make little reference to other chapters in the book. On occasion, such as in the chapters on freedom of expression and on social rights, the analysis and conclusions that are reached seem to apply only to each piece of legislation reviewed, and a common framework is not really developed for all situations falling within the same individual fundamental rights.

The absence of a theoretical framework would also seem to be relevant for the achievement of the author’s own goals. As noted on p.6, three questions arise in the context of the relation between fundamental rights and positive market integration: (i) does the legislator consciously and expressly pursue an internal market fundamental rights policy?; (ii) what is the state of internal market harmonisation practices on fundamental rights?; and (iii) what is the substantive level of fundamental rights protection achieved through the ongoing interplay between the EU courts and legislator? All such questions require the development of normative benchmarks for their assessment. However, the author produces no normative benchmark or theory. The lack of a normative framework means that the very questions identified as being important in a study about fundamental rights in internal market legislation eventually go unanswered, or are answered merely on a case-by-case basis, usually by reference to the justificatory or explanatory wording of the instrument analysed.

Lastly, the adoption of an overarching theoretical framework would open the door to other avenues of analysis. It would permit, for example, an assessment of how the institutional and normative realities underpinning the interaction between various entities that give meaning and content to fundamental rights’ provisions impact the ultimate content and construction of these provisions—something the author does not do, even though the book is full of references to how the European courts have construed fundamental rights in the light of secondary legislation and national practices, and to how internal market legislation ultimately reflect or fail to reflect fundamental rights. A theoretical framework would also prove useful in mapping the relationships between the EU’s fundamental market freedoms and fundamental rights—particularly where they overlap—and the relationship between Treaty derogations and other non-market balancing mechanisms for ensuring the coherence of EU law. Lastly, such a theory would justify and provide support for the author’s various normative assessments, which usually presume that the reader shares the author’s normative preferences.

All these criticisms should not detract, however, from the value of this piece of work that breaks ground in an unexplored area of the law. This book belongs in the libraries of EU policy-makers, organisations devoted to the promotion of fundamental rights, and anyone with an interest in fundamental rights in the EU, particularly as regards data protection, freedom of expression, social rights and health policy.

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As explained by the authors in their introduction, the subject of parliaments’ role in the implementation of judgments of the European Court of Human Rights (ECtHR) is a highly topical one, in particular against the background of a Convention system facing pressures of both an institutional and political nature. On the one hand, despite improvements, the ECtHR continues to suffer from a serious backlog in the processing of applications. Moreover, the authors argue that the Convention system is affected by an implementation crisis, attested by the high number of non-executed judgments pending before the Committee of Ministers, the Council of Europe body responsible for supervising the execution of ECtHR judgments. On the other
hand, the legitimacy of the ECtHR has, in recent years, been vehemently challenged by domestic politicians, most notably in but not confined to the UK. In order to face these institutional and political pressures, “subsidiarity” has become the new buzzword within the political discussions on the reform of the Convention system. As noted by the authors, this concern with subsidiarity has resulted in an increased recognition within the Council of Europe of the necessity of parliamentary engagement in ensuring Convention compliance and of parliamentary involvement in the domestic systems of implementation. This is reflected inter alia in the 2012 Brighton and 2015 Brussels Declarations on the future of the Convention system, as well as in the work of the Parliamentary Assembly, which has recognised that, “national parliaments must now play a more proactive role in [supervising the execution of ECtHR judgments]; if this is not done, the key role of the Convention, its supervisory mechanism and the Council of Europe as a whole, in guaranteeing the effective protection of human rights in Europe is likely to be put in jeopardy.” (PACE, Doc.12455 (2010)).

The authors’ focus lies on the role of parliaments in monitoring the executive response to adverse judgments by the ECtHR and in adopting legislative measures in order to ensure compliance with such judgments. The book is divided into two parts. In the first part, the authors provide a general discussion of the relationship between national parliaments and the Convention system in its broader institutional, political and normative aspects. Overall, this part could have benefited from some succinctness; particularly the chapter in which the authors discuss the Strasbourg system at length is somewhat redundant for the rest of the discussion. However, in this part, the authors do succeed in setting the theoretical stage for what follows, for example by providing an extensive overview of the different institutional models for parliamentary engagement with human rights matters—specialised, mainstreamed or hybrid committee structures—and their respective advantages and disadvantages.

