

Index

- abuse of power, 179, 185–8, 222, 228
 - the state and, 5
- Académie, 31, 60
- accountability (a duty to explain), 22–3, 80, 127, 233
- acte clair doctrine, 137
- actes de gouvernement, 164–6
- administration
 - basic duty of, 224
 - modernisation programme and, 22
 - reform of, 21–4
- Administration of Fine Arts, 143
- administrative act, 10, 47, 126, 130, 279, 290
- administrative action, 43, 46, 66, 143
 - judicial review procedure and, 154
- administrative contracts (*contrats administratifs*), 64, 130, 139, 284, 290, 304
 - amendment (*avenant*), 297
- administrative courts, 65, 82–3, 90–8, 272–8, 303
 - and fines for abusive claims, 175
 - exceptions to separation of ordinary judicial authorities, 131–8
 - good administration and, 221–31
 - judicial review of, 154
 - penalties and, 175–6
 - proportionality and, 198
 - religious freedoms and, 206–7
 - separation from ordinary courts, 128–30, 147–9, 151
- administrative decisions, 139, 147, 177
 - and assessments of legal requirements, 191
 - appeals against, 90
 - challenging, 155–8
 - correcting, 174
 - criminal courts and legality of, 133
 - declaratory judgments, 173–4
 - delay of, 230
 - duty to withdraw, 223
 - exceptions to legality of, 131–8
 - grounds of review of, 185
 - illegality of, 143, 169, 261
 - incompatible, 49
 - legality of, 23, 51, 130, 136, 158
 - non-existence and, 179–81
 - request for review of, 5, 99, 100, 128
 - right to challenge, 53, 54, 168
 - techniques of avoiding null decisions, 170
- administrative judges, 1, 6, 18, 20, 67, 70, 83–8
 - creation of, 5
 - independence of, 45
- administrative law, 1, 9
 - Conseil constitutionnel and, 8
 - context of, 26
 - fait du prince theory, 288
 - procedures, 176
 - sources of, 43–59
- administrative law cases, claims in, 90
- administrative redress, 227
 - prior, 99–100
- administrative regulations, 132, 133, 147
- adversarial principle, the, 92
- agent public contractuel, 273
- AIDS-infected blood, compensation and, 141
- Algeria, military coup in, 164
- Allison, John W. F., 1, 56
- alternative dispute resolution, 43, 78, 100–3
- amicus curiae*, 17, 109, 114–15
- Anglo-American system, 55
- anti-terrorism legislation, 136

- appeals
 Conseil d'Etat and, 70
 immigration-related, 69
 in the United Kingdom, 65
 the Commission and, 78
 time limits and, 227
 to the European Convention on Human Rights, 60
 to the king, 61
- Architect des Bâtiments de France, 182
- Armenian genocide, 201
- Assemblée Nationale, 107
- astreintes*, 77, 124–5, 173, 176–7
- authority, legal source of, 130
- Autorité de la concurrence, 114
- balance sheet, theory of (*le bilan coût-avantages*), 192–5
- Barre, Raymond, 28
- Barrot, Odilon, 60
- Batailler, F., 210
- Bell, J., 299
- biometric passports, 196–7
- Bjorge, E., 209, 303
- black people, false accusations against, 33
- Blum, Léon, 116, 273
- Bonaparte, Napoleon, 33, 63, 306
- bouleversement de l'économie du contrat*, 287
- Boulogne, blockade of the port of, 258
- Braconnier, S., 20, 21
- Braibant, Guy, 58, 59, 116, 148, 193, 195
- British lawyers, droit administratif and, 1
- Brown, Neville, 2, 41, 67, 77
- burkini, local ban of, 108
- CADA (Commission d'accès aux documents administratifs), 40, 224
- care homes, breaches in, 42
- case citation, 24
- case law (la jurisprudence), 55–7
- cases, public hearing of, 94
- Catholic Church, real estate owned by, 275
- causation, 263, 264–6
- cause juridique distincte, 179
- centralised power and local administration, 306
- Chancellor d'Aguesseau, 92
- Chancery, remedies of, 169
- Chapus, R., 54, 59, 239, 245
- Charter of Fundamental Rights of the European Union, 49, 169, 230, 232
- article 41 of, 222
- Charter of the Environment, 204, 226
- Chartres Cathedral, 143
- Chirac Government, 21
- Christian Democrat Party, 106
- circulars, 159–60
 and guidance notes, 162–3
 and soft law, 159
 public access to, 224
- Civil Code, 285, 294
 article 1128 of the, 279, 281
 article 1129 of the, 279
 article 1162 of the, 281–2, 283
 article 1231–5 of the, 285
 article 1240 of the, 239, 245
 article 1242 of the, 241
 article 1583 of the, 277
 article 2044, 103
 contractual consent and, 279
 exceptions under, 134
 liability and, 268
- civil courts, 56, 64, 94, 119, 294
 annulment by, 102
 defence of illegality before, 188–203
 ordinary, 65
 regulation on conflicts in, 62
- civil law countries, 270
- civil liberties, 230
 protection of, 134–7
- civil servants
 protection against suit, 217
- civil service appointments, discrimination in, 96
- civil service college. *See* École nationale de l'administration (ENA)
- claims
 making, 98
 procedure for making, 90
- clause unusual in private law, 273–5
- CNIL (Commission nationale de l'informatique de des libertés), 40, 93, 144, 224
- Code Civil. *See* Civil Code
- Code de Justice Administrative (CJA), 46, 131
 article 111–5, 133
 article 741–2, 176
 article L111–5, 134
 article L212–1, 68
 article L213–4, 103
 article L3, 97
 article L521–1, 104–5, 292

