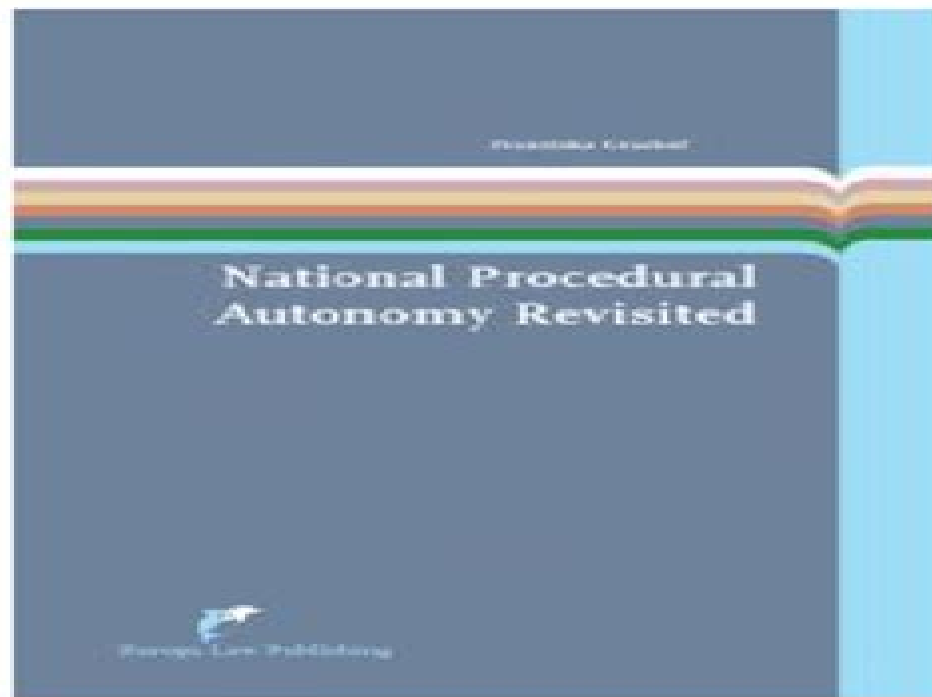




# Nice National Procedural Autonomy Revisited Administrative

**J Rink**



## **Nice National Procedural Autonomy Revisited Administrative:**

Cases, Materials and Text on Judicial Review of Administrative Action Chris Backes, Mariolina Eliantonio, 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. **EU-Befugnisnormen für mitgliedstaatliche Behörden** Rudi Lang, 2025-09-22

**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 *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

**Diversity of Enforcement Titles in the EU** Vesna Rijavec, Wendy Kennett, Tomaž Keresteš, Tjaša Ivanc, 2023-12-30 This book examines the diversity of enforcement titles in cross border debt collection focusing on the types structure contents and effects of enforcement titles It offers a comprehensive overview of judgments court settlements and authentic instruments from a variety of EU Member States It primarily employs the comparative legal method to draw conclusions on commonalities and differences as well as prospects for future approximation of laws The premise of the research is rooted in the finding that national authorities of EU Member States continue to treat enforcement titles from other Member States with reservations and mistrust despite being committed to the principle of mutual trust The book identifies the issues of mistrust stemming from the diversity of enforcement titles The research is based on a rich database of national reports compiled during the course of several large scale EU Justice Projects Divided into five parts the book offers first some general considerations and presents attempts at a systemisation of enforcement titles The following parts are then devoted to more specialised approaches toward the different types of enforcement titles However the connecting line between all parts of the book are the considerations of cross border enforcement in the EU and in a limited manner with third States Herein research also addresses critical factors regarding the free movement of judgments in the EU including those of *lis pendens* and related actions This book provides a valuable contribution to the Theory of European Civil Procedure Since it is based on a comparative approach and employs both empirical and doctrinal viewpoints it should also greatly benefit practitioners involved in cross border dispute resolution Overall the findings should be of interest to a broad audience including policymakers judges practitioners and scholars