In the second part, the authors set out the findings of their case studies in a diverse selection of five States: Ukraine, Romania, the UK, the Netherlands and Germany. With respect to all of these States, the authors discuss the legal and political landscape, the system of implementation of ECtHR judgments and the respective roles of parliament and the executive therein. In order to gain an understanding of the micro-processes involved in the implementation of ECtHR judgments at the national level, for each State, by way of example, the authors discuss the implementation of a number of judgments which have required legal reform at the domestic level. Remarkably, the authors fail, however, to provide any criteria for the selection of these judgments. While the authors thereby offer a cursory but somewhat random overview of the complexity of implementation politics, the wide diversity of issues raised in the respective States precludes any meaningful attempt to explain cross-national implementation variance. Can one meaningfully draw any lessons from comparing, say, prisoner voting rights in the UK with property restitution in Romania? The absence of any criteria for selecting cases and the absence of a genuine engagement by the authors with the relevant cross-national similarities and differences raises the question as to the authors’ rationale for adopting a multinational focus. Perhaps more interesting results could have been obtained by adopting a thematic approach in which the focus lies on particular subject areas and on how similar issues have been addressed across different States, allowing more meaningful engagement with cross-national variance.

The authors conclude that the most important factors determining the effectiveness of the implementation of ECtHR judgments are the capacity and the political will of the state actors involved in the implementation process (p.303). Based on their case studies, they do not discern any independent impact of the different institutional models nor of the existence of implementation legislation, as has been adopted by a number of these States: in the absence of political commitment, neither are a guarantee of effective implementation (p.304). In their conclusions, the authors make a number of proposals aimed at improving parliamentary capacity in dealing with human rights matters.
The authors seem to be extremely optimistic when it comes to the positive influence that parliamentary involvement may have on the implementation of ECtHR judgments. At the very beginning of the book, the authors state their central argument to be that invigorating the role of parliaments in Council of Europe Member States is crucial to alleviating institutional and political pressures on the Convention system (p.2). They consider that,

“national parliaments and the ECtHR can be construed as existing not in a hierarchical relationship, but in a partnership whose purpose is the shared endeavour of realizing human rights internationally.” (p.153)

In discussing the alleged lack of democratic legitimacy of the ECtHR, they consider that,

“international human rights regimes enrich, rather than diminish, the democratic process at the national level—and enhance, rather than undermine, the democratic credentials of domestic decision-makers” (p.129).

in particular by lending greater legitimacy to domestic legal reform.

The authors do address the question as to the feasibility and likely effectiveness of increasing parliamentary involvement in the implementation of ECtHR judgments, as well as whether this would risk leading to an undue politicisation of the implementation process. However, instead of being prompted to question whether their optimism is justified, the authors interpret problematic examples like the prisoner voting saga in the UK to be evidence of,

“the desirability of requiring parliament at the earliest possible stage to engage with specific legislative proposals and reasoned, justificatory arguments about the meaning and scope of rights and the necessity and proportionality of restrictions upon them.” (p.107)

According to the authors, there is no evidence that “more” parliamentary engagement leads to “less” implementation, and they consider that holding such a view “appears unduly pessimistic about the potential for parliamentarians to strengthen compliance” (pp.106–107). However, the opposite holds true as well, and one may wonder whether, in the absence of any evidence to support such views, the authors are not unduly optimistic about the positive influence of parliamentary engagement on implementation. While it may indeed be normatively feasible for parliaments to engage in a human rights-friendly manner with the implementation of ECtHR judgments, the case studies conducted by the authors do not bring them closer to establishing in an empirical manner that parliamentary engagement would result in more effective implementation compared with a merely executive-driven process of implementation. While the authors do not as such claim that their case studies show the latter to be the case, their research is nonetheless clearly based on such assumption. Given the strong normative views held by the authors in this respect, it is a missed opportunity that they did not attempt to test this assumption empirically. The research design, however, did not allow for a test of this assumption, since the authors made the methodological choice to only focus on “most likely cases” where at least some parliamentary engagement in the implementation process was likely to be present, given the existence of some type of parliamentary structure or mechanism designed to monitor the implementation of ECtHR judgments (p.14).