- article L521–2, 105, 108
- article L522–1, 104, 220
- article L6, 94
- article L773–4, 95
- article L911–1, 124
- article L911–4, 124
- article L911–9, 124
- article R122–18, 121
- article R311–1, 247
- article R421–1, 159, 227
- article R421–5, 167
- article R621–1, 109
- article R621–7–2, 101
- article R622–1, 113
- article R625–3, 114
- article R711–3, 118
- article R712–1, 118
- article R732–1, 121
- article R732–1–1, 115
- article R741–12, 175
- article R751–1, 123
- article R761–1, 174
- article R771–2, 132, 152
- Code de l'entrée et du séjour des étrangers et du droit de l'asile (Ceseda), 46
- Code de la commande publique (CCP), 46, 271, 276, 297
- Code de la propriété des personnes publiques* (CGPPP), 276
- Code de la santé publique, 109
- Code de la sécurité intérieure, 258
- Code de Santé Publique, article 1110–5, 109
- Code des marchés publics*, 295
- Code des relations entre le public et l'administration (CRPA), 23, 24, 46, 74, 99, 159, 178, 221, 222–3, 224–5, 226, 227, 230–1, 304
 - article L122–1, 225
 - article L211–2, 230
 - article L211–5, 230
 - article L242–1, 223
 - article L243–2, 223
- Code des transports*, 277
- code général des collectivités territoriales (CGCT), 46
- code général des impôts, 46
- Code of Civil Procedure, 132, 152
- Code of Criminal Procedure and individual freedoms, 134
 - article 137–1 of, 135
- Code of Good Administrative Behaviour, 222
- Code of Public Health, 261
- Code of Relations between the Public and the Administration, 232
- Code of Social Action and Families, 221
- Code of Social Security, 267
- codes and legislation, 46
- cohabitation, 27
- collegiality, principle of, 97–8
- Comité consultatif national d'éthique et le Conseil national de l'Ordre des médecins, 109
- commercial activities, and categories of litigation, 139
- commissaire du gouvernement, 6, 7, 11, 12, 14, 55, 58, *See also* rapporteur public
- Commission centrale d'aide sociale (CCAS), 82
- Commission consultative du secret de la défense nationale (CCSDN), 112
- Commission de contrôle des assurances, 38
- Commission des recours des réfugiés, 78
- Commission des Réfugiés, 68
- Commission du Contentieux. *See* Conseil d'Etat
- Commission du contentieux du stationnement payant, 83
- Commission du Rapport et des Etudes, 76–8
- commission for access to public documents (CADA), 39
- Commission Permanente, 75
- commissions départementales d'aide sociale (CDAS), 82
- commune, the, 32, 36–7
 - big cities in, 33
 - elected local authorities in, 34
 - services provided by, 37
- compensation, 252, 289
 - no-fault, 261–3
 - state liability and, 234
- competence, lack of, 181–2
- competition law, 47, 198, 278
- compulsory competitive tendering process, 271
- concessionaires, 276, 296
- Conciliation and Compensation Commission, 262
- conflicts
 - handling, 150–3
 - negative, 151
 - of decisions, 40
 - positive, 150–1