**National Procedural Autonomy Revisited** Franziska Grashof, 2016 National Procedural Autonomy Revisited reconsiders one of the leading principles of European administrative law the principle of national procedural autonomy The book shows that due to different national administrative litigation rules common European rules are enforced in a fragmented manner This is illustrated with the example of the judicial enforcement of Directive 2011/92/EU on environmental impact assessment for projects in the legal systems of Germany England and the Netherlands Under the same rule of EU law litigants are treated procedurally unequal As well there are different enforcement chances and judges come to different conclusions not because of diverging interpretations of the law but because of different administrative litigation rules Subsequently the book discusses whether it is necessary desirable and possible to develop common rules of

administrative litigation in environmental matters in the EU It is argued that by means of the instruments which are available in the EU specifically legislation jurisprudence and comparative scholarship a more precise common standard for administrative litigation in environmental matters should be created so that the principle is *ubi ius europaeum ibi remedium europaeum* Librarians ebook available Series European Administrative Law Vol 10 Subject EU Law Environmental 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

**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

**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

**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

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

*Cases and Materials on EU Law* Stephen Weatherill, 2016 This classic casebook provides a valuable selection of significant cases and legislation alongside an engaging range of carefully selected extracts all of which are enhanced by insightful author notes in an easy to use and accessible format

*Deference in International Courts and Tribunals* Lukasz Gruszczynski, Wouter Werner, 2014-10-09 International courts and tribunals are often asked to review decisions originally made by domestic decision makers This can often be a source of tension as the international courts and tribunals need to judge how far to defer to the original decisions of the national bodies As international courts and tribunals have proliferated different courts have applied differing levels of deference to those original decisions which can lead to a fragmentation in international law International courts in such positions rely on two key doctrines the standard of review and the margin of appreciation The standard of review establishes the extent to which national decisions relating to factual legal or political issues arising in the case are re examined in the international court The margin of appreciation is the extent to which national legislative executive and judicial decision makers are allowed to reflect diversity in their interpretation of human rights obligations The book begins by providing an

overview of the margin of appreciation and standard of review recognising that while the margin of appreciation explicitly acknowledges the existence of such deference the standard of review does not it is rather a procedural mechanism It looks in depth at how the public policy exception has been assessed by the European Court of Justice and the WTO dispute settlement bodies It examines how the European Court of Human Rights has taken an evidence based approach towards the margin of appreciation as well as how it has addressed issues of hate speech The Inter American system is also investigated and it is established how far deference is possible within that legal organisation Finally the book studies how a range of other international courts such as the International Criminal Court and the Law of the Sea Tribunal have approached these two core doctrines The Law of the European Union and the European Communities Pieter Jan Kuijper, Fabian

Antenbrink, 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 **International**

**Organizations and the Idea of Autonomy** Richard Collins, Nigel D. White, 2011-04-20 This volume explores the idea of

intergovernmental organizations as autonomous international actors Including contributions from leading scholars in the fields of international law politics and governance it addresses themes of institutional autonomy in international law and governance from a range of theoretical and subject specific contexts The collection looks internally at aspects of the institutional law of international organizations and the workings of specific regimes and institutions as well as externally at the proliferation of autonomous organizations in the international legal order as a whole Bibliographic Index ,1991

**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

**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 Un,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

*The Effectiveness of the Köbler Liability in National Courts* Zsófia Varga, 2020-10-15 Over the last 15 years Köbler liability has resulted in the allocation of damages on only five occasions Why is that And what are the practical implications of the Köbler judgment in the Member States This book offers a unique analysis of the principle not from the usual EU focused point of view but from the view of the practical Member State and thus follows the track set by earlier books in the EU Law in the Member States series It thoroughly examines the national jurisprudential and legislative acceptance of the state liability principle and explores the existence of alternative remedies available in the Member States in case of such breaches The conclusions based on a systematic assessment of 300 national judgments from the 28 Member States lead to a reconsideration of the role of the Köbler doctrine in the system of judicial remedies against violation of EU law by national supreme courts After the pronouncement of the ECJ judgment in Köbler legal scholars and practitioners have forecast the eradication of the principle of res judicata and the endangering of judicial independence The judgment caused a lot of ink to flow according to the ECJ's records at least 100 studies are directly devoted to the analysis of this decision This book is however the first to offer a comprehensive analysis on the genuine life of the Köbler liability in the Member States

*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

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