All in all, the book is a valuable contribution to the debate on the role of parliaments in the process of implementing human rights standards and will be a rich resource for any academic interested in this subject, as well as for any actor involved in the process of implementing ECtHR judgments at the national level. Despite some of the methodological reservations formulated above, the authors must definitely be lauded for their rigour, having undertaken the impressive number of 92 semi-structured interviews with relevant actors and having demonstrated their ability to acquaint themselves with the complexities of implementation in a wide range of different legal systems. They have certainly succeeded in providing food for thought.
for policy-makers on how to strengthen the implementation process. In this regard, it is laudable that the authors swim against the current by providing a constructive proposal to strengthen the ECtHR’s democratic legitimacy through increased parliamentary engagement in the face of growing ECtHR scepticism. Moreover, they have successfully put the subject of parliamentary engagement with the implementation process on the academic agenda. As with any good academic work, the book has succeeded in raising more new questions than it provides answers, and one can only hope that it will inspire further research in this area.

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This book is ambitious both in its scope and self-styled objective, as it aims at providing “a theory for constitutional lawyers about fundamental questions of European constitutional law” and mapping “the immense literature on these questions” (p.1). In so doing, it suggests a language, i.e. a list of key concepts, for the discourse of constitutional law.

No less ambitious are the methodological underlying assumptions: constitutional discourse is described as a collective endeavour in which politicians, scholars, judges and, exceptionally, the people take part. The task of constitutional theory is identified as suggesting a language for the current constitutional discourse. In spite (or perhaps because) of its theoretical ambitions, this theoretical effort does not refrain from admitting its inherent (and, to a certain extent, desirable) political bias: as a matter of fact, the task of lawyers is to tame social and political conflicts and to transform them into technical-legal issues. Thus, the law—and even more so constitutional law—is intrinsically political, but has to be kept distinct from day-by-day political routine. This is an interesting way of presenting the fundamental tasks of constitutional lawyers, as a standard definition by Francisco Rubio Llorente describes constitutions as the form of political power (La forma del poder: Estudio sobre la Constitución (Madrid: Centro de Estudios Políticos y Constitucionales, 1993)).

Having in mind this background, the key concepts of constitutional law are defined as “historical responses to social challenges” (p.7). A number of circumstances and topical challenges, as well as the author’s commitment to “a strong and unified Europe” (p.10), make the case for a European, rather than global of purely national, constitutional theory.

The book is divided into three parts: grammar, suggested vocabulary, and redundant vocabulary. The rules of constitutional reasoning are identified as the grammar of a constitutional language.

In Ch.2, the author introduces his own notion of constitution—a norm or a group of norms which are of the highest rank in a legal order in the sense that the validity of all other norms is measured on them—and makes some basic points with regard to constitutional reasoning. Some of them deserve specific mention, e.g. the idea that constitutional interpretation “should be understood as just a specific case of statutory interpretation”, and the attempt to classify the structure of legal arguments and to clarify the methods of constitutional interpretation in order to minimise the impact of subjective factors. Chapter 3 discusses four major types of interpretive arguments: textualist, systemic, evaluative and comparative or scholarly arguments. However, the latter only have persuasive force. Although constitutional interpretation is seen as not radically distinct from statutory interpretation, there are good reasons for giving evaluative arguments a slightly greater weight than usual when it comes to interpreting constitutional clauses. “Evaluative arguments” is an umbrella definition for arguments which “do not refer to the legal provision itself or its