

Bucura C. Mihaescu Evans

The right to good administration at the crossroads
of the various sources of fundamental rights in the
EU integrated administrative system



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To Christopher and Catalina

Foreword

Good administration is a central constitutional notion of the European Union. Constantly evolving, it had been developed by the Court of Justice of the European Union since the very early case law under the European Coal and Steel Community in the 1950ies. A general principle of EU law, it is also partially codified in Article 41 of the Charter of Fundamental Rights of the European Union, which is a most innovative feature of EU fundamental right protection.

This book on the «The right to good administration at the crossroads of the various sources of fundamental rights in the EU integrated administrative system» addresses the very essence of these fundamental questions for EU law and policy. It was defended as a PhD thesis at the University of Luxembourg in December 2014. The book is marked by its high quality, methodological clarity, accessibility and the innovative dimension of the topic. The book is based on tremendous body of knowledge acquired through detailed study of the case law in combination with an analysis of the legal literature from various jurisdictions. This leads to a critical evaluation of major issues arising from the still dynamically evolving right to good administration within Europe's de-central system of administration.

The book thereby highlights the importance and vast potential of this right and has the great merit of assessing the right to good administration in its diverse facets, touching upon its different historic, contextual and linguistic developments. It also provides an in-depth assessment of the various sub-components of the right to good administration, such as the right to be heard or the right of access to the file – to name but a few.

The book has the great merit to highlights the (problematic) protection of the right to good administration in the EU integrated administrative system, where decisions are often taken in composite procedures with input from various interlocutors from both national and EU levels, each using different procedural rules.

The study convincingly puts forward some concrete proposals in order to overcome such problematic gaps in protection. It shows that the author is a skilled legal researcher who is equally informed by experience of observation from within of the workings of the Court of Justice of the European Union. Overall, this book is to be recommended due to its great qual-

Foreword

ities in advancing the knowledge in EU law whilst linking its field of study with matters relating to legal theory and public law in general.

Herwig C. H. Hofmann
Professor of European and Transnational Public Law,
University of Luxembourg

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Abbreviations

AG	Advocate General
CFR	Charter of Fundamental Rights of the European Union
CJ	Court of Justice
CJEU	Court of Justice of the European Union
CST	Civil Service Tribunal
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
ECB	European Central Bank
EIB	European Investment Bank
EP	European Parliament
EU	European Union
GC	General Court
GPL	General Principles of EU Law
MS	Member States
OLAF	European Anti-Fraud Office
TEC	Treaty of the European Community
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union

“To include [the right to good administration] in the Charter could have a broad impact (...) helping to make the 21st century the “century of good administration””¹

1 The European Ombudsman Jacob Söderman solemnly argued that a right to good administration should be inserted in the Charter of Fundamental Rights of the European Union – Jacob Söderman, ‘Speech of the European Ombudsman – Public Hearing on the draft Charter of Fundamental Rights of the European Union, Preliminary remarks’ (Brussels, Belgium, February 2000), available on <<http://www.ombudsman.europa.eu/en/activities/speech.faces/en/355/html.bookmark>>.