- Conseil constitutionnel, 6, 129, 134, 168, 217, 275, 302
 constitutional principles, 211
 equality in taxation and, 213
 Conseil constitutionnel decision, 130
 Conseil d'Etat, 2, 6, 8, 12, 13, 47, 63, 69–70, 94, 111, 125, 137, 192, 201, 248
 annulling of an expropriation and, 194
 consultative role of, 72–6
 decision of, 64
droit administrative and the, 3
 equality in taxation, 213
 judicial role of, 70–2
 Prince Napoleon and, 164
 reference for an opinion of the, 118
 renaming of, 61
 scrutiny of draft legislation and, 73–4
 Section du Contentieux, 184
Service de diffusion des conclusions, 116
 time limits and, 167
 Conseil du Roi, 61, 275
 Conseil économique, social et environnemental régional (CESER), 35
Conseil national de l'enseignement supérieur et de la recherche, 83
 Conseil national de l'informatique et des libertés (CNIL), 39
 Conseil regional, 35
 Conseil Supérieur de la Magistrature, 83
 Conseil, the, local authorities and, 34–5
 conseils de préfecture, 62, 66, 68, 237, 275
 consent, contractual, 279
 Constitution
 article 55 of the, 165
 article 66, 134, 135, 142
 the guardian of, 7
 Constitution (1946), 3
 Preamble, 44, 183, 204, 207, 217, 220, 269
 Constitution (1958), 3, 6, 204, 220
 legislative powers and, 8
 preamble to, 7
 Constitution French, 44–6
 Constitution of An III (1795), 62
 Constitutional law, 120
 influence of, 7–10
 constitutional rights, 204–8
 constitutional turn, the, 301–3
contentieux de pleine juridiction, 188
 contracts
 and categories of litigation, 139
 binding force of, 284–6
 consent, validity, 279–81
 content, validity, 281–3
 formation of, 278–9
 illegality of, 286
 performance of the, 283–9
 remedies for parties to public law contracts, 291–3
 remedies for third parties, 290–1
 scope of, 278
 unilateral termination of, 286
 contradiction, principle of, 91–4
contrats administratifs, 270, 271, 280, 287, 290, 294, 298. *See also* contracts
 scope of, 278
 corporate liability, for fault, 241
 corps of financial judges, 88
 corps of judges of the tribunaux administratifs, 84–5
 corps of prefects, membership of, 33
 corps of the Conseil d'Etat, 85–7
 costs, court, 174–5
 Council of Europe, 224, 232
 state liability and compensation, 233
 Cour d'appel of Paris, 141
 Cour de cassation, 150, 151, 247
 in private law, 154
 Cour de discipline budgétaire et financière (CDBF), 81
 Cour des comptes, 80–2
 Cour nationale du droit d'asile (CNDA), 78–80, 88, 92
 Cours administratives d'appel, 68–9, 84–5
 court costs (*les dépens*), 174–5
 Court of Justice of the European Union (CJEU), 6, 13, 86, 137, 153, 296, 305
 Advocate General, 15, 17, 19, 116
 and principles of decisions taken, 228
 article 260 TFEU, 173
 French administrative law and, 232
 general principles and, 211
 legitimate expectations, 228
 Court of Requests, 90
 court office (*le greffe*), 67
 court processes, article R213-5 CJA, 101
 courts, 138
 administrative, 65
 Cours administratives d'appel, 68–9
 criminal courts, 84–5, 128, 133
 general, 65
 reference by, 151

- tribunaux administratifs, 66–8
- Covid-19 pandemic, 37, 75, 115, 173, 177, 288, 302
- church services and, 206
- complaints received by the Défenseur during, 42
- emergency legislation, 181
- handling of, 28, 169
- interim measures and, 104
- Prime Minister's decree and, 170
- principle of proportionality and, 197–8
- the prefect and, 34
- Craig, Paul, 287
- criminal offences (*crimes* and *délits*), 205
- criminal penalties, 133, 135, 205
- and offences, 198
- criminal proceedings, 133–4
- and state liability, 233
- crystallisation du contentieux principle, 179
- cross-border disputes, 103
- CRPA. *See* Code des relations entre le public et l'administration (CRPA)
- customs and local traditions, interference with, 196
- Czabaj, M., 168
- d'Aguesseau (Chancellor), 92
- d'Estaing, Giscard, 3
- damages, measures of, 266–8
- damnum emergens, 286
- data privacy
- EU requirements and, 224
- respect for, 224
- data protection, and transparency, 224–5
- decisions
- administrative, 169
- conflict of, 40
- correcting, 174
- emergency interim, 71
- individual, 158
- kinds to be challenged, 158–66
- legality of, 179
- principles governing, 228
- prior, 158–9
- regulatory (*actes réglementaires*), 158
- Declaration of the Rights of Man and of the Citizen, 8, 44, 204, 210
- article 8 of, 205
- declaratory judgments, 173–4
- deconfinement measures, 106
- decree of 1960, 151
- defective products, liability and supply of, 262
- defence secrecy, documents protected by, 93
- Défenseur(e) des droits, 23, 38, 41–3, 101
- independence of, 42
- Deguergue, M., 116, 239, 257
- deliberation, the, 122–3
- demandes d'éclaircissement*
- article 931–1 CJA, 77
- dénaturation* (gross distortion), 284
- Département de la Sarthe, 36
- département, the, 32, 36
- elected local authorities in, 34
- détournement de pouvoir* (abuse of power), 185–8, 201, 282
- Dicey, A.V., 1, 4–5, 56, 178, 231, 233, 299
- Dintilhac categories, 267
- direct and certain consequence, 265
- Directives of the European Union
- 2000/78/CE, 12
- 2008/52/EC, 103
- 2014/24/EU, 297
- VAT, 11, 50, 223
- disabled people, constitutional right of, 220
- disciplinary penalties, 196
- discrimination, 228
- documents, sharing of, 92
- Donoughmore Committee, 2
- draft legislation, Conseil d'Etat and, 73–4
- driving licences, granting, 181
- droit administratif, 1, 2, 3, 301
- as a benchmark, 2
- shaping of, 5–6
- what it is, 4–5
- droit politique, 301
- Duguitt, Léon, 2, 59, 130, 148, 156, 235
- duress (*violençe*), 279, 281
- École des Ponts-et-Chaussées, 58
- Ecole libre des Sciences Politiques, 58, 86
- École nationale de l'administration (ENA), 33, 85–6, 112, 212, 300
- Ecole Nationale de la Magistrature*, 13, 300
- Ecole Normale Supérieure, 86
- Ecole Polytechnique, 86
- Education Code, 276
- effective redress, right to, 91
- Eisenmann, C., dispute with Vedel, 7–9
- electronic communication, 225
- emergency interim decisions, 71
- emerging principles modern, 219–21
- emprise, doctrine of, 143

