are covered in a systematic way The contributions are regrouped in four chapters dedicated respectively to the role of the Court of Justice and the Judicial Architecture of the European Union the Constitutional Order of the European Union the Area of EU Citizens and the European Union in the World The topics covered remain of interest for several years to come This unique book a must have reference work for Judges and Courts of all EU Members States and candidate countries and academics and legal professionals who are active in the field of EU law is also valuable for Law Libraries and Law Schools in Europe the United States of America Latin America Asia and Africa and law students who focus their research and studies in EU law
Principles of Administrative Procedure in EC Law Hanns Peter Nehl, 1999-01-01 This book presents an analysis of the recent development of administrative procedures in EC law It is a pathbreaking study of what might be termed the constitutionalising norms now emerging including a range of process rights and procedural standards such as the right to access to information the right to be heard the principle of care and duty to state reasons These new standards are increasingly applied in areas as diverse as competition State aids customs matters anti dumping and the European Social Fund Different strands of case law of the EC courts are thus connected to document the overall evolution of procedural rules peculiar to the EC administrative system as a whole The author adopts a critical stance in particular towards the case law of the Court of First Instance and points out the increasing pressure being brought to bear on the European Commission in respect of its procedural requirements Particular emphasis is placed on the concept of care i e the duty to collect and examine the factual and legal points of individual cases impartially and carefully The book reveals both the theoretical and practical relevance of this principle as a means of both procedural and substantive review and the reasons why it is likely to be misinterpreted by the courts
Termination Revisited Kenneth R. Philp, 2002-05-01 CHOICE Outstanding Academic Book Philp presents a well balanced account of the legal political and economic relationships between Native Americans and the U

S government during the period shortly before the Indian Reorganization Act 1935 to Termination the program to dissolve tribal relationships with the federal government Philp brilliantly ties together the shifting stances of governmental and tribal officials Choice Termination Revisited is without question an important book It will be required reading for any serious student of modern Indian history Nevada Historical Society Quarterly The best account we have to date of policy formation during the Truman administration But there is more Philp s narrative introduces actors who have not figured prominently in previous accounts of the period He also illuminates reservation life and politics in the 1940s and 1950s Philp s book charts the course for many new studies come Western Historical Quarterly Philp s book is gracefully written founded on nearly thirty years of research and finely balanced in its assessments This history makes sense out of much of the nonsense touching lives of several hundreds of thousands of American Indians in the twentieth century Oregon Historical Quarterly Kenneth R Philp is a professor of history at the University of Texas Arlington He is the author of John Collier s Crusade for Indian Reform 1920 1954 *Central European Judges Under the European Influence* Michal Bobek, 2015-11-19 The onset of the 2004 EU enlargement witnessed a number of predictions being made about the approaches capacity and ability of Central European judges who were soon to join the Union Optimistic voices foreshadowing the deep transformative power that Europe was bound to exercise with respect to the judicial mentality and practice in the new Member States were intertwined with gloomy pictures of post Communist limited formalism and mechanical jurisprudence that could not be reformed which were likely to undermine the very foundations of mutual trust and recognition the judicial system of the Union is built upon Ten years later this volume revisits these predictions and critically assesses the evolution of Central European judicial mentality institutions and constitutionality under the influence of the EU membership Comparatively evaluating the situation in a number of Central European Member States in their socio legal contexts notably Poland the Czech Republic Slovakia Hungary Slovenia Bulgaria and Romania the volume offers unique insights into the process of non Europeanisation of national legal systems and cultures **Deference in International Courts and Tribunals** Lukasz Gruszczynski, Wouter G. Werner, 2014 International courts use two key methodologies to determine the degree of deference granted to states in their implementation of international obligations the standard of review and margin of appreciation This book investigates how these doctrines are applied in international courts analysing where their approaches converge and diverge

Decoding **Nice National Procedural Autonomy Revisited Administrative**: Revealing the Captivating Potential of Verbal Expression

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