Fundamental Rights in Europe

Challenges and Transformations in Comparative Perspective

FEDERICO FABBRINI



Contents

Ta	le of Cases	xi
Lis	of Abbreviations	xx
Introduction		1
1.	Of Floors, Ceilings, and Human Rights: The European	4
	Fundamental Rights Architecture in Comparative Perspective	
	Introduction The European multilevel architecture for the protection of	4
	fundamental rights	6
	3. "Sovereigntism" vs. "Pluralism": the existing literature and its limits 4. The European multilevel system in comparative perspective	14 25
	5. The dynamics of the European multilevel architecture recast	35
	6. Challenges and transformations: a model	45
	7. The structure of the book	48
2.	The Right to Due Process for Suspected Terrorists	51
	1. Introduction	51
	2. Context: the protection of due process rights in the EU member states after 9/11	53
	3. Challenge: the impact of EU counter-terrorism law on due process rights	57
	4. Comparative assessment: due process and national security in the	67
	US federal system 5. Recent developments: the case law of the European Court of Justice	
	6. Future prospects: beyond the Lisbon Treaty	. 76 85
	7. Conclusion	93
3.	The Right to Vote for Non-Citizens	96
	1. Introduction	96
	2. Context: electoral rights for non-citizens in the EU member states	99
	3. Challenge: the impact of supranational law on states' electoral laws 4. Comparative assessment: voting rights for non-citizens in the US	104
	federal system	114
	5. Recent developments: the case law of the European Court of Justice	
	6. Future prospects: beyond the Lisbon Treaty	129
	7. Conclusion	138

x Contents

4. The Right to Strike	141
1. Introduction	141
2. Context: the protection of the right to strike at the state level	1 / 5
in Europe 3. Challenge: the impact of the case law of the European Court of	145
Justice on the protection of the right to strike in Europe 4. Comparative assessment: the right to strike in the US federal	153
system	163
Recent developments: the case law of the European Court of Human Rights	172
6. Future prospects: beyond the Lisbon Treaty	181
7. Conclusion	192
F. The Distance Alexander	105
5. The Right to Abortion	195
Introduction Context: states' abortion laws	195
3. Challenge: the impact of supranational law on states' abortion laws	199 209
4. Comparative assessment: the right to abortion in the US federal	20)
system	218
5. Recent developments: the case law of the European Court of	
Human Rights	227
6. Future prospects: beyond the Lisbon Treaty 7. Conclusion	237
7. Conclusion	246
6. The Protection of Fundamental Rights in Europe: Towards a	
"Neo-Federal" Theory	248
1. Introduction	248
2. Four case studies	249
3. Three common patterns4. Two stories	255
5. One model	259 262
6. From practice to theory	265
7. Conclusion: a "neo-federal" vision	269
Conclusion	
Bibliography	274
Index	