- Energy Code, 276
 article L314-24 of, 277
- enforcement, 123–7
- English Privy Council, 70
- Equal Opportunities Commission, 42
- Errera, R., 236
- erreur manifeste cases, 193
 proportionality in, 196
- error of fact, 188–90
- error of law, 192, 201
 absence of, 201
- error of law (erreur de droit), 190–1
- essential procedural requirement (*vice de procédure et vice de forme*), 182–5
- essential procedural requirement, breach of, 182–5
- ethical principles, 218
- EU General Data Protection Regulation (2016), 106
- EU law. *See* European Union law
- Eurodisney at Marne-la-Vallée, 102
- European Charter of Fundamental Rights, 220
- European Coal and Steel Community treaty, 3, 230
- European Commission Code of Good Administrative Behaviour, 222, 225
- European Community law, 229
- European Convention on Human Rights, 3, 51–3, 91, 118, 127, 208–10, 220, 232, 261, 269, 303
 appeals to, 60
 article 6 (1) of, 82, 94, 247
 article 13 of, 169
 danger of, 89
 domestic law, influence on, 14–21, 56
 fair trial, rights to, 14
 freedom of individuals and, 106
 French administrative law and, 306
 French Constitution and, 203
 participation of France in, 3
 Protocol 16 of, 120
 ratification of, 6, 177
 right to redress and, 91
 wearing of religious signs and, 206
- European Court of Human Rights, 18, 86, 89, 109, 153, 206, 209, 232
 and *actes de gouvernement*, 164
 and the rapporteur public, 115
 complaints about length of proceedings, 95
 impartiality principle and, 76
 interference and, 20
 living instrument approach, 220, 304
 Vice President Genevois and decision of, 19
- European Court of Justice. *See* Court of Justice of the European Union (CJEU)
- European Directives, on public contracts, 295
- European Economic Community
 France entry to, 10
- European law, environment of, 303–5
- European Ombudsman, 304
 Code of Public Service
 commitment principles, 222
- European principles, and decisions taken, 228
- European Social Charter of the Council of Europe, 207
- European supranational law, 232
- European Union
 breaches of law of, 261
 competition law and courts of, 198
 Court of Justice, 86
 development of Charter of Fundamental Rights, 232
 France membership in, 303
 French administrative law and, 179
 membership in, 6
 participation of France in, 3
 treatments on, 47
- European Union Directives, 149. *See also* Directives of the European Union
- European Union law, 47–51, 119, 137, 207, 228, 279, 296, 303–5
 acte clair doctrine in, 137
 effect on administrative law, 304
 influence of, 10–14
 unlawfulness and, 249
 WTO rules and, 295
- evaluation, manifest error in, 161, 171, 191–2, 198–9, 200, 201, 208, 215
- ex gratia payments, 234
- exceptional risks, liability for, 252–6
- Executive, the central organ of the State, 27–8
- expert report (l'expertise), 112–13
- expropriation, 194
- facts
 error of, 188–90
 evaluation of, 191–2
 material error of, 201
- fair trial, the right to, 14–21
- Fairgrieve, D., 236, 240, 249, 263, 266, 267
- fait du prince theory, 288, 297
- fault, 236

