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# Scarcity and the State I

The Allocation of Limited Rights  
by the Administration



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## FOREWORD

This is an important, ambitious and timely book in an area of huge economic importance. It is directed to legislators, administrators and the courts. Its subject is one which has not, so far as I know, been comprehensively covered by any other, namely, the allocation to economic actors of limited rights by the European Union and Member States – rights to receive a subsidy or to licences to carry on an activity which can not lawfully be carried on without such a licence. A careful reading of the first chapter gives a good insight into what is being attempted by the authors.

The book does not walk again down well trodden paths but rather exposes and discusses a collection of often overlapping and at times conflicting Treaty provisions, Directives, Regulations, legal decisions and economic and political desiderata. It seeks to identify tools which will help to construct something orderly.

As a former judge of the Court of Justice of the European Union who has had to try with his colleagues to find a path through inconsistent case law and concepts it was a joy on being asked whether I would write this preface, to come across – alas too late – a draft of this book. It should help my successors to find a conceptually coherent approach to drafting judgments in a particular field so that they do not conflict with other judgments in overlapping fields.

The law is currently being developed and is still sufficiently flexible and uncrystallised for this book to be in a position to make a significant contribution to that development. I hope that in due course it will be found possible to translate it into French – still the working language of the CJEU.

Konrad Schiemann  
Former Judge of the Court of Justice of the European Union

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## EDITORS' PREFACE

This book is the result of a Europe-wide exploration of building blocks for a consistent and general legal theory on the allocation of limited rights by administrative authorities. The idea of an international book project on this theme was launched at an inspiring international conference, organised by researchers from the Departments of Constitutional and Administrative law of Leiden University and VU University Amsterdam, the Netherlands. The project has been realised with the help of many researchers from various EU Member States. The contributions in this book deal with the subject from a general perspective, as well as from an EU law perspective and a comparative law perspective. These contributions have been enriched by the information provided by national reports on the allocation of gambling licences, radio frequencies and CO<sub>2</sub> emission permits in seven EU Member States: France, Germany, Greece, Italy, the Netherlands, Romania and Spain.<sup>1</sup> Together, all these contributions have resulted in a valuable and interesting collection of legal scholarship, which sheds light on various complex issues concerning the allocation of limited rights by administrative authorities. We sincerely hope that, based on these building blocks, further research in this field can be carried out. We wish to thank all the authors for their efforts and contributions to this book project.

Paul Adriaanse, Frank van Ommeren, Willemien den Ouden and Johan Wolswinkel  
Leiden/Amsterdam, November 2015

<sup>1</sup> See P. Adriaanse, F. van Ommeren, W. den Ouden and J. Wolswinkel, *Scarcity and the State II. Member State Reports on Gambling Licences, Radio Frequencies and CO<sub>2</sub> Emission Permits*, Intersentia, Antwerp 2016.

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