- and unlawfulness, 248–50
- by inaction, 251–2
- failure to provide a public service, 251
- faute de service*, 240–2, 243, 244
- in regulation, 250–1
- liability, 237, 238, 239
- nature of, 239–40
- no-fault liability, 252
- ordinary, 263
- types of, 251–2
- faute lourde*, 245–8, 250, 254
- faute personnelle*, 242–5, 268
 - differentiating from *faute de service*, 242
- faute simple*, 245–8, 263
- Fifth Republic, 3, 8, 164
 - Constitution of, 7, 26, 30
- finance laws, 28, 44, 45, 51
- financial courts, 80–2
- financial judges, corps of, 88
- Financial Markets Authority (*Autorité des marchés financiers*), 52, 138, 161
- First World War, 8, 210, 257
- flagrant illegality (*voie de fait*), 129
- force majeure administrative, 288
- foreigners, expulsion of, 131, 135
- Fourth Republic, 3, 8
- France, social change in, 305–6
- Franks inquiry, control of ministers' powers, 2
- fraud, 281
- freedom of movement, interference with, 105
- freedom, scope of fundamental, 220
- French academics, and the *droit administratif*, 3
- French administration, 22, 41, 49, 174, 225
 - types of contracts and, 139
- French administrative courts, 88, 154
 - and promotions, 170
 - procedure of, 127
- French administrative justice system,
 - background to, 61–5
- French administrative law, 176, 271, 299, 306
 - change and, 3
 - development of, 231
 - European Convention and, 3, 305
 - European influences on, 232
 - influence of the European Union on, 304
 - legal certainty and, 228–30
 - liability and, 263, 264
 - public contracts and, 293
 - public law contract and, 270
 - remedies and, 169
 - state liability and, 234
- French Civil Code, 239, 241
- French law
 - as a source of EU law, 47
 - state liability and, 268
- French Ombudsman (Médiateur). *See also Défenseur(e)*
- Frier, L., 246
- frustration, 287
- fundamental rights, 203, 220
 - constitutional rights as, 204–8
 - European Convention on Human Rights and, 208–10
 - public law and, 303
- Gambetta, Léon, 27, 28
- Garner, Jack, 2, 6
- General Code on the Property of Public Persons, 140
- general courts, 61–5
- General Tax Code, 11
- Geneva Convention on Refugees (1951), 211
- Genevois, Bruno, 11, 19, 46, 116
- German Civil Code §839, 241
- German occupation, 288
- globalisation, 306
- good administration, principles of, 221–31
- good faith, principle of (*bonne foi*), 294
- gouvernement, actes de*, 164–6
- Government website (*Légifrance*), 74
- Grands Arrêts, 166, 168, 245, 254
- grey literature (*la littérature grise*)
 - soft law and, 161
- gross fault (*faute lourde*), 235, 245, 250
- guidelines, case of, 160
- Guyomar, M., 12, 59, 92, 117
- Hamson, C. J., 2, 3, 19, 299
- harm, categories, 263–4
- Hauriou, M., 2, 59, 130, 147, 236, 252, 257
- Haute Autorité de la Concurrence, 114
- HCERES, 39
- hearing, the, 120–2
 - right to a, 225
- Hédon, Claire, 42
- Heilbronner, 212
- Henry IV, 61
- HIV transmission, 251–2. *See also* AIDS-infected blood, compensation and
- homologation, 103
- Hood, Christopher, 21

- House of Commons Public Accounts Committee, 80
- Housing Code, 167
- human rights, proportionality and, 198
- illegality, 172, 188–203
 - defence of, 188–203
 - flagrant, 141, 143
 - simple, 292
- illegality (*violation de la loi*), 185
- imprévision, 287, 288, 297
 - administrative law theory of, 287
- inaction, liability for, 258
- Incorporated Council of Law Reporting, 55
- Independent Administrative Authorities (AAIs), 38, 144
 - independence of, 40–1
 - rule-making powers of, 39
- Independent Office for Police Conduct, 42
- individual decisions (*actes individuels*), 158
- individual freedoms, 40, 107, 204
- information, handling of, 225–7
- injunctions (injonction), 172–3
- inquisitorial character, principle of, 90, 96–7
- institution of the Ombudsman, 41
- intérêt public* (public interest), 270
- interim decisions process (*le référé*), 98
- interim measures (*Le référé*), 104–9
- international contracts, 283
- International Labour Organisation, 195
- international treaties, and general principles of (domestic) law, 211
- intuitu personae* principle, 296
- investigation (*L'instruction*), 110–11
- judges, impartiality and independence of, 97
- judgments, public access to, 94
- judicial review
 - exclusion of, 168–9
 - grounds of, 179
 - inappropriateness of, 166–7
 - purpose of, 178–9
 - sliding scale for, 199–203
 - values enforced through, 203
- juge de cassation, 284
- juge des référés, 98, 104, 105
- juge du référé-libertés, 107
- jurisdiction
 - division of, 152
 - handling conflicts over, 150–3
- justice déléguée, 124
- justice, denial of, 152
- Labetoulle, Daniel, 102
- Labour Code, 216, 273
 - article L.7121-2 of the, 278
- Laferrière, E., 58–9, 61, 147, 203, 241, 245, 300
- Laski, H., 2
- Lasserre, Bruno, 86
- law/laws
 - breach of, 179
 - error of, 190–1, 192, 201
 - general principles of, 8, 21, 45, 53–5, 210–19
 - Law (1790), 62, 129, 179
 - Law of 22 Frimaire An VIII (1799), 70
 - Law of 28 Pluviôse An VIII (1800), 140, 237, 275, 276, 300
 - Law (1872), 46
 - Law (1905), 106, 219
 - Law (1957), 141
 - Law (1979), 23
 - Law (1995), 124
 - Law (2000), 24
 - Law (2011), 183, 265
 - Law (2016), 94
 - Law (2019), 94
- lawfulness, 283
- legal certainty, legitimate expectations of, 228–30
- legal representation, obligatory, 103–4
- legal scholarship (*la doctrine*), 57–9
- legality
 - enforcing, 203
 - maintaining, 178–9
 - principle of, 222
- Légifrance (Government website), 74
- legislative acts, liability of the state and, 259
- legislative exceptions, 138
- legislative powers. *See* Constitution (1958)
- legislative principle, 130
 - categories of litigation and, 138–41
- Legislature, the, 54
 - central organ of the State, 28–30
- legitimate expectations, 51, 304
 - legal certainty and, 228–30
 - public and, 222
- Leonetti, Jean, 109
- liability
 - controls on, 263–8
 - exceptional risks and, 252–6
 - for public works, 236–8

- no-fault, 140, 236, 237
 - state, 233–4
 - theories of, 234–6
- Liberation (1944–1946), 210
- litigation, categories of, 138–41
- living instrument approach, 220, 304
- local administration and centralised power, 306
- local authorities, elected, 34–5
- Local Government Ombudsman, 42
- local languages, the French and, 35
- loss of profits, 292
- losses, recompense for, 266
- Louis XIII, 61
 - absolute monarchy and, 62
- lucrum cessans, 286
- Luxembourg Conseil d'Eta, 16
- Luxembourg Court. *See* Court of Justice of the European Union (CJEU)
- Maastricht Treaty, 12
- MacMahon, 27
- manifest error in evaluation, 161, 171, 191–2, 198–9, 200, 201, 208, 215
 - control over, 194
- Marrakech agreements, 294
- material error of fact, 201
- Mayer, Otto, 231
- Médiateur (the French Ombudsman), 23, 41
- mediation, Directive 2008/52/EC on, 103
- Mediator, case of, 262
- mental capacity, lacking, 255
- Métropole of Marseille, 282
- Minitel, 22
- minor criminal offences (*contraventions*), 205
- mistake (*erreur*), 280–1
- Mitchell, J. D. B., 2
- mobile telephony data, access to, 306
- modern French administrative law, 236
- money penalty, 124
- Moroccan migrants, 135, 171
- Moulin, Jean, 33
- moyen d'ordre public, 179
- Muslim headscarf, exclusion of students with, 163
- Napoleon. *See* Bonaparte, Napoleon
- Napoleon III (emperor), 164
- National Assembly, dissolution of, 165
- National Audit Office, 80
- National Conference of Local Administration, 31
- National Health Service, 42
- negative conflict, 151
- New Public Management, 22
- no-fault compensation, other, 261–3
- no-fault liability, 140, 236, 237, 252, 261–3
- non-existence (inexistence), 179–81
- note en délibéré*, 121
- Notre-Dame-des-Landes, airport at, 226
- nuclear accidents, 141
- nullity, 169
 - can it be avoided, 170–2
 - effect of, 169–70
- objet illicite (unlawful subject-matter), 283
- obligatory legal representation, 103–4
- Odent, R., 58, 70, 89, 97, 148, 210
- OFPPA (Office français de protection des réfugiés et apatrides), 78, 91
- ONIAM (Office national d'indemnisation des accidents médicaux), 262
- openness, principle of, 94–5
- oral hearings, use of, 96
- ordinary fault (*faute simple*), 263
- ordinary judicial authorities
 - separation from administrative courts, 147–9
- ordonnance (1945), 46, 254
- Ordre des médecins*, 83
- Organic Laws, 41, 43, 44
- Organisation of Economic Co-operation and Development (OECD), 22
- pantouflage, 46
- Paris Lyon Marseille (PLM), 33, 37
- Parliament, 59
 - adoption of Code of Good Administrative Behaviour, 222
- Parliamentary and Health Ombudsman (UK), 42
- path dependence, 299–301
- Pays de la Loire, 36
- Penal Code (1992), 133, 134
- penalties, 175–6
 - criminal, 198
 - disciplinary, 196
- pension contributions (*Gardedieu*), 263
- Petit, J., 246
- pharmaceutical companies, 214
- Planiol, M., 239, 240
- Planning Code, 155

- plein contentieux, 126, 174, 289
 pleine jurisdiction proceedings, 175
 point of law (*en cassation*), 70
 political refugee, general principle and, 211
 Poniatowski, 41
 Pope, 106
 Port, F. J., 2
 positive conflicts, 150–1
 Posts and Telecommunications, 86
 power, abuse of, 185–8, 222, 228
 powers, separation of, 9, 54, 62
 PPP contracts (*marchés de partenariat*), 170, 283
 préfet, the, 33
 préfet de police de Paris, 150
 préjudice moral, 264
 preliminary references, 118–20
 pretium doloris, 264
 principle of contradiction, the (*le principe du contradictoire*), 90, 91–4
 principles, and decisions taken, 228
 prior decision, need for, 158–9
 private bodies, 145
 private contractors, exceptions to binding force and, 287–9
 private law
 clause unusual, 273–5
 Cour de cassation in, 154
 principles borrowed from, 216–17
 private law contracts (*contrats de droit privé*), 139, 241, 264
 private law relations, 1
 private property, protection of, 134–7
privilege d'action d'office, 291
privilege du préalable, 166
 Privy Council, British, 70
 Privy Council, French King's, 69
 proceedings
 inquisitorial nature of, 112
 length of, 95
 time limits and, 167–8
 written nature of, 95–6
 prohibition, 42, 62
 Promotion Molière, 87, 88
 property, ownership of, 139
 proportionality, 195–9
 principle of, 228
 Proposal for a Regulation on a Common European Sales law, 139
 public action, transparency and, 224
 Public and the Administration (*Code des relations entre le public et l'administration* (CRPA)), 221
 public authorities, 94
 exceptions to binding forces of contracts, 284–6
 liability and, 236
 making claims against, 90
 real estate owned by, 276
 state liability and, 233
 termination of contract and, 286
 public bodies
 decision-making powers of, 40
 public bodies, liability of, 140–1
 public burdens, equality before, 257–61, 263
 public contractor, 292
 public contracts
 claims relating to, 270
 French administrative law and, 293
 public law
 and private law, 119, 239, 252, 300
 distinction between private law and, 128–30
 identifying matters, 147–9
 separation between and private law, 300
 public law contracts (*contrats administratifs*), 270–1, 281, 298
 legislator and, 275–8
 remedies for, 289–93
 remedies for third parties to, 290–1
 specific rules and, 278–89
 public law matters, 147
 public office, equal access to, 212–13
 public officials
 conduct of, 222–3
 public persons, 144–7
 Public Procurement Code, 296
 public procurement contracts, 266, 271, 276, 278, 287, 294, 295, 296
 annulment of, 114
 collusion and, 280
 concessions and, 285, 287, 289, 290
 EU Directives and, 295
 favouritism and, 292
 litigations and, 277
 performance and, 283
 public works and, 275
 public property, occupation of, 290
 public requests, handling of, 225–7
 public service mission, 272–3
 public services
 administrative regulation, 147

- assistance to, 256–7
 continuity of the, 217–18
 equality before, 214–15
 failure to provide, 251
 internal measures, 162–3
 neutrality of, 215
 neutrality of the, 218–19
 public works, liability for, 236–8
 public, legitimate expectations of the, 222
- quangos (Executive Non-Departmental Public Bodies (ENDPBs)), 38
- question préjudicielle de constitutionnalité* (QPC), 204
- rail track company (RFF), 38
- rapporteur public, 6, 19, 25, 56, 67, 71, 87, 95, 195, *See also* commissaire du gouvernement
- reasonable time, decisions in, 95, 227
- reasons, duty to give, 230–1
- Rechtsstaat*, 178
- Recommendations of the Council of Europe, 236
- and state compensation, 234
- recompense for all losses (*réparation intégrale*), 266
- recours (request), 90
- recours administratif préalable obligatoire (RAPO), 99
- recours de plein contentieux, 289, 291, 293
- recours pour excès de pouvoir, 62, 64, 90, 103, 108, 174, 188, 289, 290, 291
- redress, right to, 91
- référé procedure, 71, 96, 141, 143, 220
- référé-liberté*, 71, 104, 107, 108, 169, 173, 177, 220
- refugee status, claims for, 78
- Region of Pays de la Loire, 31
- region, the, 35–6
- elected local authorities in, 34
- regional administration, 30–2
- regulation, 144, 206
- AAls and, 39
- administrative, 132, 133
- EEC, 10
- fault in, 250–1
- General Tax Code and, 11–12, 50
- prefect and implementation of, 34
- public, 246
- regulatory decisions (*actes réglementaires*), 158
- regulatory offences, 205
- religion, freedom of (*liberté du culte*), 206–7
- religious beliefs, 209
- remedies, 169
- for fraud, 281
- for public law contracts, 289–93
- nullity and, 169
- parties to public law contracts, 291–3
- third parties to public law contracts and, 290–1
- renvoi, 306
- reparation, 234, 239
- entitlement to, 236
- recompense for all losses, 266
- request (*la requête*), 90
- request for information, 111–12
- réserves d'interprétation, 302
- responsibility (a duty to take charge), 233
- Restoration (1814–30), 55
- review
- grounds of, 179
- sliding scale for, 199–203
- review court (*juge de cassation*), 264
- Revolution (1789), 60, 61, 129, 210, 211, 237, 300, 306
- before the *Conseil du Roi*, 275
- départements and, 32
- equal access to public office, 212
- equality in taxation and, 213
- equality of public burdens and, 5
- state officials and, 30
- theories of liability and, 235
- Richelieu, 61
- rights
- against direct or indirect discrimination, 41
- constitutional, 204–8
- fundamental, 203
- rights of the child, 41, 221
- to a fair trial, 3, 14–21, 261
- riot damage, statutory liability, 258
- Rivero, J., 53, 124, 211, 219
- Robson, W. A., on Dicey's approach, 2
- Rocard, M., 23, 29
- Romieu, 58
- Rouban, L., 85, 86
- rule of law, British, 1
- Rural Code, 48, 278
- Saint Marc, Renaud Denoix de, 86
- Sauvé, Jean-Marc, 86
- Schengen database, 93
- Schwartz, Bernard, 55

- Sciences-Politiques. *See* Ecole libre des Sciences Politiques
- scrutiny
intensity of, 201
maximum intensity of, 202
restrained, 200
- Section du Contentieux, 117, 124, 184
- Section du rapport et des études, 76
- secularism (*laïcité*), 215
- Seiller, 92, 117
- serious criminal offences (*crimes and délits*), 205
- Service de diffusion des conclusions*, 116
- service public administratif, 272, 273
- Single Market, 12
- site visit (la visite des lieux), 113
- SNCF. *See* Société Nationale des Chemins de fer français (SNCF)
- social change, France and, 299, 305–6
- social et environnemental (CESE), 73
- Société Nationale des Chemins de fer français (SNCF), 38, 213, 216, 277
- soft law, 160, 161–2
circulars and, 159
- sovereign acts, decisions and, 165
- Sporting Code, 146
- St. Germain-en-Laye, edict of, 129
- state liability, 233–4
foundation (or cause) of, 236
French law and, 268
theories of liability and, 234–6
- State, the
Executive, 27–8
Legislature, 28–30
local organs of the, 30
- Stim, Bernard, 8–9, 59, 117, 123
- Strasbourg Court. *See* European Court of Human Rights
- Stuart kings, 61
- tax authorities, 101
- Tax Code, 223
- taxation, equality in, 213–14
- taxpayers, requests for review of, 99
- Télérecours platform, 93, 95, 99, 110
- terrorism
compensation scheme for acts of, 141
legislation on, 94
surveillance of suspects, 248
- theory of appearances, 17
- theory of the balance sheet (*le bilan coût-avantages*), 192–5
- third parties, remedies and public law contracts, 290–1
- Third Republic, 8, 44, 300
- time limits, 167–8
and appeals, 227
- tort action, in England, 233
- Toubon, Jacques, 41
- traditional principles, 53, 203, 211–12, 219
- transparency, data protection and, 224–5
- transparency principle, 278
- travaux préparatoires, 275
- Treaty on the Functioning of the European Union (TFEU), 47, 179
- tribunal administratif, 11, 19, 34, 69, 97, 98, 101, 110, 112, 117–18, 120, 132, 145, 180, 184, 215, 249
homologation and, 103
local taxpayers and, 158
of Bastia, 124
of Clermont-Ferrand, 221
of Montpellier, 67
of Paris, 248
of Polynesia, 125
of Versailles, 95
preliminary question and, 118
- Tribunal des Conflits, 119, 131–2, 133, 134–5, 137, 140, 141, 144, 150, 151, 152, 241, 247, 277, 278
concessionaries and, 276
unlawful administrative actions and, 143
- tribunaux administratifs, 66–8, 152
reconciliation and, 100
- Troika, 122
- troubles dans l'existence de la vie* (disturbance in a way of life), 264
- UNESCO treaty, 259
- unforeseen situations (*sujétions imprévues*), 289
- unilateral termination, 286
- United States, Administrative Law Procedure Act (1945), 2
- unlawfulness, 265, 291, 292–3
fault and, 248–50
under acts of the Vichy regime, 244
- unreasonable obstinacy, 109
- VAT. *See* Directives
- Vedel, G., 8, 9, 147
dispute with Eisenmann, 7–9

Vichy Law (1943), 168
voie de fait, 129, 132, 141–3, 180

Wachsmann, P., 247

Wildhaber, L., 18

Wilson, J. F., 59

witness hearing (*l'enquête*), 114

World Trade Organization
(WTO)

Agreement on Government Procurement
(‘GPA’), 294

rules, 295

